



**Moreland**  
City Council

## COUNCIL AGENDA

# PLANNING AND RELATED MATTERS

Wednesday 28 July 2021

Commencing 6.30 pm

The Council meeting will be livestreamed

### Language Link

This is the Agenda for the Council meeting. For assistance with any of the agenda items, please telephone 9240 1111.

這是市政會會議的議程。您若在理解議程中有需要協助的地方，請打電話給“語言連接 (Language Link)”翻譯服務，號碼9280 1910。

Questo è l'ordine del giorno per la Riunione del consiglio Comunale. Se hai bisogno di aiuto sugli argomenti in discussione, sei pregato di telefonare al Language Link al numero 9280 1911.

Αυτή είναι η Ημερήσια Διάταξη για τη Συνεδρίαση του Συμβουλίου (Council Meeting). Για βοήθεια με οποιοδήποτε από τα θέματα της ημερήσιας διάταξης, παρακαλείστε να τηλεφωνήσετε στο Γλωσσικό Σύνδεσμο (Language Link), στο 9280 1912.

هذا هو جدول أعمال اجتماع المجلس البلدي. للمساعدة بأي بند من بنود جدول الأعمال الرجاء الاتصال بخط Language Link على الرقم 9280 1913.

Belediye Meclisi Toplantısının gündem maddeleri burada verilmiştir. Bu gündem maddeleri ile ilgili yardıma ihtiyacınız olursa, 9280 1914 numaralı telefondan Language Link tercüme hattını arayınız.

Đây là Nghị Trình cuộc họp của Ủy Ban Quy Hoạch Đô Thị. Nếu muốn biết thêm chi tiết về đề tài thảo luận, xin gọi điện thoại cho Language Link qua số 9280 1915.

यह काँसिल की बैठक का कार्यक्रम है। कार्यक्रम के किसी भी विषय के बारे में सहायता के लिए कृपया 9280 1918 पर फोन कीजिए।

这是市政府例会的议题安排，如果需要协助了解任何议题内容，请拨打9280 0750。

ਇਹ ਕੌਂਸਲ ਦੀ ਮੀਟਿੰਗ ਦਾ ਏਜੰਡਾ ਹੈ। ਏਜੰਡੇ ਦੀ ਕਿਸੇ ਆਈਟਮ ਬਾਰੇ ਮਦਦ ਲਈ, ਕ੍ਰਿਪਾ ਕਰਕੇ 9280 0751 ਤੇ ਟੈਲੀਫੋਨ ਕਰੋ।

## **Acknowledgement of the traditional custodians of the City of Moreland**

Moreland City Council acknowledges the Wurundjeri Woi Wurrung people as the Traditional Custodians of the lands and waterways in the area now known as Moreland, and pays respect to their elders past, present, and emerging, as well as to all First Nations communities who significantly contribute to the life of the area.

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**1. WELCOME**

**2. APOLOGIES**

Leave of absences have been granted to:

- Cr Carli Hannan - 5 July 2021 to 25 August 2021 inclusive
- Cr Tapinos – 14 July to 14 August 2021 inclusive

**3. DISCLOSURES OF CONFLICTS OF INTEREST**

**4. MINUTE CONFIRMATION**

The minutes of the Planning and Related Matters Meeting held on 26 May 2021 be confirmed.

**5. COUNCIL REPORTS**

- |     |   |    |
|-----|---|----|
| 5.1 | 541 SYDNEY ROAD, COBURG - PLANNING APPLICATION<br>MPS/2020/793          | 4  |
| 5.2 | 395-411 ALBERT STREET, BRUNSWICK - PLANNING APPLICATION<br>MPS/2020/737 | 59 |

**6. URGENT BUSINESS**

## 5. COUNCIL REPORTS

### 5.1 541 SYDNEY ROAD, COBURG - PLANNING APPLICATION MPS/2020/793

Director City Futures, Kirsten Coster

City Development

#### Executive Summary



<b>Property:</b>	– 541 Sydney Road, Coburg
<b>Proposal:</b>	– Development of the land with a 12 storey building and roof terrace containing dwellings, offices, use of the land for retail premises reduction to the statutory car parking and bicycle facilities requirements and alterations to access in a Road Zone, Category 1
<b>Zoning and Overlay/s:</b>	<ul style="list-style-type: none"> <li>• Activity Centre Zone</li> <li>• Environmental Audit Overlay</li> <li>• Development Contribution Plan Overlay</li> <li>• Parking Overlay Schedule 1</li> </ul>
<b>Strategic setting:</b>	<div style="display: flex; justify-content: space-around; align-items: center;"> <div style="background-color: #cccccc; padding: 5px; text-align: center;">Minimal housing growth</div> <div style="background-color: #cccccc; padding: 5px; text-align: center;">Incremental housing growth</div> <div style="background-color: #cccccc; padding: 5px; text-align: center;">Increased house densities encouraged</div> <div style="background-color: #00a0e3; color: white; padding: 5px; text-align: center;">Significant housing growth</div> </div>
<b>Objections:</b>	<ul style="list-style-type: none"> <li>• 13 objections</li> <li>• Key issues:               <ul style="list-style-type: none"> <li>• Building height</li> <li>• Parking and traffic impacts</li> <li>• Amenity impacts including overshadowing and overlooking</li> </ul> </li> </ul>
<b>Planning Information and Discussion (PID) Meeting:</b>	<ul style="list-style-type: none"> <li>• Date: 7 June 2021</li> <li>• Attendees: 7 objectors, the applicant, 3 Council officers, and Deputy Mayor Cr Mark Riley, Cr Milad El Halabi, Cr Adam Pulford, Cr James Conlan and Cr Sue Bolton</li> </ul> <p>No changes have been made following the meeting and no consensus was reached.</p>
<b>ESD:</b>	<ul style="list-style-type: none"> <li>• Minimum average NatHERS rating of 7.5 stars.</li> </ul>
<b>Accessibility:</b>	<ul style="list-style-type: none"> <li>• 100 per cent of the apartments are adaptable.</li> </ul>
<b>Key reasons for support</b>	<ul style="list-style-type: none"> <li>• Community benefit via provision of affordable housing.</li> <li>• High quality architectural response.</li> <li>• Appropriate built form.</li> <li>• External amenity impacts adequately managed.</li> <li>• Good level of amenity for future occupants.</li> </ul>
<b>Recommendation:</b>	Council's submission to VCAT be one of support for the application generally in accordance with the plans advertised on 12/04/2021, subject to the conditions outlined in the recommendation.

## **Officer Recommendation**

That Council's submission to VCAT be one of support for the development of the land for a multi-storey building and roof terrace containing dwellings, use of the land for retail premises (other than food and drink premises, shop and market), reduction to the statutory car parking and bicycle facilities requirements and alterations to access in a Road Zone, Category 1, subject to the following conditions:

### **Amended Plans**

1. Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and must be generally in accordance with the plans advertised on 12/04/2021 but modified to show:
  - a) Internal reconfiguration of the internal layout to achieve compliance with the living area dimensions of Standard D24 at Clause 58.07-1 as it applies to Apartment 3BR Type C03 generally in accordance with the discussion plans titled 'Apartment Type 3BR C03' dated 23/03/2021 received by Council on 24 June 2021.
  - b) A window on the eastern elevation of the following rooms:
    - i. Second bedroom adjacent to the kitchen of Apartment 907.
    - ii. Second bedrooms adjacent to the bathroom of Apartments 1006 and 1106 on Levels 10 and 11.
  - c) A window on the western elevation of the rear bedroom of apartments 302 to 1102 on levels 3 to 11.
  - d) Details of materials and finishes of the services cupboards and the garage door which must be durable, waterproof and blend in with the development.
  - e) The word 'commercial' replaced with 'food and drink premises/shop' on the ground floor plans.
  - f) Levels 1 and 2 floor plans updated to reference correct apartment numbers.
  - g) The location of the five car spaces for the retail tenancies.
  - h) Any changes to the plans arising from the amended:
    - i. Sustainability Management Plan in accordance with Condition 4 of this permit.
    - ii. Waste Management Plan in accordance with Condition 9 of this permit.
    - iii. Amended landscape plan in accordance with Condition 11.
    - iv. Acoustic Report in accordance with Condition 18 of this permit.
    - v. Reflectivity Assessment in accordance with Condition 22 of this permit.

### **Development not to be altered**

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

### **Carriageway rights**

3. Prior to the commencement of the development carriageway rights over the land identified as 539 Sydney Road, Coburg must be registered at Land Use Victoria to the satisfaction of the Responsible Authority.

## **Sustainability Management plan**

4. Prior to the endorsement of plans, a Sustainability Management Plan (SMP) and associated plans must be submitted to and approved to the satisfaction by the Responsible Authority. The Sustainable Design Assessment must demonstrate a best practice standard of environmentally sustainable design and be generally in accordance with the SMP prepared by GIW dated 10 February 2021 but modified to include the following changes:
  - a) Additional Results section for the commercial glazing in Appendix C.
  - b) Show the following ESD initiatives on the development plans:
    - i. Space provision for the organic and green waste within the ground floor bin room as per the amended Waste Management Plan.
    - ii. The rainwater harvesting tank and STORM report catchments plans as an additional architectural plan (or plans).
    - iii. Green wall / façade details.

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

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

## **Section 173 Agreement**

8. Prior to the commencement of the development, the Owner of the Land must enter into an agreement with the Responsible Authority under Section 173 of the *Planning and Environment Act 1987* that provides for the following:
  - a) The owner to make available at least 64 dwellings within the development for the purpose of affordable or social housing.
  - b) Details of the eligibility and allocation of the Affordable Housing Dwellings.
  - c) The allocation and pricing of Affordable Housing Dwellings validated and reported on by a Registered Housing Agency.
  - d) Within one year of the Statement of Compliance or Certificate of Occupancy, whichever occurs first, evidence that the requirements of the subclauses 8a to 8c have been complied with. The evidence can be de-identified to protect the privacy of affordable housing purchasers but will set out how the transactions meet the requirement of subclauses 8b and 8c.

Once the Section 173 Agreement has been prepared to the satisfaction of the Responsible Authority, prior to the development commencing the owner must:

- i. do all things necessary to enable the Responsible Authority to register the agreement with the Registrar of Titles in accordance with section 181 of the Act; and
- ii. pay to the Responsible Authority its costs and disbursements incurred in relation to the negotiation, preparation, execution and registration of the agreement on the certificate of title to the land.

### **Waste Management Plan**

9. Prior to the endorsement of plans, an amended Waste Management Plan (WMP) must be submitted and approved to the satisfaction of the Responsible Authority. When to the satisfaction of the Responsible Authority, the report will be endorsed and will form part of this permit. The plan must be generally in accordance with the advertised WMP prepared by One mile grid dated 2 February 2021 but amended to align with the Sustainability Management Plan required in Condition 4 which has the ground floor bin room catering for green and organic food waste and separated glass recycling when introduced (in additional to general waste and recycling waste).
10. The Waste Management Plan approved under this permit must be implemented and complied with at all times to the satisfaction of the Responsible Authority unless with the further written approval of the Responsible Authority.

### **Landscaping**

11. Prior to the endorsement of plans, an amended landscape plan must be submitted to the Responsible Authority. The landscape plan must be generally in accordance with the plan prepared by John Patrick Landscape Architects Pty Ltd dated 24.11.2020 and 02/12/2020 but amended to show:
  - a) Any changes required to align with the plans for endorsement.
  - b) Identification of the existing street trees on Sydney Road to be retained and protected including the tree protection zone as required in Condition 15.

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

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

### **Tree Management Plan**

14. Prior to the endorsement of plans, a Tree Management Plan (TMP) must be submitted to and approved by the Responsible Authority. The TMP must be prepared by a suitably qualified Arborist and make specific recommendations in accordance with the Australian Standard AS4970: 2009 – Protection of Trees on Development Sites to ensure that the Lemon Scented Gum Tree located to the rear of the subject land and the existing street trees on Sydney Road remain healthy and viable during and after construction.

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

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

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

15. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, the owner must pay Council the amenity value, removal, replacement and establishment costs in accordance with the Moreland Urban Forest Strategy 2017 for each street tree removed or damaged through the building works, or replace the trees, to the satisfaction of the Responsible Authority.

#### **Accessibility Report**

16. Prior to the commencement of the development, the accessibility report prepared by Before Compliance Pty Ltd dated 30 March 2021 must be amended to reflect the changes required by Condition 1a of this permit. The amended accessibility report must be submitted to and approved by the responsible authority prior to the commencement of the development.
17. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, a report from the author of the Accessibility Report, approved pursuant to this permit, or similarly qualified person or company, must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the Accessibility Report have been implemented in accordance with the approved report.



## Acoustic Report

18. Prior to the endorsement of plans, an Acoustic Report prepared by a qualified Acoustic Engineer must be submitted to the satisfaction of the Responsible Authority. The report must be generally in accordance with the acoustic report prepared by Enfield Acoustic Noise Vibration dated 3 February 2021 but modified to include, but not limited to the following:
  - a) Recommendations of any acoustic attenuations measures to be incorporated into the proposed development to ensure that the noise generated from the car park on ground floor, levels 1 and 2 will not unreasonably impact the immediate adjoining residential properties.

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

19. The building must be constructed and maintained in accordance with the recommendations contained within the approved Acoustic Report to the satisfaction of the Responsible Authority. The Acoustic Report endorsed under this permit must be implemented and complied with at all times to the satisfaction of the Responsible Authority unless with the further written approval of the Responsible Authority.
20. Prior to the issue of a Statement of Compliance or occupancy permit for any part of the building approved under this permit, whichever occurs first, a report from the author of the Acoustic Report approved pursuant to this permit or similarly qualified person or company must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the Acoustic Report have been implemented in accordance with the approved Acoustic Report.
21. Noise levels associated with the retail uses must at all times comply with the Environment Protection Regulations under the Environment Protection Act 2017 and the incorporated Noise Protocol (Publication 1826.2, *Noise Limit and Assessment Protocol for the Control of Noise from Commercial, Industrial and Trade Premises and Entertainment Venues*, Environmental Protection authority, March 2021). Should the Responsible Authority deem it necessary, the owner and/or occupier of the land must submit an Acoustic Report to the satisfaction of the Responsible Authority to demonstrate compliance, or which outlines any measures considered necessary to achieve compliance. The recommendations of the Acoustic Report must be implemented to the satisfaction of the Responsible Authority. The endorsed plans must be amended to accord with the recommendations contained in the Acoustic Report to the satisfaction of the Responsible Authority.

## Glazing Reflectivity

22. Prior to the endorsement of the plans, a Reflectivity Assessment of external glazing and any other visibly reflective material must be submitted to the Responsible Authority. The assessment must ensure that materials, including glazing, used on external walls must be of a type that do not reflect more than 15 per cent of visible light when measured at an angle of 90 degrees to the surface. The Assessment must be to the satisfaction of the Responsible Authority and when approved will form part of this permit.

## Environmental Audit Condition

23. Prior to the commencement of construction or carrying out works pursuant to this permit, or any works associated with a sensitive use, or where no works are proposed, prior to the commencement of the permitted use, either:
  - a) A preliminary risk screen assessment statement in accordance with the Environment Protection Act 2017 must be issued stating that an environmental audit is not required for the use or the proposed use; or

- b) An environmental audit statement under Part 8.3 of the *Environment Protection Act 2017* must be issued stating that the land is suitable for the use or proposed use.
24. Where an environmental audit statement is issued for the land, and any condition of that statement requires any maintenance or monitoring of an ongoing nature, the Owner(s) must enter into an Agreement with Council pursuant to Section 173 of the *Planning and Environment Act 1987*. Where a Section 173 Agreement is required, the Agreement must be executed prior to the commencement of the permitted use, and prior to the certification of the plan of subdivision under the *Subdivision Act 1988*. All expenses involved in the drafting, negotiating, lodging, registering and execution of the Agreement, including those incurred by the Responsible Authority, must be met by the Owner(s).
  25. No works to construct the development hereby approved shall be carried out on the land and no building contract to construct the development hereby approved may be entered into, other than in accordance with a building contract that stipulates that works must not be commenced until such time as Conditions 22 and 23 of this permit are satisfied.
  26. Where an environmental audit statement is issued for the land, the buildings and works and the use(s) of the land that are the subject of this permit must comply with all directions and conditions contained within the statement.
  27. Where an environmental audit statement is issued for the land, prior to the commencement of the use, and prior to the issue of a Statement of Compliance under the *Subdivision Act 1988*, and prior to the issue of an Occupancy Permit under the *Building Act 1993*, a letter prepared by an Environmental Auditor appointed under the *Environment Protection Act 2017* must be submitted to the Responsible Authority to verify that the directions and conditions contained within the statement have been satisfied.

#### **Public works plan**

28. Prior to the commencement of the development, a Public Works Plan and associated construction drawing specifications detailing the works to the land must be submitted to the satisfaction of the Responsible Authority. The Plan must include:
  - a) All construction details in accordance with the *Moreland City Council Technical Notes July 2019* (or any updated version);
  - b) A detailed level and feature survey of the footpaths and roads.
  - c) The upgrade of the footpath including new or reconstructed footpaths adjacent to the site on Ross Street, Sydney Road, the land labelled as 'Road' on the Title (which abuts the eastern side boundary), and on the site to the immediate south at 539 Sydney Road including, but not limited to, water sensitive urban design treatments, seating, bicycle hoops, nature strips and other associated street furniture/infrastructure.
  - d) Public footpaths are to be reinstated to the previous levels with a maximum cross fall slope of 1 in 40 (2.5 per cent).
  - e) For any vehicle crossing not being used, the kerb, channel and footpath reinstated.
  - f) Any necessary drainage works.
  - g) Tree(s) and other landscaping in the street frontages adjacent to or near the development.
  - h) Any other works to the public land adjacent to the development.

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

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

### **Development Contributions**

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

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

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

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

### **3D model**

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

### **Retention of architect**

32. Fender Katsalidis must provide architectural oversight of the delivery of the detailed design, as shown in the endorsed plans and endorsed schedule of materials and finishes, during construction unless with the prior written approval of the Responsible Authority

### **Baffled Lighting**

33. All lighting must be designed not to emit direct light onto adjoining and nearby dwellings to the satisfaction of the Responsible Authority.

### **Hours of operation**

34. The retail tenancy (unless operated as a food and drink premises or shop) to the rear of the site fronting Ross street must only operate between the hours of:
- a) 6.00am to 7.00pm Monday to Friday.
  - b) 8.00am to 7.00pm Saturday and Sunday.

## **General**

35. All resident and employee bicycle parking areas are to have self-closing and self-locking doors or gates that are only accessible using keys, codes or swipe cards in accordance with the Australian Standard for Bicycle Parking (AS2890.3).
36. Prior to the occupation of the development, any Council or service authority pole or pit within 1 metre of a proposed vehicle crossing must be relocated or modified at the expense of the permit holder to the satisfaction of the Responsible Authority and the relevant service authority.
37. Prior to the occupation of the development, the vehicle crossing must be constructed as shown on the endorsed plans to a standard satisfactory to the Responsible Authority.
38. Prior to the occupation of the development, any existing vehicle crossing not to be used in this use or development must be removed and the kerb and channel, footpath and nature strip reinstated to the satisfaction of the Responsible Authority.
39. The verandah must not project beyond the street alignment unless it is setback not less than 750mm from the kerb and at a height less than 3m above the level of the footpath in accordance with Clause 507 of the Building Regulations 2006 to the satisfaction of the Responsible Authority.
40. Any lighting is to be installed and maintained with no direct light emitted onto adjoining properties to the satisfaction of the Responsible Authority.
41. Prior to the occupation of the development all telecommunications and power connections (where by means of a cable) and associated infrastructure to the land must be underground to the satisfaction of the Responsible Authority.
42. Any substation must be incorporated within the building (i.e. not free standing or pole mounted in the street) to ensure minimal impact on the visual amenity of the public realm.
43. Prior to the commencement of the development, a legal point of discharge is to be obtained, and where required, a stormwater drainage plan showing how the site will be drained from the property boundary to the stated point of discharge, must be submitted to and approved by the Responsible Authority.
44. All stormwater from the land, where it is not collected in rainwater tanks for re-use, must be collected by an underground pipe drain approved by and to the satisfaction of the Responsible Authority (Note: Please contact Moreland City Council, City Infrastructure Department).
45. Stormwater from the land must not be directed to the surface of the proposed walkway to the satisfaction of the Responsible Authority.

## **Department of Transport conditions**

46. The permit holder must avoid disruption to tram operation along Sydney 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. 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.
47. Prior to the occupation of the building all disused or redundant vehicle crossings must be removed and the area reinstated to kerb and channel to the satisfaction of and at no cost to the Head, Transport for Victoria.
48. Prior to the occupation of the buildings hereby approved, the redundant crossover and driveway is to be removed and the area reinstated to kerb and channel to the satisfaction of and at no cost to the Head, Transport for Victoria.

## Time Limit Use and Development

49. This permit will expire if one of the following circumstances applies:
- a) the development is not commenced within two (3) years from the date of issue of this permit;
  - b) the development is not completed within four (5) years from the date of issue of this permit.
  - c) The use is not commenced within two (2) years from the date of issue of this permit.

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

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

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

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

**Note 2:** Should Council impose car parking restrictions in this street, the owners and/or occupiers of the dwellings would not be eligible for resident parking permits to park on the street. Occupiers are eligible for the Resident A parking permit which only permits parking in limited areas. The resident parking permits and Resident A parking permit are subject to future reviews and change. See Council's website for more information: <https://www.moreland.vic.gov.au/parking-roads/parking-permits/residential-parking-permits/>

**Note 3:** **Department of Transport note:** This planning permit allows for works that may be subject to separate consent under the *Road Management Act 2004*. Please contact the Department prior to commencing any work.

## REPORT

### 1. Background

#### Subject site

The subject site is located to the west side of Sydney Road, approximately 100 metres north of Bell Street.

The site is irregular in shape with a frontage of approximately 20 metres to Sydney Road, a rear interface of 30 metres to Ross Street, a depth of 45 metres to the north and 72 metres to the south. The site has a total area of 1,924 square metres.

The site is currently vacant and contains a mature tree located to the rear of the site.

There are no restrictive covenants or easements that affect the site.

## **Surrounds**

### North

To the front of the northern boundary, the site adjoins a vacant property at 547 Sydney Road. This property abuts a row of commercial tenancies further north. To the rear of the northern boundary, the site abuts a discontinued Council owned right of way. Beyond the lane are rear private open spaces of double storey townhouses and a vacant site fronting Wilson Street.

### South

To the immediate south is a 3.4 metre wide vacant parcel of Council owned land. Abutting this Council land is a vacant site located at 519 – 537 Sydney Road. Planning permit MPS/2011/266/A has been issued to construct three buildings with a maximum height of 8 storeys constructed over a shared podium. The endorsed plans of this permit shows a 8.8 metre wide vehicle/pedestrian accessway located adjacent to the Council land. This planning permit is valid and will expire if the development is not commenced by 28 June 2022.

The site and surrounds are located in the Activity Centre Zone in Precinct 2. The precinct map identifies the council land and the accessway on the neighbouring land as a future pedestrian link.

### East

To the east is Sydney Road which contains an eclectic mix of low scale-built form with active commercial frontages as well as contributory and non-contributory heritage buildings. Directly opposite the site across Sydney Road is the Holy Trinity Anglican Church.

### West

Ross Street abuts the site's western boundary and across this street are the private open spaces of the dwellings fronting Lobb Street. Ross Street is approximately 3.5 metres wide (excluding the pedestrian footpath). Ross Street provides vehicular and rear access to the residential properties. The street is characterised by large garages, roller doors, high rear fencing constructed to the rear boundaries.

A location plan forms **Attachment 1**.

## **The proposal**

The proposal is for a 12 storey building with an overall height of 39.5 metres (exclusive of roof terrace, lift overrun and building services). The proposal includes:

- 69 dwellings accessed from a lobby on the south side of the building.
- 4 retail/commercial premises totalling 432 square metres. Two of these front Sydney Road, one fronts the Council land to the south and one is located on the rear south west corner of the site.
- 74 car parking spaces accessed from Ross Street and 122 bicycle spaces.
- 64 dwellings will be allocated as affordable housing delivered by the Barnett Foundation, a not for profit organisation. The Barnett model is a shared equity model whereby affordable dwellings are available for purchase by tenants of social housing at a reduced price to the market value by providing them with an interest free loan conditional on the surrender of their social housing lease.
- A 261 square metre communal roof terrace.
- Brick and metal finishes on the lower levels, tinted glazing and concrete finishes on the upper levels.

The development plans form **Attachment 2**.

## **Statutory Controls – why is a planning permit required?**

Control	Permit Requirement
Activity Centre Zone Schedule 1	<ul style="list-style-type: none"> <li>• A permit is required to use the land for retail premises (other than a food and drink premises, shop and a market).</li> <li>• No permit is required to use the land for dwellings as there is no entry at the Sydney Road frontage.</li> <li>• A permit is required to construct a building or construct or carry out works.</li> <li>• A permit is required to reduce the bicycle spaces requirement from 139 spaces to 122 spaces.</li> </ul>
Particular Provisions	<ul style="list-style-type: none"> <li>• Pursuant to Clause 52.06-3 (Car Parking) a permit is required to reduce the car parking requirement from 131 spaces to 74 spaces.</li> <li>• A permit is required to remove the vehicle crossing in a Road Zone Category 1 (Sydney Road).</li> </ul>

The following Particular Provisions of the Moreland Planning Scheme are also relevant to the consideration of the proposal:

- Clause 45.03: Environment Audit Overlay. A condition of the recommendation implements the requirement of this Clause.
- Clause 45.06: Development Contributions Plan Overlay. A condition of the recommendation implements the requirement of this Clause.
- Clause 45.09: Parking Overlay
- Clause 53.18: Stormwater Management in Urban Development
- Clause 58: Apartment Developments

## 2. Internal/External Consultation

### Public notification

Notification of the application has been undertaken pursuant to Section 52 of the *Planning and Environment Act 1987* by:

- Sending notices to the owners and occupiers of adjoining and nearby land
- Placing signs on Sydney Road, Ross Street and northern interface with the discontinued right of way.

Council has received a total of 13 objections and one letter of support. A map identifying the location of the objectors forms **Attachment 3**.

The key issues raised in objections are:

- Excessive height
- Overdevelopment
- Negative impact on neighbourhood character
- Vehicle access from Ross Street is not appropriate
- Traffic impacts by way of noise and increase in traffic on Ross Street
- Reduction in car parking will put pressure on existing street parking
- Insufficient bicycle spaces provided
- Overlooking and overshadowing
- Potential glare from glass
- Equitable development opportunities impacts on adjacent sites
- Unclear how affordable housing will be facilitated

A Planning Information and Discussion meeting was held on 7 June 2021 and attended by Deputy Mayor Cr Mark Riley, Cr Milad El Halabi, Cr Adam Pulford, Cr

James Conlan and Cr Sue Bolton, Council Planning Officers, the applicant and 7 objectors. The meeting provided an opportunity to explain the application, for the objectors to elaborate on their concerns, and for the applicant to respond.

No changes were agreed, however the meeting provided an opportunity for the objectors concerns to be discussed and helped inform the preparation of this report.

### Internal/external referrals

The proposal was referred to the following external agencies and internal branches/business units:

External Agency	Objection/No objection
Department of Transport	No objection subject to conditions included in the recommendation.

Internal Branch/Business Unit	Comments
Urban Design Unit	Supportive of the proposal. The development is considered to be of excellent architectural design.
Sustainable Built Environment – Development Engineering Team	Supportive of the proposal subject to conditions and satisfied with the proposed access arrangements and traffic impacts.
Sustainable Built Environment – ESD Team	Supportive of the proposal noting there are excellent ESD features in the proposal. These are detailed further in the report assessment.
Open Space Design and Development Unit	Supportive subject to conditions. In particular the existing mature tree to be retained to the rear of the site will remain viable provided it is carefully managed during excavation and construction.
Social and Affordable Housing Advisor	Supportive of the high number and type of affordable housing being provided within the development and outlined that the Barnett model generally achieves a good outcome. Recommended a condition to ensure that the details of the allocation, pricing and eligibility of the affordable housing are secured via a S173 Agreement.
Engagement and Partnership - Property and Place Team	Generally supportive of imposing a condition requiring carriageway rights over the Council land at 539 Sydney Road, Coburg, noting that the land is identified as a future pedestrian link and that there is a separate process for considering carriageway rights.

### 3. Policy Implications

#### Planning Policy Framework (PPF):

The following policies are of most relevance to this application:

- Municipal Planning Strategy (Clause 2), including:
  - Vision (Clause 2.02)
  - Settlement (Clause 2.03-1)
  - Environmental and Landscape Values (Clause 2.03-2)
  - Environmental Risks and Amenity (Clause 2.03-3)
  - Built Environment and Heritage (Clause 2.03-4)
  - Housing (Clause 2.03-5)



- Economic Development (Clause 2.03-6)
- Transport (Clause 2.03-7)
- Infrastructure (Clause 2.03-8)
- Settlement (Clause 11)
- Environmental and Landscape Values (Clause 12)
- Environmental Risks and Amenity (Clause 13):
  - Contaminated and Potentially Contaminated Land (Clause 13.04-1S)
  - Noise Abatement (Clause 13.05-1S and 13.05-1L)
- Built Environment (Clause 15.01), including:
  - Urban Design (Clause 15.01-1S, 15.01-1R & 15.01-1L)
  - Vehicle Access Design in Moreland (Clause 15.01-1L)
  - Building Design (Clause 15.01-2S & 15.01-2L)
  - Apartment developments in Moreland (Clause 15.01-2L)
  - Healthy Neighbourhoods (Clause 15.01-4S and 15.01-4R)
- Sustainable Development (Clause 15.02), including:
  - Energy and resource efficiency (Clause 15.02-1S)
  - Environmentally Sustainable Development (Clause 15.02-1L)
  - Energy efficiency in Moreland (Clause 15.02-1L)
- Residential Development (Clause 16.01), including:
  - Housing Supply (Clause 16.01-1S and 16.01-1R)
  - Homes in Moreland (Clause 16.01-2L)
  - Housing for People with Limited Mobility (Clause 16.01-1L)
  - Housing Affordability (Clause 16.01-2S & 16.01-2L)
- Economic Development (Clause 17), including:
  - Diversified economy (Clause 17.01-1S & 17.01-1R)
  - Business (Clause 17.02-1S)
- Transport (Clause 18), including:
  - Sustainable Personal Transport (Clause 18.02-1S & 18.08-1R)
  - Sustainable Transport in Moreland (Clause 18.02-1L)
  - Car parking (Clause 18.02-4S & 18.02-4L)
- Infrastructure (Clause 19.02), including:
  - Development infrastructure (Clause 19.03)
  - Integrated water management (Clause 19.03-S)

### **Human Rights Consideration**

This application has been processed in accordance with the requirements of the Act (including the Moreland Planning Scheme) reviewed by the State Government and which complies with the *Victorian Charter of Human Rights and Responsibilities Act 2006*, including Section 18 (*Taking part in public life*). In addition, the assessment of the application has had particular regard to:

- Section 12: Freedom of movement
- Section 13: Privacy and Reputation
- Section 20: Property rights

The proposed redevelopment of private land does not present any physical barrier preventing freedom of movement. Conditions in the recommendation address the issue of formalising carriageway rights to the Council owned land to the south of the site. The privacy of nearby residents has also been considered as part of the application process. The right of the landowner to develop and use their land has been considered in accordance with the Moreland Planning Scheme.

#### 4. Issues

In considering this application, regard has been given to the State and Local Planning Policy frameworks, the provisions of the Moreland Planning Scheme, objections received and the merits of the application.

##### **Does the proposal have strategic policy support?**

The site is located within the Coburg Activity Centre. Both State and Local planning policies support increased residential densities in Activity Centres, to take advantage of the excellent access to public transport and other services within these locations.

##### **Does the proposal respond to the preferred built form character of the area?**

The site is located in 'Precinct 2 Bell Street North' in the Activity Centre Zone (ACZ) where a mid-rise corridor ranging from 6 – 10 storeys is envisaged. The proposal seeks to exceed the preferred building height, provide reduced upper level setbacks and street wall height than that preferred in the ACZ. Below is a response to the appropriateness of the proposed height, upper level setbacks and street wall having regards to the relevant built form controls in the ACZ.

##### ***Building Height***

The preferred building height for this site is 36 metres. The proposed building has a height to the top of the roof terrace balustrade of 39.5 metres, exceeding the preferred height by 3.5 metres. On the roof, there is a plant room and a rooftop access circulation space with height of 3 metres above the roof floor level (42.5 metres above ground level). The lift overrun has an overall height of 4.5 metres, taking the overall building height at this point to 44 metres. From most perspectives the lift overrun will not be a visible component of the overall building height. The appropriateness of remainder of the building form above the 36 metre preferred height that will be visible is discussed in detail below.

Clause 4.4 of the ACZ states that where an application proposes a building that exceeds the maximum building height or does not meet the minimum setbacks, or street wall height, the application must demonstrate how the development supports the vision and objectives of the ACZ, provides exemplary design and that the additional height or reduced setback achieves the following (summarised, as relevant)

- Results in specific design benefits
- Facilitates benefits to the community such as excellent ESD performance, provision of affordable housing
- Does not have adverse impact on the streetscape, public realm or amenity of adjoining properties,
- Does not cause unacceptable visual bulk impact

The proposal has strong strategic support and seeks to achieve the vision and objectives of the ACZ by providing a mid-rise development with a mix of land uses.

The proposal provides a high-quality architectural response and provides significant community benefits through the provision of 93 per cent affordable housing, 100 per cent adaptable housing and excellent ESD performance. In addition, the proposed building has been adequately setback to minimise impact on adjoining and nearby land and their future development potential.

Given the above, the height above the preferred 36 metres is considered acceptable. This is explained further below.

### ***Street wall height***

A street wall height of 11.5 metres is proposed to Sydney Road which is below the ACZ's preferred street wall height of 14.5 metres. Although the objective in the ACZ is to create consistent street wall forms to define street edges, the reduced street wall height is supported for the following reasons:

- The site adjoins a future pedestrian link to the south where a lower street wall height will provide a human scale response and enhance the visual amenity of this space.
- If a 14.5 metres street wall height is proposed as part of any future developments on the adjoining sites to the north, a variation between the street walls by 3 metres at upper level is acceptable.
- There are no consistent street wall heights present in the surrounding area and as such the lower street wall will not appear out of context.

On the Ross Street interface, a street wall height of 7.58 metres is proposed which is 0.08m higher than the ACZ's preferred street wall height of 7.5 metres. This encroachment is negligible. The building's first three levels are setback 4.25 metres from the rear boundary. This exceeds the ACZ's preferred rear ground level setback of 3 metres.

### ***Upper level setbacks***

The proposed building complies with the ACZ's preferred upper level setback of 5 metres above the street wall from Sydney Road. There are balconies constructed within this setback. These do not encroach more than 2 metres within the setback in accordance with the ACZ design requirements.

To the south, an upper level setback of 3.5 metres is proposed which does not comply with the preferred 5 metres. The reduced setback is supported. The 3.5 metre setback is adequate to provide a podium form for the building. In addition, a 3.5 metre setback, combined with the setback provided by the future pedestrian link which includes the Council land at 539 Sydney Road and the pedestrian and vehicle accessway on the neighbouring site to the south at 519 – 537 Sydney Road will ensure that there is an approximate 15.5 metre setback between the upper levels of the proposed development and any development to the south. This will provide adequate separation and associated daylight to dwellings.

### **Does the proposal result in any unreasonable off-site amenity impacts?**

#### ***Interface to dwellings abutting Ross Street***

The site is adjacent to dwellings in a residential zone opposite Ross Street and also dwellings to the north located within the ACZ. The ACZ outlines the following in relation to amenity impacts:

*To protect the amenity of properties adjoining the ACZ that are in a residential zone, including from the impact of unacceptable overshadowing and overlooking.*

The ACZ requires building envelopes to be derived by applying Clause 55 Standards B17, 21 and 22 (which relates to side and rear setbacks, overshadowing and overlooking) from land outside of the ACZ. In this instance this means that the Clause 55 Standards apply from the rear boundaries of the properties on the west side of Ross Street.

### Setbacks

Within Precinct 2 (Bell Street North), the ACZ notes:

*'The design and siting of any development within the precinct should make provision for a 3 metre ground level setback of buildings abutting Ross Street to provide for landscaping to enhance the quality of that streetscape.'*

The ground level of the development is setback 4.25 metres from Ross Street, exceeding the ACZ requirement. Whilst not all of this setback is dedicated to planting, the setback enables the retention of a large Gum tree and the planting of another tree. This is a positive outcome that assists in softening the lower levels of the building. The overall design of planter boxes, an existing and a new tree and paved areas will achieve an enhancement to the quality of the Ross Street streetscape.

Applying the Standard B17 side and rear setback profile from the rear interface of the residential properties means that the upper 3 levels; levels 9 to 11 and the roof plant screen of the development encroaches outside the B17 envelope by 3 to 6 metres:



Figure 1

The variation is supported because of the following:

- Ross Street which is 3.5m wide assists in providing a buffer between the dwellings and the proposed development
- The high-quality architectural response and the community benefits provided through the provision of significant number of affordable dwellings, adaptable dwellings and achieving excellent ESD performance.
- The proposal will not result in unacceptable amenity impacts by way of overshadowing and overlooking, as described below.

## Overshadowing

At 9am on 22 September the proposal will cast additional shadows into the secluded private open spaces (SPOS) of the residential properties at 6, 8, 10 and 12 Lobb Street. Between 10am to 3pm on 22 September the proposal will not cast any additional shadows into the SPOS of these properties.

With regards to overshadowing into the SPOS of 6, 8 and 10 Lobb Street, the proposal does not comply with Standard B21 at Clause 55.04-5 (Overshadowing to open space) as a minimum of 40 sqm of these neighbouring SPOS will receive four hours of sunlight between 9am and 3pm on 22 September instead of the five hours required by the standard. In this instance the variation is considered acceptable for the following reasons:

- The additional shadows cast by the proposal will be for a period of one hour; between 9am and 10am.
- Between 10am to 2pm, for a period of four hours, a minimum 40 square metres of these neighbouring SPOS will continue to receive sunlight.
- The site is located in the ACZ where the amenity expectations must be balanced against the strategic objectives for the Coburg Activity Centre.

Figure 2 below shows a comparison of the proposed shadows (light blue over buildings and light pink over SPOS) with the shadows from a development that is compliant with the ACZ preferred building height and Standard B17 (blue dashed line). This highlights that at 9am 6, 8, 10 and 12 Lobb Street will be affected by additional shadows. With regards to 8 and 10 Lobb Street the additional shadow from the non-compliant development will be on the roof of these dwellings. With regards to 6 Lobb Street although the proposed development will cast greater shadows into the SPOS than a compliant development, this is considered acceptable for the three dot points listed above.

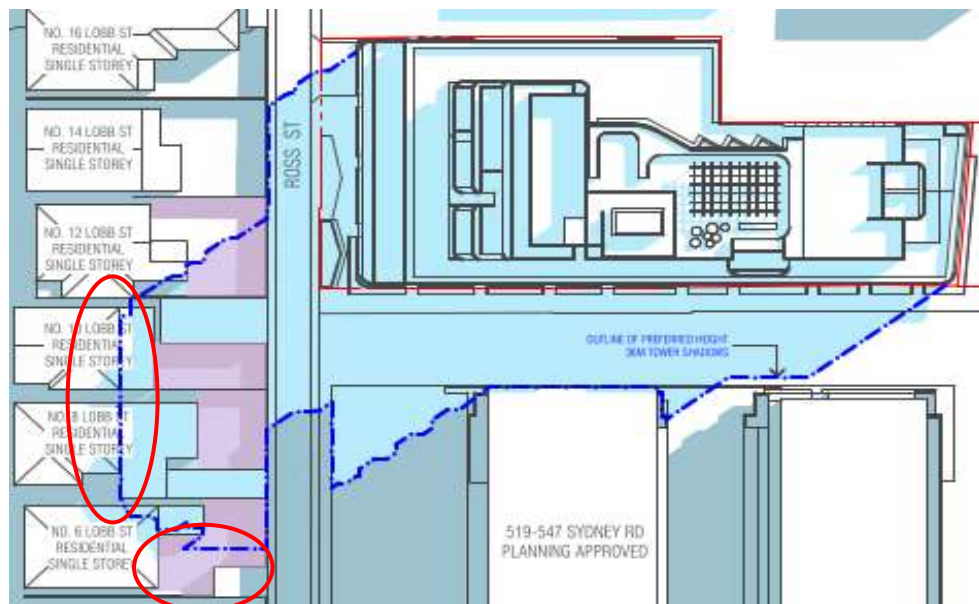


Figure 2

With regards to overshadowing into the SPOS of 12 Lobb Street, the proposal complies with the overshadowing Standard B21 at Clause 55.04-5 as greater than 40 square metres of this SPOS will continue to receive five hours of sunlight.

## Overlooking

The Overlooking Standard B22, Clause 55.04-6 requires balconies/terraces to be located and designed to avoid direct views into the secluded private open spaces (SPOS) of existing dwellings within a horizontal distance of 9 metres. The proposed balconies on levels 3 to 11 to the rear will have a minimum setback of 14 metres from the site's rear title boundary therefore, outside the 9 metres of the standard.

### ***Interface to dwellings facing Wilson Street***

The sites to the north fronting Wilson Street are located in the Activity Centre Zone. There is no provision in the ACZ that requires protection of the amenity of residential properties that are located inside the ACZ.

Nevertheless, the development has been adequately setback to minimise amenity impacts on these adjoining residences. Given the orientation, the development will not result in overshadowing. In addition, the 3.6 metre wide discontinued Council lane assists in providing a buffer between the site and dwellings. The proposed habitable room windows and balconies are also setback a minimum of 9 metres from these neighbouring SPOS areas, therefore minimising unreasonable overlooking.

### ***Is the visual bulk acceptable?***

The visual bulk impacts resulting from the reduced setback on the south elevation and the overall building height are considered acceptable having regard to the development outcome sought on the site to the south and the building separation achieved by the ACZ requirement for a pedestrian link between the two sites. The width of Sydney Road at this point also assists in reaching a conclusion that visual bulk impacts to the south and Sydney Road are acceptable.

In relation to visual bulk impacts on properties to the rear, the majority of the building (up to level 8) complies with the Standard B17 envelope. The levels above which don't comply have increasing setbacks to reduce the visibility of these levels from the properties to the rear.

### **Does the proposal provide for active uses and enhance the public realm?**

One of the Precinct 2 objectives of the ACZ is to encourage a range of commercial uses that complement the adjacent Activity Centre core and to ensure development contributes to the improvement of the streetscape, pedestrian environment and safety of Ross Street.

The development incorporates retail uses on the ground floor fronting Sydney Road and Ross Street. Outdoor dining is proposed within the front setback on Sydney Road and along the southern boundary. This contributes to the improvement of the streetscape and the pedestrian environment by providing activation and surveillance. Balconies are also proposed on the front, south and rear elevations further allowing for activation and passive surveillance. Vehicle access is located to the rear ensuring no impact on the Sydney Road footpath and the southern interface when it becomes a pedestrian link.

### **Does the proposal provide appropriate onsite amenity and facilities?**

Most of the standards of Clause 58 are met or exceeded. It is noted that:

- Communal open space of 264sqm exceeds the 172sqm required by the relevant standard.
- 100 per cent of dwellings are accessible, in excess of the 50 per cent required.
- 55 per cent of apartments achieve cross ventilation, in excess of the 40 per cent required.

Key issues from the Clause 58 assessment are discussed below.

### ***Clause 58.03-5 – Landscaping***

The objective of this Clause as relevant to the proposal is to provide appropriate landscaping and to encourage the retention of mature vegetation on site.

Standard D10 requires that development provide deep soil areas and canopy trees. The Standard notes that if an existing tree over 8 metres in height is being retained without damage during construction, then 7 per cent of the site area should be deep soil. This equates to 134 square metres.

The proposal seeks to retain the existing mature tree to the rear of the site. In addition, an area of 12 square metres of deep soil planting is proposed. Council's Open Space officer has outlined that there are two young street trees on the Sydney Road frontage which were planted in 2020. These are small and therefore vulnerable to damage. As such, a condition is included in the recommendation to protect these trees during construction and replace them if damaged.

Canopy trees are not a characteristic of the western side of Sydney Road. Although the proposal seeks to provide deep soil areas which is less than the standard, the retention of the existing mature tree to the rear, provision of a medium sized canopy tree, protecting or replacing existing street trees on Sydney road, providing planter boxes in the balconies, roof terraces and greening in the lower levels is considered to provide an acceptable landscape outcome, and meets the objective of this clause.

### ***Clause 58.05-2 – Building entry and circulation***

Objectives of this clause include to ensure internal communal areas provide adequate access to daylight and natural ventilation. The standard requires that common areas and corridors have at least one source of natural light and natural ventilation. All levels of the building except levels 1 and 2 achieve this. Provision of openings on levels 1 and 2 corridors will either impact on the architectural expression of the building on Sydney Road or will impact on the internal layout of two apartments. Given that the design of the proposed building is well resolved and that any internal reconfiguration may impact on the number of affordable housing dwellings, the variation, which only affects two levels, is considered acceptable.

### ***Clause 58.07-1 Functional layout***

Standard D24 of this clause provides minimum internal room dimensions to ensure dwellings provide functional areas that meet the needs of the residents. The proposal seeks a variation to this standard for apartment Types C05 and Type C03 as it relates to living room size.

The minimum width of the living room for apartment Type C05 is 2.95 metres. This does not comply with the standard minimum width of 3.6 metres. Whilst not ideal, this variation is accepted as the width is compensated by the large length of the room which is 5.27 metres and the total room area of 16 square metres which exceeds the standard 12 square metres. In addition, this only applies to two dwellings out of the total 69.

However, the variation to apartment Type C03 which has a minimum living room width of 3.11 metres is not supported. Unlike apartment Type C05, the living room size of these apartments is 3.11 x 3.95 metres. Although the living room meets the standard minimum area of 12 square metres, it is too confined for a three-bedroom apartment. This applies to 14 apartments and is considered a poor internal amenity outcome for future occupants for too many apartments.

Discussion plans have been submitted by the applicant which show changes to the internal reconfiguration to the apartment to comply with the standard living room width. The changes results in a bigger living room with larger access to the balcony. The amended apartment layouts would result in the bedrooms to be setback 5.5 metres from the northern boundary instead of the preferred setback of 6 metres required on levels 9 to 11 as outlined in Clause 15.01-2L. The variation is supported as the non-compliance occurs on three levels, applies to secondary outlook and results in a better apartment layout. A condition of the recommendation refers to the changes shown in the discussion plans.

**Does the proposal respond to Clause 15.01-2L (Apartment developments in Moreland)?**

Clause 15.-01-2L sets out building setback standards for apartment development of five or more storeys. The objectives of the clause relate to daylight and outlook, future development opportunities of adjoining site and amenity impacts.

The site benefits from the vacant Council land to the south (for which carriageway rights over the land is required to be obtained) and the 8.8 metre wide accessway on the neighbouring site at 519 – 537 Sydney Road which has been identified in the ACZ as a future pedestrian link.

The proposed development is compliant with the setbacks set out in this clause except for the following:

Boundary	Apartments no.	Required	Proposed
North	501, 601, 701 and 801	4.5 metres (secondary outlook*)	3 metres (secondary outlook)
North	901, 1001, 1101	12 metres (primary outlook*) 6 metres (secondary outlook)	10.5 metres (primary outlook) 3 metres (secondary outlook)
North	907, 1006, 1106	6 metres (secondary outlook)	5.5 metres (secondary outlook)
North	302, 402, 502, 602, 702, 802, 902, 1002, 1102	Between 4.5 to 6 metres (secondary outlook)	1.46 metres (secondary outlook)
South	904, 1004 and 1104	9 metres (primary outlook)_	6 metres (primary outlook)

*\*secondary outlook refers to outlook from bedrooms*

*\*primary outlook refers to outlook from a balcony or living room.*

**Northern boundary**

The variations to the secondary outlook of Apartments 501 to 801 and both the primary and secondary outlook of Apartments 901 to 1101 from the north boundary is supported. The windows of these apartments are angled and the balconies curved. This design maintains outlook and daylight while ensuring that the future development opportunity of this neighbouring site to the north is not impacted.

The variation sought to the secondary outlook of Apartments 907, 1006 and 1106 from the northern boundary is minor and acceptable. However, the bedrooms can accommodate a window on its eastern elevation which would allow for further daylight and improved internal amenity. This forms a condition of the recommendation. There will be no requirement to screen these windows as per the overlooking standard B22 at Clause 55.04-6 as these windows will be located at a horizontal distance of 9.4 metres from the nearest SPOS of the dwellings to the north.



The variation to the secondary outlook of Apartments 302 to 1102 from the northern boundary is acceptable. A window can be included the western elevation of the bedroom improving internal amenity. This was agreed by the applicant and forms a condition of the recommendation.

### ***Southern boundary***

The variation to the primary outlook of Apartments 904 to 1104 from the southern boundary is supported as the setback to the living room windows are 9.55 metres and the balconies have been designed to have views to the east and west.

In the event that planning permit MPS/2011/266/A on the site to the south at 519 – 537 Sydney Road is not acted upon and a development is proposed to the lot boundary, the amenity of the proposed apartments will not be unreasonable as a minimum separation of 8.75m is provided and views to the east and west will be maintained.

### **Does the proposal incorporate adequate Environmental Sustainable Design (ESD) features?**

Key environmentally sustainable features includes gas-free dwellings, 20kW solar PV system, EV charging space and 122 bicycle spaces. Council's ESD team noted that these deliver an excellent standard of ESD. They did however raise concerns with the level of daylight of Apartments 103 on level 1 and 203 on level 2. However, given that this relates to only two dwellings out of the 69 and as the proposal meets the BESS credits in relation to natural daylight (80 per cent of the living rooms and 83 per cent of the bedroom meeting the natural daylight factor credit), on balance, the natural daylight provision is not considered unreasonable.

### **Are the proposed uses appropriate?**

The proposal includes retail/ commercial tenancies on ground level. Clause 73.03 of the planning scheme does not provide specific definition for 'commercial'. However, a definition is provided for retail premises which is *land use to sell good by retail or wholesale, sell services or hire goods*. To ensure that the uses proposed is in accordance with the uses listed and defined in Clause 73.03, a condition of the recommendation is to require deletion of the reference to 'commercial' from the plans and replace it with a reference to 'food and drink premises/shop'. These uses are as of right in the ACZ.

The objectives of Precinct 2 in the ACZ is to encourage a range of commercial uses such as retail, offices, business services that complement the adjacent Activity Centre core. The proposal is consistent with this.

The sale and consumption of liquor would require further planning permission.

One of the retail tenancies proposed is located to the rear of the site, fronting Ross Street adjacent to the neighbouring dwellings. To mitigate amenity impacts on the residents it is considered appropriate to restrict the operation hours of this tenancy where it operates as a permit required use (a food and drink premises and shop is an as of right use in the ACZ). This forms a condition of the recommendation.

### **How will affordable housing be facilitated?**

Affordable housing will be delivered by the Barnett Foundation. The Barnett Foundation develops dwellings to provide a pathway for tenants of social housing into affordable home ownership. This enables these tenants to vacate social housing for occupation by families on waiting lists. The Foundation has been granted Public Benevolent Institution status by the Australian Charities and Not-for-profit Commission and has developed affordable housing projects in North Melbourne and Frankston.

A condition of the recommendation requires the owner enter into a Section 173 Agreement with the Responsible Authority to secure the provision of 64 affordable dwellings. Because the model provides affordable entry into private home ownership, the Agreement doesn't require that the dwellings are provided as affordable housing in perpetuity. Instead the Agreement will be required to set out the eligibility criteria for sale of the dwellings and providing evidence that the dwellings have been sold in accordance with this criteria. The benefits of providing a pathway out of social housing and into private home ownership are significant due to the flow on benefits to others waiting for social housing.

**Have adequate car and bicycle parking and loading/unloading facilities been provided?**

Pursuant to Clause 52.06-3 (Car parking), a planning permit is sought to reduce the car parking requirement from 131 spaces (116 for the dwellings and 15 for the commercial uses) to 74 spaces (total reduction of 57 spaces). It is proposed that each dwelling is provided one car space, leaving 5 spaces for the commercial tenancies.

Clause 18.02-4L (Car parking in Moreland) supports reduced car parking rates in developments which are within and close to activity centres, have excellent access to public transport and provides bicycle parking above the rates specified in Clause 52.34.

The proposal seeks to provide a total of 122 bicycle spaces (96 will be allocated to residents). Whilst this is 17 spaces below the 139 spaces to meet the bicycle rate of the ACZ, it is 95 spaces more than required by Clause 52.34.

Furthermore, the proposal has a statutory requirement to provide 1 employee bicycle space for the shops and no requirements to provide visitor bicycle spaces. The proposal seeks to provide 8 employee bicycle spaces and 18 visitor bicycle spaces which is in excess of the ACZ requirements.

The site has excellent access to public transport, including trains, trams and multiple bus routes. The Upfield Bike Path is also close by.

Council's Sustainable Built Environment (Development Engineering) team is satisfied with the proposed car and bicycle provision.

With regards to loading/unloading for the commercial tenancies, the 5 car parking spaces allocated to the tenancies will also be used for loading. This is acceptable given the small size of the tenancies.

**What impact does the proposal have on pedestrian safety, amenity and access in the surrounding area?**

The Precinct 2 guidelines of the ACZ seeks to avoid vehicle access from Sydney Road where an alternative frontage is available for vehicle access. This is also reflected in Moreland Vehicle access design policy in Clause 15.01-1L. The Precinct 2 map indicates that the future pedestrian link to the south of the subject site is to be a new street. However, this cannot be achieved at this time as it requires the owner of the land at 519 – 537 Sydney Road to enter into an agreement related to rights over the vehicular accessway on their land. This is yet to occur, and the timing will be dependent on when that site develops.

The site benefits from the rear interface to Ross Street. Vehicle access to the site is proposed via a new crossover from Ross Street. The proposed location of the vehicle crossover is acceptable.

The Precinct 2 Guidelines in the ACZ states that in Ross Street, vehicle ingress and egress should be designed to ensure good quality pedestrian amenity in the street and limit potential conflicts between vehicle movements and pedestrian activity. The applicant's traffic report concluded that the development would generate 39 vehicle movements during the peak hour. During the morning period this will comprise 12 vehicles arriving and 27 vehicles departing and during the afternoon period this will

comprise of 20 vehicles arriving and 19 vehicles departing. This is equivalent to less than two vehicle trips every three minutes. The submitted traffic report states the traffic volume generated are low and expected to be easily absorbed into the surrounding road network. Council's Sustainable Built Environment (Development Engineering) team concurred with this finding.

Ross Street is approximately 3.5 to 4 metres wide and is similar to a laneway. Although the street is not wide enough for two-way traffic, given the low speed environment and the proposed traffic volume, Council's Sustainable Built Environment (Development Engineering) is satisfied that the proposal will not result in unreasonable traffic impacts. They are also satisfied that the proposed site access has been appropriately designed with regards to pedestrian safety and amenity; cars can enter and exit the site at the same time, cars can leave the site in a forward direction and a clear line of sight is maintained for motorists on Ross Street.

Residents have raised concerns about noise from cars entering and exiting the development. Clause 13.05-1S (Noise abatement) of the Planning Scheme seeks to ensure development is not prejudiced and community amenity is not reduced by noise emissions through using a range of building designs.

The car parking levels are setback 5.75 metres from the site's rear boundary and approximately 12 metres from the rear interface of the dwellings fronting Lobb Street. The setback and the slow speeds of cars that would be moving within the car parking area will mitigate noise impacts. However, a condition of the recommendation requires the submission of an acoustic report assessing the noise impacts from the car park and that any recommendations be incorporated into the development to ensure noise impacts are not unreasonable.

## 5. Response to Objector Concerns

The following issues raised by objectors have been addressed in Section 2 of this report:

- Excessive height
- Negative impact on neighbourhood character
- Vehicle access from Ross Street not appropriate
- Traffic impacts by way of noise and increase in traffic on Ross Street
- Insufficient bicycle spaces provided
- Overlooking and overshadowing
- Equitable development opportunities impact on adjacent sites
- Unclear how affordable housing will be facilitated

Other issues raised by objectors are addressed below:

### ***Reduction in car parking will put pressure on existing street parking***

The owner/occupiers of the dwellings will not be eligible for resident parking permits to park on the street. Vehicles, whether they are related to this or other developments in the street, can only park on the street in accordance with any parking regulations. The number of vehicles that can park on the street and at what time will be dictated by the parking restrictions and the availability of on street car spaces. The Sustainable Built Environment (Development Engineering) team has assessed the proposal and is satisfied with the number of car parking spaces being provided on site.

### ***Glare from glazing***

Residents of dwellings fronting Lobb Street raised concerns with the impact of potential glare from the glass proposed on the rear elevation. A condition of the recommendation requires a reflective assessment of external glazing to be submitted to ensure that the glazing is a type that does not reflect more than 15 per cent visible light when measured at an angle of 90 degrees to the surface (a commonly adopted level of acceptable reflectivity). This will help to minimise the impact from potential glare.

## Overdevelopment

Planning Policy envisages an increase in housing density in well serviced areas such as Activity Centres. Clause 16.01 of the Moreland Planning Scheme encourages *higher density housing development on sites that are well located in relation to activity centres, employment corridors and public transport*. The increase in population and density at this site is considered an appropriate response given its location in an Activity Centre and the proximity to public transport, shops and other services.

The planning assessment and issues in Section 4 of this report has confirmed that the building height, setbacks and the provision of car parking are acceptable when considered against the requirements of the Planning Scheme.

## 6. Officer Declaration of Conflict of Interest

Council Officers involved in the preparation of this report do not have a conflict of interest in this matter.

## 7. Financial and Resources Implications

There will be resource and financial implications for Council representation at VCAT. These costs can be met from Council's Governance and VCAT budgets. Resources to support Council's representatives can be provided from the Urban Planning Unit.

## 8. Conclusion

The proposal is a high-quality development that responds appropriately to the site context and provides significant community benefits through the provision of affordable housing and 100 per cent of dwellings being adaptable. Subject to conditions in the recommendation, the proposal provides a good standard of internal amenity for future occupants.

On the balance of policies and controls within the Moreland Planning Scheme and objections received, it is considered that council's submission to VCAT be one of support for the application, subject to the conditions outlined in the recommendation.

## Attachment/s

<a href="#">1</a>	541 Sydney Road, Coburg - Location Map	D21/261019
<a href="#">2</a>	541 Sydney Road, Coburg - Development Plans	D21/290727
<a href="#">3</a>	541 Sydney Road, Coburg - Location of objector map	D21/296726

## 5.2 395-411 ALBERT STREET, BRUNSWICK - PLANNING APPLICATION MPS/2020/737

Director City Futures, Kirsten Coster

City Development

### Executive Summary



<b>Property:</b>	395-411 Albert Street, Brunswick				
<b>Proposal:</b>	Construction of two 10 storey buildings and one single storey building (with roof top terrace) over two levels of basement, consisting of dwellings, office and communal amenity areas (including a wellness centre), use of the land for shops, food and drink premises and a reduction in the standard car parking requirements				
<b>Zoning and Overlays:</b>	<ul style="list-style-type: none"> <li>Mixed Use Zone (MUZ)</li> <li>Design and Development Overlay (DDO26)</li> <li>Environmental Audit Overlay (EAO)</li> <li>Development Contributions Plan Overlay (DCPO)</li> </ul>				
<b>Strategic setting:</b>	<table border="1"> <tr> <td>Minimal housing growth</td> <td>Incremental housing growth</td> <td>Increased house densities encouraged</td> <td>Significant housing growth</td> </tr> </table>	Minimal housing growth	Incremental housing growth	Increased house densities encouraged	Significant housing growth
Minimal housing growth	Incremental housing growth	Increased house densities encouraged	Significant housing growth		
<b>Objections:</b>	<ul style="list-style-type: none"> <li>221 objections</li> <li>Key issues:               <ul style="list-style-type: none"> <li>Building height, scale and visual bulk</li> <li>Setbacks to the park and Albert Street</li> <li>Parking and traffic</li> </ul> </li> </ul>				
<b>Planning Information and Discussion (PID) Meeting:</b>	<ul style="list-style-type: none"> <li>Date: 31 May 2021</li> <li>Attendees: 21 objectors, the applicant, Council officers, Deputy Mayor Cr Mark Riley, Cr Sue Bolton and Cr Oscar Yildiz.</li> <li>No changes were agreed to however the meeting provided an opportunity for the objectors concerns to be discussed and helped inform the preparation of this report.</li> </ul>				
<b>ESD:</b>	<ul style="list-style-type: none"> <li>Minimum average NatHERS rating of 7.0 stars.</li> </ul>				
<b>Accessibility:</b>	<ul style="list-style-type: none"> <li>Adaptable apartments comprise 85 per cent of the proposal.</li> </ul>				
<b>Key reasons for refusal:</b>	<ul style="list-style-type: none"> <li>Unacceptable height and visual bulk to Clifton Park and Albert Street</li> <li>Inconsistency with built form requirements and design objectives of DDO26</li> <li>Unreasonable impact on the development potential of adjacent sites in the precinct</li> <li>Car parking reduction will unreasonably impact on street car parking</li> </ul>				

<b>Recommendation:</b>	It is recommended that Council's submission to VCAT be that no planning permit should be issued for the proposal, based on the grounds outlined in the recommendation.
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## Officer Recommendation

That Council's submission to the Victorian Civil and Administrative Tribunal be that no planning permit should be issued for application No. MPS/2020/737 which seeks permission for the construction of two 10 storey buildings and one single storey building (with roof top terrace) over two levels of basement, consisting of dwellings, office and communal amenity areas (including a wellness centre), use of the land for shops, food and drink premises and a reduction in the standard car parking requirements at 395-411 Albert Street, Brunswick, subject to the following grounds:

1. The proposal fails to comply with the design objectives, built form requirements and decision guidelines of the Design and Development Overlay (Schedule 26) and the strategies contained at Clause 15.01-2S Building Design and Clause 15.01-2L Building Design in Moreland. The design response does not adequately respond to the preferred future character for the area, including that:
  - a) The proposal fails to provide meaningful breaks between buildings, creating a continuous wall of built form along Clifton Park and Albert Street.
  - b) The siting and setbacks fail to ensure that height above 4 storeys is visually recessive when viewed from Clifton Park and Albert Street.
  - c) The proposal fails to provide an appropriate pedestrian scale to Albert Street and Clifton Park, due to the height of the street wall in combination with limited upper level setbacks.
  - d) The proposal fails to provide a 3 metre landscaped setback at its interface to Clifton Park. This in combination with the setback of upper levels and lack of landscaping opportunities fails to achieve a pedestrian scale to the precinct edge and a quality landscape design to integrate with the parkland context.
  - e) The proposal fails to provide an adequately landscaped setback to dwellings at ground level fronting Albert Street.
  - f) The provision of a substation and loading bay to Albert Street fails to provide a quality public realm interface, by limiting activation to Albert Street and opportunities for passive surveillance at the street level.
  - g) The form, scale and appearance of development does not enhance the amenity of the public realm.
  - h) The proposal does not provide sufficient space and conditions for planting new canopy and screening trees.
2. The design of buildings fails to meet the strategies and guidelines of Clause 15.01-2L Apartment Development in Moreland and the built form requirements of the Design and Development Overlay (Schedule 26) with respect to:
  - a) The building separation between Buildings 1 and 2, which does not meet distances specified in Table 3 and does not allow adequate daylight to living rooms or bedrooms; and
  - b) The design response, siting and building separation unreasonably impacts the reasonable future development potential of adjoining sites, including daylight access and outlooks to future development at adjoining sites (413, 417 and 423 Albert Street, Brunswick).

3. The proposal is not consistent with the following strategies contained at Clause 15.01-1L Urban Design in Moreland:
  - a) The siting, design and lack of physical breaks to Buildings 1 and 2 fails to contribute to a fine grain urban structure reflecting an appropriate balance of open space to built-form which results in unacceptable bulk when viewed from Clifton Park and Albert Street.
  - b) The location of the substation and loading bay co-located with the vehicle accessway fails to maximise an active frontage to Albert Street.
  - c) The proposal fails to ensure that landscaping integrates development with the surrounding environment being Clifton Park.
  - d) The design of the proposal results in unreasonable shadowing impact to the public open space at Gilpin Park and Clifton Park.
  
4. The proposal is an overdevelopment contributing to a failure to meet the following standards and objectives of Clause 58 Apartment Developments:
  - a) The design response does not meet Standard D1, Clause 58.02-1 - Urban Context objectives as it fails to respond to the preferred future development of the area and is not appropriate to the urban context and the site.
  - b) The design does not meet Standard D8, Clause 58.03-3 – Solar access to communal outdoor open space objective which requires that 125 square metres of primary communal outdoor open space receive a minimum of two hours of sunlight on 21 June with the communal open space enclosed by Building 2 in shadow throughout the day.
  - c) The proposal provides 7 per cent of deep soil planting where Standard D10 requires 15 per cent (1573sqm) deep soil planting to accommodate 6 large trees or 12 medium trees per 90 square metres. This fails to meet Clause 58.03-5 Landscaping objectives, in a location that is adjacent to a parkland context.
  - d) The proposal provides dwellings where the room depth exceeds 9 metres pursuant to Clause 58.07-2 Room depth objective - Standard D25. This fails to provide for dwellings that allow adequate daylight into single aspect habitable rooms.
  - e) The needs of residents and the objective of Clause 58.07-1 - Functional layout objective Standard D24, are not met. Specifically, dwelling layouts STA, STD, STJ, 2H, 2M, 2N, 2T, 2U, and 2Q do not achieve the respective 3.3 or 3.6 metre living area dimension required in both directions or includes dining areas within the living room space or inadequate circulation space, thereby limiting usability for occupants.
  - f) The proposal achieves 16 per cent of dwellings with natural ventilation. This fails to meet Clause 58.07-4 - Natural ventilation Standard D27 which requires 40 per cent of dwellings meet this standard.
  - g) The proposal fails to provide windows to all lift areas and common area corridors required for adequate natural daylight and ventilation required by Clause 58.05-2 Standard D18.
  
5. The proposal fails to demonstrate that it achieves best practice environmentally sustainable design with respect to:
  - a) The performance objectives at Clause 15.02-1L Environmentally sustainable development relating to indoor environment quality.
  - b) The performance objectives for stormwater quality required by Standard D13 of Clause 58.03-8, objective at Clause 53.18 Stormwater Management in Urban Development and Clause 15.02-1L Environmentally sustainable development are not met.

6. The proposal fails to satisfy Clause 52.06 Car Parking as the provision of onsite car parking does not meet demand and fails to ensure that on-street car parking will not be unreasonably impacted.
7. The proposal fails to commit to contribute to public realm upgrades contemplated in DDO26 to Clifton Park and Albert Street proportionate to the scale of impact from the development on parkland by virtue of increased use from new residents and shadowing from the proposal, including infrastructure needed to manage conflicts from the 'active use' of the sports grounds in Clifton Park.

## REPORT

### 1. Background

#### Subject site

The subject site is located at 395-411 Albert Street, Brunswick. The site is comprised of seven lots forming an irregular shaped land parcel. The combined Albert Street frontage is approximately 122 metres. The site has an eastern boundary depth of approximately 95 metres, a combined north boundary width of approximately 82 metres and a north-west boundary width of approximately 94 metres. The overall size of the site is 10,491 square metres.

The site currently has a mix of uses and building types, with:

- 403 to 411 Albert Street containing single storey dwellings.
- 397- 401 Albert Street containing a double storey industrial building.
- 395 Albert Street, Brunswick containing a double storey industrial building.

A covenant affects the Certificates of Titles for lots 395 and 397- 401 Albert Street, Brunswick restricting use of the land for the manufacture of clay products. The proposal does not breach this covenant.

#### Surrounds

At its immediate eastern interface with the site, Clifton Park contains a pedestrian entry path into the park, half basketball court and change room pavilion located approximately 4 metres from the subject site. Located further east Clifton park contains car parking and a soccer pitch.

Located to the north and north-west of the site, Clifton Park contains a grass soccer pitch and football oval. Further west is a recently constructed four and five storey apartment building at 460 Victoria Street.

The site has abuttal to 413, 417 and 423 Albert Street to its south and west boundaries. These properties contain single storey factories (used for food production, vehicle repairs and pet food distribution respectively) generally built to the side and rear boundaries, with some car parking in the front setback. The building at 413 Albert Street is setback from the eastern boundary and contains windows at this interface.

Gilpin Park is located opposite the site on the south side of Albert Street.

A location plan forms **Attachment 1**.

#### The proposal

The proposal is summarised as follows:

- Construction of two ten storey buildings (Buildings 1 and 2, total height of 34.85 metres to the rooftop plant) and one single storey building (Building 3). Building 1 extends along the eastern site boundary and Building 2 is arranged as an inverse 'C' extending along the south and north-west boundaries.



- Five commercial tenancies front Albert Street (three shops and two food and drink premises). A cafe fronting Clifton Park at the north boundary is also proposed.
- The buildings provide a total of 527 dwellings, comprising 107 studio dwellings, 177 one bedroom dwellings, 191 two bedroom dwellings and 52 three bedroom dwellings.
- The separation and siting of Buildings 1 and 2 provide for a central north-south internal accessway that incorporates Building 3 at a single storey scale. Communal open space is provided at the rooftop of Building 3 which provides tiered seating down to ground level facing Clifton Park. Additional communal open space is provided at level 5 of Building 1, and level 9 of Building 2, and at ground level enclosed by Building 2, totalling 827 square metres.
- Pedestrian access is provided to Clifton Park from Albert Street by a north-south accessway. An east-west accessway also provides access to Clifton Park at the eastern boundary. Building 1 projects over this accessway from level 2.
- Communal facilities (occupants use only), include a library, laundry, pet salon, workshop space, two function rooms, common kitchen, lounge, outdoor dining, indoor kids play area and wellness (gym) centre.
- Albert Street contains a substation, loading bay and double crossover providing access to two basement levels with 239 car parking spaces. 592 bicycle spaces are provided (530 resident spaces and 62 for visitors).
- The palette of materials and colours consist of brickwork, pigmented pre-cast concrete and silver metal cladding. Metal screens and gates enclose all ground level dwellings around the dwelling entry, porch and balcony to provide privacy and vegetation growth.
- A 'Build to Rent' housing model is proposed where the developer retains ownership and apartments are leased to tenants. The developer has ongoing management and maintenance of purpose built communal facilities, including a dedicated on-site management team occupying the ground floor office. All communal amenities are accessible to residents at no additional cost from the rent, except on-site car parking leased at an additional cost.
- The application includes an offer to provide 16 affordable dwellings (mix of studio, one and two bedrooms) rented at a 30 per cent discount to market rent for 40 years. This offer is conditional upon the approval at ten storeys and yield of 527 dwellings.

Key development plans, renders, landscape plan and shadowing plans form **Attachment 2**.

### **Planning Permit and site history**

The Albert Street Urban Renewal Precinct forms an area of 1.74 hectares, previously in the Industrial 1 Zone. In 2015 Council received a request for a planning scheme amendment proposing to rezone the land to allow for residential development.

Amendment C161 was considered a significant opportunity to increase housing supply in Moreland, improve the safety and amenity of Clifton Park by activating a presently blank interface and improve the connectivity of key open space areas within Brunswick's open space network and was broadly supported by State and Local planning policy.

While the applicant had sought an eight storey discretionary height limit, Council resolved to seek a six storey mandatory height control.

Amendment C161 was publicly exhibited in 2016 and 10 submissions were received. No objections were made to the proposed rezoning, however a range of concerns were raised including built form, height and car parking.

The findings of an independent planning panel were reported to the 9 August 2017 Council meeting (DED73/17) including that the mandatory six storey height limit be deleted and replaced with an eight storey discretionary height limit. At this meeting Council resolved to abandon the amendment.

Subsequently the Minister for Planning used his powers pursuant to section 20(4) of the Planning and Environment Act 1987 to rezone the land to the MUZ and apply DDO26 with a discretionary eight storey height limit, consistent with the recommendations of the independent planning panel.

### **Statutory Controls – why is a planning permit required?**

<b>Control</b>	<b>Permit Requirement</b>
Mixed Use Zone	<p>A permit is required to construct more than one dwelling on a lot pursuant to Clause 32.04-6.</p> <p>A permit is required to use the land as a shop and food and drink premises.</p> <p>No permit is required to use the land for dwellings, which includes ancillary communal facilities.</p>
Design and Development Overlay Schedule 26	A permit is required to construct a building or construct or carry out works pursuant to Clause 43.02-2.
Particular Provisions	A permit is required to reduce the car parking requirement from 612 to 239 spaces pursuant to Clause 52.06.

The following Particular Provisions of the Moreland Planning Scheme are also relevant to the consideration of the proposal:

- Clause 45.03: Environmental Audit Overlay. If the proposal were supported, a condition would require a preliminary risk screen assessment statement or an environmental audit statement before commencement of development.
- Clause 45.06: Development Contributions Plan Overlay. If the proposal were supported a condition would be included requiring the payment of the relevant development contributions.
- Clause 45.09: Parking Overlay
- Clause 52.34: Bicycle Facilities
- Clause 53.18: Stormwater Management in Urban Development
- Clause 58: Apartment Developments

## **2. Internal/External Consultation**

### **Public notification**

Notification of the application has been undertaken pursuant to Section 52 of the *Planning and Environment Act 1987* by:

- Sending notices to the owners and occupiers of adjoining and nearby land including all properties on Albert Street between Fallon Street and Pearson Street.
- Placing 14 signs around the boundaries of the site.
- Placing a public notice in *The Age* and *The Herald Sun* newspaper.

Council has received 221 objections to date. The key issues raised in objections are:

- Height, scale and visual bulk
- Overdevelopment/overcrowding
- Out of character with the area
- Not in an activity centre
- DDO26 setbacks and objectives not met
- Setback to Albert Street inappropriate including ten storey boundary wall
- Inconsistent with the Moreland Planning Scheme and documents forming Amendment C161 that considered rezoning the land
- Dominance to the park including continuous walls of built form
- Aesthetics and modern appearance
- Overshadowing
- Overlooking
- Impact on amenity and enjoyment of the area
- Does not respond to low scale residential heritage properties to the west
- Impact to development potential of adjoining sites
- Loss of daylight
- Does not respond to low scale residential heritage properties to the west
- Demolition of existing dwellings on the site
- Location of crossover to development inappropriate
- Insufficient car parking including visitor parking
- Traffic and parking congestion and safety impacts on road network
- Traffic report accuracy during COVID-19 pandemic
- Parking restrictions would result in a cost to existing residents
- Insufficient bicycle parking, access to public transport and infrastructure
- Landscaping in setbacks from parkland insufficient to soften interface
- Level of ESD, laundry drying facilities and urban heat island effect
- Impact on Gilpin and Clifton parks
- Public access and connection between Clifton Park and Albert Street
- Insufficient developer contributions, street and public realm upgrades
- Insufficient open space
- Community engagement inadequate (Council's notice and by permit applicant)
- Wind and acoustic impacts on Albert Street and parkland
- Waste management (bins within the park to manage increased use)
- Too much retail space, lack of demand for commercial tenancies and should incorporate community uses
- Lack of demand for dwellings
- Should include more uses including community uses

- Quality of construction and ongoing maintenance with the build to rent model
- Construction and noise impacts
- Impact from use of the parkland (noise, events, activities) on proposed dwellings
- Small size of studios and too many
- Affordable housing commitment is minimal
- The site should be parkland or developed for low-rise development
- Setting a precedent
- Loss of trees and impact to wildlife
- Loss of views including views to chimneys of the Brickworks
- Loss of property value

A Planning Information and Discussion meeting was held on 31 May 2021 and attended by Deputy Mayor Cr Mark Riley, Cr Sue Bolton and Cr Oscar Yildiz, Council Planning Officers, the applicant and approximately 21 objectors. The meeting provided an opportunity to explain the application, for the objectors to elaborate on their concerns, and for the applicant to respond. No changes have been made to the application following the meeting.

#### **Internal/external referrals**

The proposal was referred to the following external agencies or internal branches/business units:

<b>External Agency</b>	<b>Objection/No objection</b>
Transport for Victoria	No objection subject to conditions requiring the submission, approval and implementation of a Green Travel Plan. If the proposal were supported these requirements would form conditions of approval.
<b>Internal Branch/Business Unit</b>	<b>Comments</b>
Urban Design Unit	<p>Does not support the proposal.</p> <ul style="list-style-type: none"> <li>• The ten storey height is not visually recessive. The building siting and design presents unreasonable bulk to Clifton Park and Albert Street and fails to provide a pedestrian scale to the precinct edges.</li> <li>• Long and continuous building lengths, including ground and podium levels, result in unreasonable bulk and massing.</li> <li>• The podiums of Building 1 and 2 have insufficient ground floor setbacks to provide appropriate landscaping.</li> <li>• The upper levels are not visually recessive as: <ul style="list-style-type: none"> <li>- The setbacks from lower levels are minimal.</li> <li>- There is a lack of physical breaks between the upper levels.</li> <li>- The ten storey western boundary wall is visually dominant.</li> </ul> </li> <li>• Development fronting Clifton Park at five and seven storeys at its eastern interface fails to provide a pedestrian scale.</li> </ul>

	<ul style="list-style-type: none"> <li>• Future views to the park and daylight access to 413, 417 and 423 Albert Street is unreasonably impacted. This advice is considered further at Section 4 of this report.</li> </ul>
Sustainable Built Environment - Development Engineering Team	<p>Does not support the proposal. The reduction of car parking providing 230 spaces will not meet the demand generated by residential uses. The reduction will result in unreasonable on-street parking impacts as detailed in Section 4.</p> <p>The following aspects of the proposal are supported:</p> <ul style="list-style-type: none"> <li>• Vehicles for shared car parking</li> <li>• The supply of nine car parking spaces allocated to commercial uses</li> </ul> <p>The anticipated traffic generated from this proposal is accepted for the reasons detailed in Section 4.</p>
Sustainable Built Environment - ESD Team	<p>Supports key commitments with respect to:</p> <ul style="list-style-type: none"> <li>• NatHERS rating of 7.0 stars</li> <li>• An all-electric build (no gas)</li> </ul> <p>Does not support the proposal as:</p> <ul style="list-style-type: none"> <li>• The design fails to meet Standard W2 and best practice stormwater management as required by Clause 53.18 Stormwater Management.</li> <li>• The Indoor Environment quality results in: <ul style="list-style-type: none"> <li>- 53.3 per cent of living rooms achieve less than 1 per cent daylight factor to 90 per cent of the floor area and kitchen, where BESS seeks a minimum 80 per cent of dwellings; and</li> <li>- Lack of natural ventilation with mechanical ventilation prioritised over passive design</li> </ul> </li> </ul> <p>These matters are considered further in Section 4 of this report.</p>
Open Space Design and Development Unit	<ul style="list-style-type: none"> <li>• Does not support the podium setback less than three metres from Clifton Park, where a lack of deep soil landscaping fails to soften the built form.</li> <li>• Supports direct access from dwellings onto the park.</li> <li>• Does not support the location of the public path along Clifton Park where it does not abut the title boundary as it fails to clearly delineate the public and private realm.</li> <li>• Does not support the proposed level of upgrades, which is not proportionate to the impact of development on parkland from increased use and shadowing.</li> <li>• Confirmed that protective nets are required to manage the recreational use of the sports grounds.</li> </ul>
Property Unit	<p>Supports the proposal to allow pedestrian movements from the site into the park subject to the creation of a 'paper road' to avoid privatisation of public land. If the proposal were supported, this would form a condition of approval.</p>

### 3. Policy Implications

#### Planning Policy Framework (PPF):

- Municipal Planning Strategy (Clause 2), including:
  - Vision (Clause 2.02)
  - Settlement (Clause 2.03-1)
  - Environmental and Landscape Values (Clause 2.03-2)
  - Environmental Risks and Amenity (Clause 2.03-3)
  - Built Environment and Heritage (Clause 2.03-4)
  - Housing (Clause 2.03-5)
  - Economic Development (Clause 2.03-6)
  - Transport (Clause 2.03-7)
  - Infrastructure (Clause 2.03-8)
- Settlement (Clause 11)
- Environmental and Landscape Values (Clause 12), including:
  - Protection of biodiversity (12.01-1S)
- Environmental Risks and Amenity (Clause 13):
  - Contaminated and Potentially Contaminated Land (Clause 13.04-1S)
  - Noise Abatement (Clause 13.05-1S and 13.05-1L)
- Built Environment (Clause 15.01), including:
  - Urban Design (Clause 15.01-1S, 15.01-1R & 15.01-1L)
  - Vehicle Access Design in Moreland (Clause 15.01-1L)
  - Building Design (Clause 15.01-2S & 15.01-2L)
  - Apartment developments in Moreland (Clause 15.01-2L)
  - Healthy Neighbourhoods (Clause 15.01-4S and 15.01-4R)
  - Neighbourhood Character (Clause 15.01-5S)
- Sustainable Development (Clause 15.02), including:
  - Energy and resource efficiency (Clause 15.02-1S)
  - Environmentally Sustainable Development (Clause 15.02-1L)
  - Energy efficiency in Moreland (Clause 15.02-1L)
- Residential Development (Clause 16.01), including:
  - Housing Supply (Clause 16.01-1S and 16.01-1R)
  - Homes in Moreland (Clause 16.01-2L)
  - Housing for People with Limited Mobility (Clause 16.01-1L)
  - Housing Affordability (Clause 16.01-2S & 16.01-2L)
- Transport (Clause 18), including:
  - Sustainable Personal Transport (Clause 18.02-1S & 18.08-1R)
  - Sustainable Transport in Moreland (Clause 18.02-1L)
  - Car parking (Clause 18.02-4S & 18.02-4L)
- Infrastructure (Clause 19.02), including:
  - Open Space (Clause 19.02-6S, 19.02-6R & 19.02-6L)
  - Development infrastructure (Clause 19.03)

## Human Rights Consideration

This application has been processed in accordance with the requirements of the *Planning and Environment Act 1987* (including the Moreland Planning Scheme) reviewed by the State Government and which complies with the *Victorian Charter of Human Rights and Responsibilities Act 2006, including Section 18 (Taking part in public life)*. In addition, the assessment of the application has had particular regard to:

- Section 12: Freedom of movement - The proposed redevelopment of private land does not present any physical barrier preventing freedom of movement, including in relation to the adjoining park.
- Section 20: Property rights - The right of the landowner to develop and use their land has been considered in accordance with the Moreland Planning Scheme.

## 4. Issues

In considering this application, regard has been given to the State and Local Planning Policy frameworks, the provisions of the Moreland Planning Scheme, objections received and the merits of the application.

### Does the proposal have strategic policy support?

This site is not located in an Activity Centre, meaning this is not a location that the Planning Scheme identifies as an area for significant growth. Clause 02.04 identifies the site as being in a Transition-residential area. This classification comes from the Moreland Industrial Land Strategy and was the catalyst for the rezoning to the Mixed Use Zone (MUZ). The purposes of the MUZ includes providing for housing at higher densities. Planning policies support increased residential densities in appropriate locations with strong strategic support at both State and Local level for:

- Housing growth into areas with access to shops, services and public transport in accordance with a '20-minute neighbourhood principle' where communities can access many of their daily needs within a 20-minute walk, cycle or public transport trip from their home (Clause 02.03-1 Settlement and Clause 16.01-1S Housing supply)
- Housing growth and change in accordance with the Strategic Framework Plan: *Housing* which identified this site as a *Transition Residential Areas* (Clause 02.03-5 Housing)

The site has policy support to accommodate increased residential densities, the commercial uses and a change from the existing character.

However, the built form design response does not respond appropriately to its interfaces and the objectives of DDO26, as set out in this report.

### Does the proposal respond to the built form requirements and design objectives of DDO26?

DDO26 which affects the site, outlines the preferred built form outcomes and objectives that are to be achieved within the Albert Street Urban Renewal Precinct. Design objectives of DDO26 include:

- *To support quality medium density residential development that is mid-rise built form in character, with a pedestrian scale to the precinct edges and a western interface that is scaled down and provides a separation to respond to the lower scale and heritage significance of existing dwellings*
- *To provide a quality public realm interface by including a visual and public pedestrian connection between Albert Street and Clifton Park, a high level of passive surveillance to external public spaces and internal communal areas, and quality landscape design to integrate into the parkland context*

### Building Height and Setbacks

DDO26 anticipates height up to eight storeys (28 metres) at this site but does not set mandatory height limits. The height of buildings 1 and 2 is 34.85 metres to the rooftop plant. DDO26 provides built form guidance that:

- *Development fronting Clifton Park should not exceed four (4) storeys*
- *Development within the precinct should not exceed eight (8) storeys*
- *Taller buildings above four (4) storeys in height should be set back from the four storey podium at the Albert Street and Clifton Park interfaces and from existing dwellings adjacent to the precinct, and be designed to be visually recessive when viewed from Clifton Park, Albert Street and the rear of properties fronting Albert and Pearson Streets. Balconies should not encroach into upper level setbacks*
- *Development should avoid creating a continuous wall of built form along the Clifton Park and Albert Street frontages by providing physical breaks between buildings*

DDO26 states that built form exceeding 8 storeys must meet the following criteria, to the satisfaction of the Responsible Authority:

- *How the development meets the design objectives of this schedule*
- *How the development is of exemplary design quality (i.e. substantially superior to an acceptable design), particularly with regard to the external presentation of development and ground level street and park interface*
- *How the visual impacts of the development on existing dwellings and parkland are mitigated through the design response*

The key consideration in this matter is not solely the appropriateness of the ten storey height, but whether the siting and design of the top six levels are 'visually recessive' having regard to its interfaces (noting that DDO26 does not specify a setback requirement). This is assessed under each key view line below.

#### *North-west elevation as viewed from Clifton Park*

This is depicted in render view 11 and illustrates Building 2 which generally extends for a continuous length of 80 metres at podium levels and 74 metres at levels 4 to 7. The four storey podium height is compliant. Upper levels 4 to 7 are setback 5.51 metres from the boundary increasing to 8.15 metres at levels 8 and 9. The lack of breaks at both the podium and upper levels, in combination with minimal upper level setbacks result in massing that is not visually recessive. A different building typology providing a break at this north-west elevation and smaller upper level floor plates would avoid creating a continuous wall of built form, contribute to visual recession of upper levels and provide opportunity for pedestrian connection and improved solar access to the ground level open space in the courtyard of Building 2.



Figure 1 – Render view 11



*Northern and internal elevations as viewed from Clifton Park*

This is depicted in render views 3, 8 and 9 and illustrates the north and west elevations of Building 1 and 3 and the north-east elevation of Building 2. A feature of the design response is the central separation within the site where Building 3 is located, which also provides pedestrian and visual connections between Albert Street and Clifton Park. The separation distance between Buildings 1 and 2 increases to 53 metres at the northern boundary. This large v-shaped break in the built form assists to locate buildings away from the parkland, where buildings recede from the park frontage. However, this large break also makes views to the internal elevations of Buildings 1 and 2 highly visible from the park.

Figure 2 – Render view 3



The western elevation of Building 1 contains minimal upper level setbacks, with levels 4 to 7 setback 3.3 metres from the lower levels and only part of levels 8 and 9 are further setback 4.4 metres from the lower levels. Similarly, the north-east elevation of Building 2 extends for a length of 48 metres with a minimal setback of 1.2 metres at levels 4 to 9, from lower levels.

The minimal setbacks of upper levels in combination with a lack of physical breaks does not result in a visually recessive design. This design response prioritises one large break at the north boundary, where a series of smaller breaks at podium levels fronting Clifton Park would better assist to break up the continuous wall of built form at other interfaces.

*Eastern elevation as viewed from the Clifton Park*

This is depicted in render view 10 and illustrates Building 1 which extends for a continuous length of 89 metres and is highly visible on the approach west down Albert Street and one of the main entries to the park. A four storey podium is absent, for at least 50 per cent of the building's length. At worst the podium expression extends eight storeys above the ground level opening.

The design response has adopted a varied upper level setback which ranges between 2.4 metres to 10.489 metres.

This interface does not present a distinct four storey podium to Clifton Park. It fails to provide a pedestrian scale in accordance with DDO26 which seeks to setback taller buildings from the four storey podium. Principally the of lack of a physical break to this building, from ground floor to level 9 results in a continuous wall of built form that is not visually recessive.

Figure 3 – Render view 10



*Southern elevation as viewed from Albert Street*

Building 1 extends for a length of 30 metres and Building 2 for 50 metres length along Albert Street, with parts built onto the street boundary. The podium exceeds four storeys in part and increases to five storeys. The podium height exceeding four storeys at Albert Street provides for visual interest to the street wall, but it is not supported at the south-east corner, where it interfaces with Clifton Park.

The central accessway assists to break up the massing of these buildings at Albert Street. However, the continuous length of Building 2 results in a visually dominant building mass that is not adequately mitigated by the setbacks to the boundary (being 2.5 metres at levels 1 to 3, 7 metres at levels 4 to 7 and 12.5 metres to the top two levels). Building 2 has a ten storey boundary wall that will remain highly visible unless comparable development occurs at the adjoining site. This is not an appropriate element within the streetscape and development from level 4 should be setback off the western boundary.

Overall, the design response has minimal setbacks to upper levels from lower podium levels and results in continuous built form. Upper levels are not 'visually recessive' as sought by DDO26. This also fails to achieve the overarching objective of DDO26 to create a '*pedestrian scale to the precinct edges*'.

The overall design response has sought to mitigate the height and massing through the use of different materials and treatments. Despite the high quality materials, the proposal is not of exemplary design, particularly to the street and park interfaces and fails to mitigate the visual impacts of the development on parkland.

The recommendation includes grounds of refusal to reflect these design and bulk concerns.

### Albert Street interface

At ground level, non-residential uses are located on the boundary and dwellings are setback 4.62 metres to the building line. This setback is consistent with DDO26. Landscaping to dwellings are provided via in ground planters at respective widths of 0.5 and 0.6 metres with vegetation growth to extend up metal screen and gate enclosures to the entry and balcony area. This interface does not meet the intent of DDO26 seeking a landscaped setback to dwellings fronting Albert Street.

The ground level of Building 2 accommodates a 7 metre wide vehicle accessway, 8.2 metre wide substation and 4.3 metre wide loading bay. The co-location of these features at Albert Street (a combined width of 22 metres) fails to promote an active frontage and passive surveillance as sought by DDO26 and provide loading areas to the side or rear of buildings. This matter forms grounds of refusal in the recommendation.

### Clifton Park interface

The built form requirements of DDO26 also require a landscaped setback from Clifton Park with ground and podium levels setback 3 metres. This setback may be reduced where commercial uses are provided.

Building 1 generally meets the 3 metre setback for the majority of its eastern abuttal, except where the pedestrian path within the title boundaries would impact provision of landscaping. The northern setbacks of Building 1 are 0.6 metres at the ground floor balcony and 1.12 metres at levels 1 to 4. Building 2 is setback 2.51 metres from Clifton Park, however the design response provides hard surfaces associated with dwelling entries and planter boxes which restricts opportunity for canopy tree planting. The design response fails to provide a pedestrian scale to Clifton Park with a landscape design, inclusive of canopy trees that softens the visual impact of the buildings on Clifton Park. The renders depict canopy trees however these cannot be accommodated within the title boundaries in the setbacks provided.

These matters form grounds of refusal in the recommendation.

In contrast, the 0.7 metre setback of Building 3 from Clifton Park is acceptable as it proposes a commercial tenancy where a landscape outcome is not sought. Render view 8 depicts outdoor dining associated with this café which would extend onto Council land and conflict with the use of the public path. An increased setback to this tenancy would be needed to accommodate outdoor dining within the title boundaries, if this is desired by the applicant.

### Pedestrian Paths and Public Realm Upgrades

The landscape plans do not provide a 2.5 metre wide public path on Council land abutting the north and north-west boundaries in accordance with Figure 1 of DDO26. This fails to provide a clear delineation between the public and private realm sought by DDO26. The design response seeks to develop Clifton Park with paths to individual dwelling entries, this results in the privatisation of Council land which is not an appropriate outcome.

In contrast, DDO26 does not require a public path to extend along the eastern boundary on Council land, but requires that development provide an active frontage to Clifton Park. At this interface the landscape plans identify a path within the title boundaries, where the architectural plans identify it partly located on Council land. While the conflict needs to be resolved, both options limit the opportunity for meaningful landscaping or separation of dwellings from the interface with the change room and half basketball court. Instead the design seeks to undertake mass planting on Council land to manage its interface with the active use and infrastructure in Clifton Park. The half basketball court and change rooms should be relocated with the developer required to contribute to these infrastructure upgrades, to ensure dwellings have good outlook and there is sufficient space for planting to soften the built form.

This is an outcome sought by Council's Open Space Unit and would be included as a requirement on a permit should VCAT determine that one should be issued.

DDO26 seeks that the developers of the Albert Street Urban Renewal Precinct contribute to the cost of upgrades to Albert Street and Clifton Park. The extent of public realm upgrades committed to include the undergrounding of powerlines, upgraded footpath and street tree planting in Albert Street. Additional tree planting is proposed in Clifton Park to the site's east as well as limited upgrades to the existing pedestrian path in Clifton Park at the site's north and eastern interfaces. The extent of the commitments is not proportionate to the impact of the scale of development on parkland from increased use by new residents and shadowing from the proposal. Advice from Council's Open Space Unit recommends that the following public works contributions should be made as part of this development: reconstruction of the entirety of the public path in Clifton Park; removal of the redundant path and lighting; new lighting; protective nets along the north-west boundary; contribution to significant landscaping and tree planting in Clifton and Gilpin Park; relocation of the basketball court; and contribution towards the relocation of the change room. Discussion of the appropriate extent of public works contribution will form part of the VCAT hearing.

The lack of adequate commitment to public works forms a ground of refusal in the recommendation.

### **Does the proposal result in any unreasonable off-site amenity impacts?**

#### Overshadowing

Policy at Clause 15.01-1L (Urban Design in Moreland) seeks to design and site development to not unreasonably overshadow public open space. The development plans identify shadowing extending slightly onto Gilpin Park at 9am and moving off the parkland for the remainder of the hours at the equinox (being 22 September). Shadowing falls onto Clifton Park from 1pm at the equinox. At 2pm the shadow extends over the half basketball court with shadowing at 3pm extending to the north-south path providing entry to Clifton Park from Albert Street.

DDO26 anticipates heights up to eight storeys, which will cast winter shadows in this parkland setting. Shadowing in winter months is not depicted in the development plans but will extend into Gilpin Park and further east into Clifton Park than at the equinox. The proposal has not had regard for the impact that additional shadow cast from a ten storey building, will have on parkland. Gilpin park is approximately 6.5 hectares with extensive tree coverage and so some overshadowing would not unreasonably impact the amenity of the park. However, the design of the ten storey building has not had regard to the impact of additional shadows on the park.

This matter forms a ground of refusal in the recommendation.

#### Impact on 413, 417 and 423 Albert Street

The design objectives and built form requirements of DDO26 seek to ensure that development does not unreasonably impact future development potential of these adjacent sites (also designated for redevelopment by DDO26).

The southern setbacks of Building 2 range from 3 to 7 metres for the full ten storey height. At levels 8 and 9 the south-west corner increases to provide an angled setback increasing to 12.4 metres.

Whilst built form is to be anticipated adjacent to these sites, the overall height and minimal building separation results in massing that will unreasonably impact daylight access and outlook to future development on these sites. This fails to respond to policy guidance at DDO26 and Clause 15.01-2L Apartment development in Moreland.

This matter forms a ground of refusal in the recommendation.

## **Has adequate car parking been provided?**

Clause 52.06 of the planning scheme requires a total of 612 car parking spaces for the 527 dwellings and 975 square metres of commercial space. The site is within the Principal Public Transport Network Area and so there is no statutory requirement to provide residential visitor parking onsite.

### *Appropriateness of reduction to commercial uses*

Nine spaces are allocated to commercial tenancies. The car parking reduction associated with commercial uses (24 spaces) is accepted, with adequate staff parking provided onsite. The customer catchment for these uses is largely expected from the proposed dwellings and any demand for short term parking can be accommodated on the street, noting that four spaces are created with the removal of redundant crossovers.

### *Appropriateness of reduction to residential uses*

The build to rent model proposes a total of 230 onsite car parking spaces for use by residents. 220 spaces are available to tenants for lease (inclusive of two electric vehicle charge spaces and 20 spaces in a tandem arrangement to be allocated to three bedroom dwellings). Ten car share vehicles are to be available to tenants to lease on an as needed basis. On-site car parking will be managed by the developer and leased to tenants for a cost additional to their rent.

Data from the 2016 Australian Bureau of Statistics identifies that occupants of rented apartments in Brunswick have lower car parking ownership rates than owner occupied apartments. These lower rates have been applied to this development with the applicant's traffic engineer anticipating residential demand to be 305 spaces (0.58 cars per dwelling). This demand is proposed to be met with 220 on-site residential spaces and provision of ten car share vehicles, which according to the traffic engineer, are expected to lower the demand for private cars by approximately 90 spaces. For these reasons, the applicant's traffic engineer supports the statutory reduction of 579 residential spaces, as well as citing State and Local planning policy support to reduce private vehicle usage, where there is good access to public transport options including bicycle facilities (in excess of Clause 52.34 requirements) and commercial car share schemes.

In addition to Council's Development Advice Engineer reviewing the proposal, a peer review of the applicant's traffic report has also been conducted. This review accepts that car share vehicles will reduce the demand for private vehicle car parking but considers that the average car parking ownership for one and two bedroom apartments in Brunswick is higher than the applicant's report identifies. The peer review concludes that demand is likely to be 355 spaces (0.67 cars per dwelling) which results in a shortfall of approximately 45 spaces.

Planning policy at Clause 52.06 (Car Parking) and Clause 18.02-4L (Car parking in Moreland) provide support for some reduction. Whilst the site does not have 'excellent' access to public transport, it has access to a range of public transport options. Some reduction from the statutory rate is appropriate, however the proposal fails to meet the demand so as not to unreasonably impact unrestricted on street car parking. The nature of the build to rent model and the cost to lease a space onsite means that some residents may elect to park in currently unrestricted on-street spaces for free. People from across the municipality drive to Clifton and Gilpin Parks to use these recreational spaces, including training and match events held by sporting clubs. There is concern that the proposed reduction will unreasonably affect the availability of on street car parking currently available close to parkland.

This matter forms a ground of refusal in the recommendation.

## **What impact does the proposal have on car congestion and traffic in the local area?**

Up to 732 additional vehicle movements per day will occur on Albert Street as a result of this development. Albert Street is a local road and Pearson Street is a collector road that takes higher traffic volumes than local roads.

To consider impacts from the precinct, Council has undertaken traffic counts of the Dawson, Albert and Victoria Street intersections with Pearson Street. The Fallon and Gardiner Street and Sydney Road intersections with Albert Street were also surveyed, as was the Dawson and Grantham Street intersection. This was undertaken in June 2021 after the reduction in typical traffic volumes due to the COVID-19 pandemic. The existing volume of daily vehicle movements at these intersections have been considered in conjunction with traffic volumes anticipated from this proposal and all sites forming the Albert Street Urban Renewal Precinct, once developed.

This assessment confirms that the anticipated traffic generation will impact the operation of two intersections, with all others maintaining a range of fair, good, very good and excellent operation levels.

During the morning peak hours, the Victoria and Dawson Street intersections with Pearson Street will not change from their current levels of 'very good' and 'excellent' service. The current levels of 'good' and 'fair' service in the afternoon peak hours will be impacted. Traffic travelling east at the Victoria and Pearson Street intersection will drop to a 'poor' level of service. Similarly, traffic travelling north at the Dawson and Pearson Street intersection will have a 'poor' level of service. However even with an anticipated 'poor' level of service, it is not considered necessary that changes are made to the intersection at this point in time. This is because the analysis confirmed that only a very small number of additional vehicles at the intersection dropped the level of service from fair to poor in the afternoon peak.

Because of the small change, consideration of traffic impacts from the development of the precinct, is best to occur through an analysis undertaken post construction. This is the appropriate time to identify actual traffic generation and usage patterns. If the proposal were supported, a condition of approval would require that the permit holder contribute to a post construction analysis to identify accurate traffic generation. If changes to intersections are required in the future Council can implement low cost measures, such as extending queue lengths. The Pearson and Dawson Street intersection is managed by Transport for Victoria who is responsible for any modifications to this intersection. The application was referred to them and they have not recommended any changes to this intersection. Any future changes would need to be determined as appropriate and necessary by Transport for Victoria.

The traffic analysis has not revealed any safety concerns as a result of increased traffic movements.

Concern has been raised with potential impacts to delivery vehicles associated with the adjoining business. The location of the subject site's vehicle entry and width of Albert Street is unlikely to create a queue of traffic that would unreasonably impact the adjoining property. Furthermore, it is noted that on-street parking and loading associated with the adjoining site must occur in accordance with any parking restrictions and relevant road safety legislation.

## **Are adequate loading/unloading facilities provided?**

Notwithstanding the built form design concerns with the location of the loading bay at Albert Street, the proposal provides adequate provision for a loading bay and waste collection which is to occur via private contractor within the basement.

## Does the proposal provide appropriate onsite amenity and facilities?

The following standards of Clause 58 relating to onsite amenity are met noting that:

- Communal open space of approximately 1,415 square metres substantially exceeds the 250sqm required by Standard D6.
- 85 per cent of dwellings are accessible exceeding the 50 per cent requirement.

The design response does not achieve compliance with a number of standards of Clause 58 relating to onsite amenity and detailed design. Given the size of the site and the ability of an alternative design response to achieve compliance, the variations to these standards and objectives are not accepted for the reasons set out below:

- Standard D8 requires that 125 square metres of primary communal outdoor open space receive a minimum of two hours of sunlight on 21 June. The communal open space enclosed by Building 2 is in shadow throughout the day (and minimal solar access at the equinox) due to the attached nature and building typology of Building 2.
- Windows are not provided to all lift areas and common area corridors do not contain sufficient windows for adequate natural daylight and ventilation required by Standard D18.
- Standard D10 requires 15 per cent (1,573 square metres) of deep soil planting, to accommodate 6 large trees or 12 medium trees per 90 square metres, where approximately 7 per cent is proposed. Above ground planters have sought to provide extensive landscaping to the accessways, however non-compliance with Standard D10 impacts the ability to respect the landscape character of the area given its park abuttal.
- The design seeks to use proprietary stormwater management products to achieve the requirements of Standard W2 of Clause 58.03-8 Integrated water and stormwater management objectives. These proprietary systems have a lack of third party testing so the operation of these products to achieve best practice stormwater management is a concern. Additionally, there is insufficient detail with respect to catchment plans and justification for use of tank water rather than passive design.
- Some dwelling layouts fail to comply with the minimum living area dimensions pursuant to Clause 58.07-1 - Functional layout objective Standard D24. A variation to a number of these are acceptable where the dining area marginally extends into the living area (dwelling types 1B, 1H, 1N, 1K, 1Q, 2C, 2X, 3B, 3E, 3H and 3K). The dimensions of these living areas still provide functional spaces for occupants. In contrast, a variation to the following 81 dwellings is not accepted. The variations sought to these living room areas do not provide functional and usable layouts for appropriate onsite amenity, specifically:
  - Dwelling types 2M and 2T as the dining areas are not separate to the 3.6 metre living area and there is limited clearance to the balcony/glazing door.
  - Dwelling types 2H and 2N as the 3.6 metre living room dimension extends to the area immediately in front of the galley kitchen, where this space is needed for use of the kitchen. The 2H layout leaves 1 metre clearance to the bedroom from the couch. The 2N layout also leaves 0.7 metres clearance to the bedroom from the dining table which restricts access to this room.
  - Dwelling type 2Q and 2U as the dining area is not separate to the 3.6 metre living area.

- Studio dwellings comprise approximately 20 per cent (107 dwellings) of the total dwellings. The provision of smaller dwellings that still achieve good internal amenity is supported. However, the width, depth and layout of dwelling types STA, STD and STJ (comprising 35 dwellings) do not result in adequate internal amenity. The living areas extend up to the area immediately in front of the galley kitchen where this area is needed to use the food preparation area and a dining area is not separate to the 3.3 metre living area.
- Dwelling type 1H, constituting 86 dwellings, has a room depth of 9.7 metres that exceeds the 9 metre depth allowed by Clause 58.07-2 Room depth objective - Standard D25. This variation is not accepted, the daylight modelling identifies that the room depth exceeding 9 metres is a contributing factor to poor daylight access to these dwellings, particularly where building separation requirements at Clause 15.01-2L are met. The layout of these dwellings is also poor as a result of the bedrooms being located behind very deep balconies, which will result in reduced daylight to these rooms.
- 16 per cent of the dwellings achieve breeze paths to meet the requirements of natural ventilation at Standard D27. The standard and objective of Clause 58.07-4 is not met with only 87 dwellings compliant, where 210 dwellings are required. Additional breaks in the built form would more readily allow for this standard to be met and improve internal amenity.

These matters form grounds of refusal in the recommendation.

### **Does the proposal comply with Clause 15.01-2L Apartment development in Moreland?**

This policy sets out building setback standards for apartment buildings. The objectives relate to daylight and outlook, future development opportunities of adjoining sites and amenity impacts. The proposal is not compliant with a number of the standards set out in this Clause.

#### *Building separation within the site Table 3 at Clause 15.01-2L*

The separation between the internal elevations of Building 2 (i.e. the courtyard) meet the requirements of Table 3. Setbacks are uniform at all levels providing building separation distances of approximately 40 metres width and 33 metres depth. This exceeds the respective 12, 18 and 24 metre distances required by Table 3.

The ground level dwellings with an interface to Building 3 have building separation distances of 7.8 to 8 metres. Given the interface with a two storey building, access to daylight is not unreasonably constrained.

The daylight modelling illustrates dwellings located along the eastern elevation of Building 2 achieve poor daylight where the building separation required by Table 3 is not met, as detailed below:

- Levels 1 to 3, the 12 metre separation distance is met with a distance of 15-16 metres provided.
- Level 4, the 18 metre separation distance is not met with a distance of 15-16 metres provided.
- Levels 5 to 7, the 18 metre separation distance is met with 18 metres provided.
- Levels 8 and 9, the 24 metres separation distance is not met with a distance of 19.94 provided.

53.3 per cent of dwellings achieve less than 1 per cent daylight factor to 90 per cent of the floor area and kitchen, where BESS seeks a minimum 80 per cent of dwellings. This is in part due to the layout and depth of dwellings as well as building separation distances not in accordance with Clause 15.01-2L.



These matters form grounds of refusal in the recommendation.

### **Is the affordable housing offer appropriate?**

The proposal includes an offer to provide 16 affordable dwellings conditional on the approval of a development at ten storeys and a yield of 527 dwellings. Planning policy Clause 16.01-2S (Housing affordability) and Council's local policy at Clause 16.01-2L (Housing affordability Moreland) encourages inclusion of affordable housing that is managed by a registered housing association.

The proposed commitment to provide 16 affordable dwellings (six studios, six one bedroom dwellings and four two bedroom dwellings) will benefit households with a moderate income. This will not address the largest cohort of need within Moreland, which is very low and low income household groups. However, the commitment to provide a 30 per cent discount to market rent for 40 years (equating to at least \$4.66 million) is an acceptable level of contribution to housing affordability, notwithstanding officers not supporting the conditional nature of the offer. If the proposal were supported, a condition of approval would require that a section 173 agreement require that a registered housing association oversee the eligibility of tenants and annual reporting obligations.

## **5. Response to Objector Concerns**

A number of issues raised by the objectors have been addressed in section 4 of this report. Other issues raised by objectors are addressed below.

### *Overdevelopment/overcrowding*

The Victorian State Government has provided a clear policy imperative of urban consolidation as a way of providing housing for Melbourne's growing population. DDO26 identifies mid-rise development to occur at this site. Density of the development is determined from a quantitative assessment of a development's compliance with the Moreland Planning Scheme. As set out in this report the proposal fails to satisfy a number of policy objectives including the proposal's ability to provide for the amenity of future residents and respond to the attributes and constraints of the site. Therefore, the proposal is considered to be an overdevelopment of the site.

### *Impact on amenity and enjoyment of the area*

Because the site is identified for new built form and increased housing density, a change to the character of the area is anticipated. An increase in the number of residents and new users can improve the amenity of the area. However, the proposed development is not supported for the reasons set out in this report, including its impact on local parklands and lack of adequate landscape contribution.

### *Demolition of existing dwellings on the site*

The existing dwellings forming part of this site are to be demolished. These dwellings are not within a heritage overlay and do not merit protection as planning policy anticipates redevelopment to occur.

### *Does not respond to low scale residential heritage properties to the west*

Objections have raised concerns that the scale of development fails to respond to its context which includes existing low scale dwellings to the west of the Albert Street Urban Renewal Precinct. Section 4 details how the site's rezoning to the MUZ provides policy support to accommodate increased residential densities, the commercial uses and a change from the existing character, noting that this proposal does not respond appropriately to its interfaces and the objectives of DDO26, as set out in this report.

### *Overlooking*

The Moreland Planning Scheme considers unreasonable overlooking to be a view within 9 metres to private open space associated with a dwelling. This proposal comprises development that will provide views onto parkland, which is supported as it will improve the safety and amenity of Clifton Park by activating a presently blank interface.

### *Parking restrictions would result in a cost to existing residents*

On street parking restrictions are a process managed by Council and do not form part of this planning permit application. Council may restrict on-street parking in the future. This may result in existing residents having to obtain parking permits should they wish to park in restricted areas. This is a common practice in inner city Council's to assist in managing on street car parking as an asset for use by the community, inclusive of residents, visitors and businesses.

### *Traffic report accuracy during COVID-19 pandemic*

Objectors have raised concerns that the applicant's traffic report was prepared during the COVID-19 pandemic and may be limited or not representative of usual traffic and parking conditions. The traffic report has factored a pre-COVID traffic movement rate into the traffic modelling to account for the reduction in typical volumes. It has also used historic aerial images to supplement physical surveys of car parking in the area at various times. Council's Development Engineer and the peer review accept this methodology.

### *Insufficient public transport and infrastructure*

State Planning Policy supports an increase in development and land use activity in proximity to transport corridors and activity centres. The availability and frequency of public transport is a State Government responsibility. This report notes that the site has good access to public transport but concludes that the allocation of onsite car parking is not anticipated to meet demand for car parking from the proposal.

The site owner will be required to address infrastructure servicing demands of the development as stipulated by the various service agencies at the time of either subdivision or connection of the development including any service authority requirements to contribute to the cost of upgrading trunk infrastructure.

### *Level of ESD, laundry drying facilities and urban heat island effect*

The impacts of this proposal with respect to the urban heat island effect have been considered. Aspects of the design such as the colour and materials of the roof and facades reduce heat absorption. However, as noted earlier in the report, the landscaping proposed for development is insufficient and does not meet Clause 58.03-5, forming a ground of refusal in the recommendation.

As the report has set out, the level of ESD is not appropriate with respect to daylight, ventilation and stormwater management. Concerns have been raised whether the proposal is consistent with Council's Zero Carbon Moreland initiative. The development proposes an all-electric build with no gas connection which is consistent with this policy. Each dwelling is provided with balcony space that can be utilised by occupants for laundry drying.

### *Impact on Gilpin and Clifton parks*

Objections have raised concerns about the impact of increased population close to Clifton and Gilpin Parks as well as shadowing impacts. Council is commencing work on a Development Plan to improve the Brunswick Central Parklands including Gillon Oval, Brunswick Park, Clifton Park, Reaburn Reserve and Gilpin Park. The Development Plan will set the strategic future direction for the open space and provide a framework for new works and future upgrades.

DDO26 requires public realm upgrades specific to the Albert Street Urban Renewal Precinct. As detailed in section 4, the level of upgrades committed to as part of this proposal is not considered to be proportionate to the scale and impact of this proposal and this forms a ground of refusal in the recommendation. Shadowing impacts are discussed at section 4.

*Community engagement inadequate*

Objectors have raised concern that the community and stakeholder engagement report prepared by the applicant was brief and not representative of the community who live near and use this parkland. The applicant voluntarily undertook this engagement report which was not a formal requirement of the planning permit application process. Concern was also raised with the extent of public notice direct by Council. Section 2 details how the notice was given, which has met the requirements of section 52 of the *Planning and Environment Act 1987*.

*Wind and acoustic impacts on Albert Street and parkland*

Concerns have been raised with respect to wind and acoustic reports and that these reports are not adequate. If the proposal were supported, conditions would require that additional acoustic testing be undertaken when nearby businesses are operational outside of lockdowns associated with the COVID-19 pandemic. Similarly, a condition would require a further wind assessment be undertaken on any changed or final design of the proposal.

*Waste management (bins within the park to manage increased use)*

Concerns have been raised with respect to waste management onsite and in the parkland. The onsite waste collection and management including garbage, recycling and hard waste has been assessed and is considered adequate. If the proposed were supported, conditions would require management of glass and organics collection as well as the development of a public works plan including furniture such as public bins.

*Construction and noise impacts*

Construction techniques and effects – noise, dust, stability of existing foundations and damage to nearby dwellings - are dealt with under separate further permissions required should a planning permit be issued, including at the building permit stage.

*Impact from use of the parkland (noise, events, activities) on proposed dwellings*

The site has been rezoned to allow development which will locate dwellings close to parkland. While Clifton Park also provides for public events and use by football and soccer clubs, it is not uncommon for residential development to abut sporting reserves and parkland and there are benefits to this interface such as passive surveillance to the parkland. However, it is considered that the half basketball court and change rooms should be relocated due to proximity to new development. This matter will be dealt with through the VCAT hearing process, including consideration of draft permit conditions.

*The site should be parkland or developed for low-rise development / Lack of demand for dwellings*

The site is within private ownership and recently rezoned for mixed use to encourage increased residential densities in accordance with the strategic direction identified in the Moreland Planning Scheme. While the planning scheme anticipates development up to eight storeys for the site, section 4 of this report details why this particular proposal should not be supported. The apartment style housing that is provided in this development is responsive to the demographic trend of declining household sizes.

*Too much retail space, lack of demand for commercial tenancies and should incorporate community uses*

The provision of commercial uses is a positive aspect of this proposal providing a mix of tenancy sizes and uses. The purpose of the MUZ is to provide for housing at higher densities and complementary commercial uses. On balance the mix of proposed uses is acceptable.

*Tenancy should be fit out for a restaurant*

The development is proposing one café and two tenancies for a food and drink premises. If the proposal were supported a condition would require these tenancies to incorporate exhausts within the buildings for the intended future uses.

*Quality of construction and ongoing maintenance with the build to rent model*

If the proposal were supported, a condition would limit the ability for changes to the proposed materials and colours so that a high-quality finish is assured. The use of high quality finishes can assist to reduce ongoing maintenance. The long term and ongoing maintenance of the development is also governed by the *Rental Tenancies Act 2021*.

*Setting a precedent*

The Moreland Planning Scheme provides the strategic direction for increased residential densities and a changed character for this precinct. Future planning permit applications at nearby land will be assessed against this planning policy direction and site conditions, based on their own merits at the time of assessment.

*Loss of trees and impact to wildlife*

Objections raised concerns with the loss of trees and impact to native wildlife from construction and occupation of the development. The disruption to wildlife associated with construction and occupation of new development within the Albert Street Urban Renewal Precinct is anticipated, given its rezoning to provide housing at higher densities. Works to construct the Primary Pedestrian Path at the site's frontage will require the removal of existing Melaleuca trees within Clifton Park. Council's Open Space Planner is supportive of the removal of these trees with replacement trees to be planted. Noting that the site is not within an area specifically identified for protection or conservation per Clause 12.01-1S Protection of biodiversity.

*Loss of property value*

VCAT has consistently found that property values are speculative and not a planning matter. Fluctuations in property prices are not a relevant consideration in assessing an application under the provisions of the Act or the Moreland Planning Scheme.

*Loss of views including views to chimneys of the Brickworks*

Whilst it is recognised that views may form part of amenity, VCAT has consistently held that there is no legal entitlement to a view. Development of the subject site, even at a lower scale would limit views looking south towards the Brickworks chimneys from Clifton Park.

## **6. Officer Declaration of Conflict of Interest**

Council Officers involved in the preparation of this report do not have a conflict of interest in this matter.

## **7. Financial and Resources Implications**

There will be resource and financial implications for Council representation at VCAT. These costs can be met from Council's Governance and VCAT budgets. Resources to support Council's representatives can be provided from the Urban Planning Unit.

## 8. Conclusion

On the balance of policies and controls within the Moreland Planning Scheme and objections received, it is considered that Council's submission to VCAT be to not support application No. MPS/2020/737 for the reasons detailed in the recommendation.

### Attachment/s

- 1 [↓](#) Location Plan - 395-411 Albert Street, Brunswick D21/287977
- 2 [↓](#) Development Plans - 395-411 Albert Street, Brunswick D21/287981