

**Moreland Planning Scheme
Referral 22: 699-703 Park Street, 182-192 Brunswick Road
and 2-4 Sydney Road, Brunswick**

Priority Projects Standing Advisory Committee Report

Planning and Environment Act 1987

28 September 2022

Planning and Environment Act 1987

Priority Projects Standing Advisory Committee Report pursuant to section 151 of the PE Act

Moreland Planning Scheme

Referral 22: 699-703 Park Street, 182-192 Brunswick Road and 2-4 Sydney Road, Brunswick

28 September 2022

Members of the Priority Projects Standing Advisory Committee who considered this referral:



Rodger Eade, Chair



Andrew Hutson, Member



Kate Partenio, Member

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Glossary and abbreviations

ADG	Apartment Design Guidelines for Victoria 2021
Council	Moreland City Council
DELWP	Department of Environment, Land, Water and Planning
DDO18	Design and Development Overlay Schedule 18
HO	Heritage Overlay
kW	Kilowatt
PE Act	Planning and Environment Act 1987
PO1	Parking Overlay Schedule 1
Planning Scheme	Moreland Planning Scheme
PPTN	Principal Public Transport Network
VCAT	Victorian Civil and Administrative Tribunal

1 Overview

(i) Referral summary

Referral summary	
Date of referral	24 June 2022
Members	Rodger Eade (Chair) ¹ , Andrew Hutson and Kate Partenio
Committee assisted by	Georgia Thomas, Project Officer, Planning Panels Victoria
Referral description	<p>The proposal seeks to:</p> <ul style="list-style-type: none"> - demolish and alter a heritage building - construct a multi-storey mixed use development comprising dwellings - use the land for food and drink premises and office - reduce the car parking requirement - alter access in a Transport Zone 2
Combined Amendment and planning permit	draft Amendment C218 and draft planning permit PA2201559
Planning Authority	Moreland City Council
Permit applicant	Mirvac Pty Ltd
Subject site	699-703 Park Street, 182-192 Brunswick Road and 2-4 Sydney Road, Brunswick
Site inspection	Unaccompanied, 29 July and 20 August 2022
Directions Hearing	25 July 2022
Hearing	23 to 26 August and 1 September 2022

¹ Note: Con Tsotsoros was the original Chair and he presided over the Directions Hearing, but was unable to continue with the matter due to timing issues

Parties to the Hearing

Moreland City Council represented by David Vorchheimer of HWL Ebsworth, who called expert evidence on:

- Urban Design from Craig Czarny of Hansen Partnership

Mirvac Pty Ltd represented by Nick Tweedie SC and Barnaby Chessell of Counsel, instructed by Linda Choi of Norton Rose Fulbright, who called expert evidence on:

- Planning from David Crowder of Ratio Consultants
- Architecture and design from Mark O'Dwyer of H2O Architects
- Heritage from Robyn Riddett of Anthemion
- Traffic from Jason Walsh of the Traffix Group

Protect Park Street Precinct Inc represented by Louise Hicks of Counsel

Royal Historical Society of Victoria, represented by Elisabeth Jackson

Protectors of Public Lands Victoria Inc represented by Fiona Bell

Giuseppe Ganci

Professor Simon Jones

Dr Eveline Fallshaw

Other submitters not requesting to be heard	Department of Transport Phil Nolan Mario Mortera Tom Christie Melbourne City Council Heritage Alliance Environment Protection Authority Rosemary Sheehan Ken Atchison Cat Mandina Karen Latimer Barbara Collins Ray Edgar Rudy Pilotto Anne Findlay Josephine Day Martin Day John Rusjan Ronnie Yeo John Singleton Leslie Tipping Anna and Sebastian Vernali Jane Mann Lillian Leptos Karolina Musiatowicz Debbie Plastow Thalia Economo Emma Thompson Susan and Peter Walsh Don Holmes Desmond McGlade Christane Christian
Information relied on	VCAT file P966/2018, Council reports, expert evidence, and submissions at the Hearing
Citation	Priority Projects Standing Advisory Committee Referral 22 [2022] PPV
Date of this report	28 September 2022

(ii) Findings

The Committee finds:

Strategic planning context

- The subject site is appropriate for the type and scale of development proposed.
- State policy supports the provision of housing in a key location such as the subject site which has good access to services and transport, particularly public transport.
- Local policy provides support for the proposal, albeit its alignment with some aspects of local policy was disputed and is addressed in later Chapters of this report.

Built form, design and amenity

- The scale and bulk of the proposal is acceptable.
- The interface with the residential zone to the east of the subject site is acceptable.
- The elevation be redesigned to create a greater visual variety and separation of elements.
- The street wall design and the floor level of the southern balconies of the ground floor apartment of the townhouse forms be to be lowered 650 millimetres.
- The shadow cast by the proposed development onto the north section of Princes Park is acceptable.
- The nine-metre separation between the north and south buildings is acceptable
- The substation configuration on Brunswick Road should remain as proposed.
- The single entry to the commercial space should remain as proposed.
- No evidence was provided that overshadowing of the solar panels on the rooftop of 180 Brunswick Road will be unacceptable.
- Appropriate measures should be taken with respect to apartments at the eastern end of the proposed development to ensure that standard B22 of Clause 55 of the Moreland Planning Scheme is complied with.

Traffic, parking and access

- The parking for the residential component should be reduced to the statutory requirement of 217 spaces with excess parking allocated to the office use.
- The provision of a public pathway between Park Street and Brunswick Road is acceptable.
- The entry to the car park should be modified to provide a corner splay in accordance with Design standard 1 of Clause 52.06-9.
- The car park entry ramp should be modified to provide a 3.5 metre height clearance along the entire path required to allow small rigid vehicles to reverse into the loading dock.
- The spacing of the bicycle spaces should conform to the requirements of AS2890.3:2015.
- Bicycle parking directional signage should be provided to guide visitors to the bicycle spaces provided for visitor use.
- A pathway should be provided from the Café bin store into the car parking aisle in Basement Level 01.

Other issues

- The heritage substation should be retained and altered to facilitate its reuse, as proposed by Ms Riddett.
- The heritage substation will be dwarfed by the surrounding built form, but this impact will be ameliorated by acceptable setbacks to its east, west and south.

- Further setting back of the upper levels of the built form to the east and west of the heritage substation is not warranted.
- The provision of 10 per cent of the apartments at an average discount to sale price of 35 per cent is an appropriate contribution to affordable housing.
- The provision of 0.1 per cent of the subsequent sale price of any apartment for social housing is appropriate.
- The mix of apartment types provided as affordable housing should be the subject of negotiation between the developer and the affordable housing provider
- There are some deficiencies in the submitted plans with respect to compliance with Clause 58 of the Moreland Planning Scheme.
- The Proponent be required by way of a planning permit condition to submit plans which are compliant with Clause 58 of the Moreland Planning Scheme, to the satisfaction of the responsible authority.
- The Minister for Planning should be the responsible authority for the land at:
 - 699-703 Park Street Brunswick
 - 182-192 Brunswick Road Brunswick
 - 2-4 Sydney Road Brunswick.
- The Minister for Planning should prepare, adopt and approve Amendment C218 to the Moreland Planning Scheme and exempt herself under section 20(4) of the *Planning and Environment Act 1987* from the requirements of sections 17, 18 and 19 of the Act and Regulations.

(iii) Recommendations

The Priority Projects Standing Advisory Committee recommends:

- 1. The Minister for Planning support the proposed development at 699-703 Park Street Brunswick, 182-192 Brunswick Road Brunswick and 2-4 Sydney Road Brunswick and issue planning permit PA2201559 subject to the conditions included in Appendix C of this report.**
- 2. The Minister for Planning should prepare, adopt and approve Amendment C218 to the Moreland Planning Scheme and exempt herself under section 20(4) of the *Planning and Environment Act 1987* from the requirements of sections 17, 18 and 19 of the Act and Regulations.**

2 Introduction

2.1 Terms of Reference and letter of referral

The Priority Projects Standing Advisory Committee (the Committee) was appointed by the Minister for Planning on 14 June 2020. The purpose of the Committee is set out in its Terms of Reference (Appendix D) to:

... provide timely advice to the Minister for Planning on projects referred by the Building Victoria's Recovery Taskforce, projects affected by Covid-19 and or where the Minister has agreed to, or is considering, intervention to determine if these projects will deliver acceptable planning outcomes.

The Minister for Planning provided a letter of referral dated 25 July 2021 to the Lead Chair of the Committee (Appendix A) which requires the Committee to provide advice on:

- whether draft Amendment C218 to the Moreland Planning Scheme (the Planning Scheme) should be approved
- whether planning permit PA2201559 should be issued
- what conditions should apply to the planning permit issued.

2.2 Proposal

The combined draft Amendment C218 and draft planning permit PA2201559 application (the proposal) seeks to develop the subject land to enable predominantly dwellings with a café and some commercial space. Specifically, the application proposes to:

- demolish and alter a heritage building
- construct a multi-storey mixed use development comprising dwellings
- use the land for food and drink premises and office
- reduce the car parking requirement
- alter access in a Transport Zone 2.

(i) Supporting plans, reports and assessments

The application was supported by:

- Acoustic Assessment for Planning, Acoustic Logic, 17 December 2021
- Affordable Housing Proposal, Affordable Development Outcomes, December 2021
- BESS Daylight Compliance advice, Cundall, 2 March 2022
- Economic Benefit Assessment, Urbis, December 2021
- Environmental audit letter, Kirsa Environmental, 14 December 2021
- Heritage Impact Statement, Bryce Raworth, December 2021
- Landscape plans, Jack Merlo, 15 December 2021
- Planning Report, Urbis, December 2021
- Stormwater (MUSIC Modelling) Report, Robert Bird Group, 17 December 2021
- Sustainable Management Plan, Cundall, 17 December 2021
- Transport Impact report, Ratio Consultants, 17 December 2021
- Urban Context Report (including shadow analysis), Bates Smart, 25 March 2022
- Waste Management Plan, Ratio Consultants, 17 December 2021

- Environmental Wind Assessment, MEL Consultants, 15 December 2021
- Wind Tunnel report, MEL Consultants, 1 March 2022.

2.3 Proposal background

A previous application for the same site was made by JW Land Development Pty Ltd to Moreland City Council (the Council). Subsequently it was appealed to the Victorian Civil and Administrative Tribunal (VCAT) under section 79 of the *Planning and Environment Act, 1987* (PE Act) on the grounds that Council failed to grant a permit within the prescribed time.

Table 1 Proposal background

Background summary	
2018	
12-21 Nov	VCAT hearing (Applicant: JW Land Development Pty Ltd)
2019	
27 & 28 Feb & 1 Mar	VCAT hearing continued
30 Apr	VCAT made an interim decision that, subject to its satisfaction, changes be made to the proposal plans before it orders a permit be granted
15 Jul	Permit Applicant submitted amended plans
2020	
24 & 25 Feb	VCAT hearing continued to consider amended plans
2 Apr	VCAT decided to affirm Council's decision to not grant a permit
2021	
Oct - Nov	Supporting plans, reports and assessments started being prepared
15 Dec	Mirvac wrote to the Department of Environment, Land, Water and Planning (DELWP) requesting the permit application form part of the Development Facilitation Program
17 Dec	Supporting plans, reports and assessments were completed
2022	
24 June	Minister for Planning referred the matter to the Committee
August, September	Hearing held

2.4 VCAT outcomes

VCAT made an order on 30 April 2019 allowing the applicant the opportunity to amend its application in order to address some of the deficiencies identified by it. Subsequently the matter returned to VCAT with an amended application, but in an Order of 2 April 2020, corrected on 7 April 2020, VCAT refused the application on a number of grounds.

The current application is by a different applicant. It was generally accepted by parties that the key issues to be addressed related to deficiencies identified by VCAT in the (amended) second proposal above. Nevertheless, the Committee is required to assess the current proposal in its own

right. It acknowledges that in doing so, the focus is on issues previously identified by objectors and VCAT.

3 Subject land and planning context

3.1 The subject land and surrounds

Address: 699-703 Park Street, 182-192 Brunswick Road and 2-4 Sydney Road, Brunswick (see Figure 1) comprising:

- Crown Allotment 1 Section 5 City of Brunswick Parish of Jika Jika (2 Sydney Road)
- Lot 1 on Title Plan 533579B (4 Sydney Road)
- Lot 1 on Title Plan 116765G (182 Brunswick Road)
- Lots 1 and 2 on Title Plan 374187D and Lot 2 on Title Plan TP389578D (184-186 Brunswick Road)
- Lot 1 on Title Plan 535297B and Lot 1 on Plan of (188 Brunswick Road)
- Lot 2 on Plan of Subdivision 039359 (190-192 Brunswick Road)
- Lot 1 on Title Plan 531751C (699 Park Street)
- Lot 1 and 2 on Title Plan 907793R (701 Park Street)
- Lots 1 on Title Plan 389578D (703 Park Street).

Zone: Mixed Use Zone

Overlays: Design and Development Overlay Schedule 18 (DDO18)
Heritage Overlay (HO149, HO279)
Parking Overlay Schedule 1 (PO1)
Environment Audit Overlay
Development Contributions Plan Overlay Schedule 1.

Of particular relevance to the current proposal is DDO18 which sets out design objectives, building and street walls heights and setbacks both from boundaries and for upper levels and overshadowing provisions, all of which are relevant to the site.

Surrounding land:

- To the north of the site is Brunswick Road which on its north side includes a mix of commercial uses, a medical centre, a factory and a Victorian terrace comprising four dwellings. Further to the east there is some relatively recent infill medium density residential development of generally three storeys or less. To the west of Sydney Road is a recently completed residential building of seven storeys, located behind the Sarah Sands Hotel. The Barkly Square shopping centre is located in Barkly Street, north of Brunswick Road.
- To the west of the site is a Seven Eleven Store and an older style two storey apartment building. Beyond those, there is a 60 metre road reserve where the boulevard of Royal Parade transitions to the narrower Sydney Road. On the west side of it, there is a mix of residential and commercial buildings.
- To the south of the site is Park Street and beyond that, the extensive Princes Park. It is the presentation of the development to Park Street which was the focus of a number of submissions. A view of the site from Princes Park is at Figure 2.
- To the immediate east of the site on Park Street is an older three storey apartment building with upper-level balconies adjacent to and facing the subject site. Beyond that,

the north side of Park Street is a mix of heritage buildings from a number of eras and some infill apartment development. The south side of Park Street is more consistent in character, comprising mainly Victorian residential dwellings. To the immediate east of the site on Brunswick Road is 180 Brunswick Road, a 1980s residential building set back approximately one metre from its western boundary. It has some windows on its western elevation and solar panels on the western side of its roof. It has private open space to its rear. Further to the east are mainly Edwardian era dwellings.

Figure 1 **Subject site - aerial map**



Source: Expert evidence of Mr Crowder Figure 2.5

Figure 2 Subject site - View of Park Street frontage from Princes Park

Source: Expert Evidence of Mr Czarny, p4

3.2 Moreland Planning Scheme

(i) Statutory provisions

The permit requirements set out in Table 2 are relevant to the subject land.

Table 2 Subject land permit requirements

Permit requirements	
Mixed Use Zone	A permit is required to: <ul style="list-style-type: none"> - use the land for retail premises - construct two or more dwellings on a lot - construct a building or construct or carry out works
Heritage Overlay	A permit is required to: <ul style="list-style-type: none"> - demolish or remove a building - construct a building or construct or carry out works
Design and Development Overlay Schedule 18	A permit is required to construct a building or construct or carry out works
Clause 52.06 (Car parking)	A permit is required to reduce (including to zero) the standard number of car parking spaces specified in Clause 52.06-5 or PO1
Clause 52.29 (Land adjacent to a Road Zone)	A permit is required to alter access to a road in a Road Zone – Category 1

(ii) Planning Policy Framework

Council and the Proponent proposed that the following planning policies and provisions were relevant to the permit application:

Clause 2 (Municipal Planning Strategy)

- 2.02 (Vision)
- 2.03 (Strategic directions)
 - 2.03-1 (Settlement)
 - 2.03-2 (Environmental and landscape values)
 - 2.03-4 (Built environment and heritage)
 - 2.03-5 (Housing)
 - 2.03-7 (Transport)

Clause 11 (Settlement)

- 11.01-1R (Settlement - metropolitan Melbourne)
- 11.02-1S Supply of urban land)
- 11.03-1R (Metropolitan Melbourne)

Clause 12 (Environmental and landscape values)

- 12.05- 2S (Landscapes)

Clause 13 (Environment risks and amenity)

- 13.03-1S (Floodplain)
- 13.04-1S (Contaminated and potentially contaminated land)
- 13.05-1S and 13.05-1L (Noise abatement)

Clause 15 (Built environment and heritage)

- 15.01 (Built environment)
 - 15.01-1S, 15.01-1R and 15.01-1L (Urban design)
 - 15.01-1L (Vehicle access design in Moreland)
 - 15.01-2S and 15.01-2L (Building design)
 - 15.01-2L (Apartment developments in Moreland)
 - 15.01-4S and 15.01-4R (Healthy neighbourhoods)
- 15.02 (Sustainable Development)
 - 15.02-1S (Energy and resource efficiency)
 - 15.02-1L (Environmentally sustainable development)
 - 15.02-1L (Energy efficiency in Moreland)
- 15.03 (Heritage)
 - 15.03-1S (Heritage conservation)
 - 15.03-1L (Heritage in Moreland)

Clause 16 (Housing)

- 16.01 (Residential development)
 - 16.01-1S and 16.01-1R (Housing supply)
 - 16.01-1L (Homes in Moreland)
 - 16.01-1L (Housing for People with limited mobility)
 - 16.01-2S and 16.01-2L (Housing affordability)

Clause 17 (Economic development)**Clause 18 (Transport)**

- 18.02 (Movement networks)
 - 18.02-2R (Principal Public Transport Network)
 - 18.02-1S, 18.02-1R and 18.02-1L (Sustainable transport)
 - 18.02-4S and 18.02-4L (Car parking)

Clause 19 (Infrastructure)

- 19.01 (Energy)
 - 19.01-1S and 19.01-1L (Energy supply)
- 19.02 (Community infrastructure)
 - 19.02-6S, 19.02-6R and 19.02-6L (Open space)
- 19.03 (Development infrastructure).

Brunswick Structure Plan Strategic Framework

The *Brunswick Structure Plan Strategic Framework* forms the strategic background for DDO18 and seeks to guide a range of important aspects including, development, land use movement, public realm and open space and related issues.

That the proposed development implements relevant State sections on the Planning Policy Framework was not questioned by submitters. Submitters questioned compliance with some parts of the local sections of the Planning Policy Framework and where relevant, these are addressed in later Chapters of this report.

3.3 Findings

The Committee finds:

- The subject site is appropriate for the type and scale of development proposed.
- State policy supports the provision of housing in key locations that has good access to services and transport, particularly public transport.
- Local policy provides support for the proposal, albeit its alignment with some aspects of local policy was disputed and is addressed in later Chapters of this report.

4 Built form, design and amenity

4.1 Height of the proposed built form

(i) The issue

The key issue is:

- the appropriateness of the scale and form of the proposal for the context and location of the subject site.

(ii) Relevant policies, strategies and studies

DDO18 sets out design objectives for the Brunswick Activity Centre and the Sydney Road and Upfield corridors. It further sets out discretionary built form heights and street wall guidance and upper-level setback guidance. Further it sets out setbacks to adjacent residential areas, relevant to the eastern interface.

Clause 15.01 Built environment sets out State level urban design objectives and strategies. Clause 15.01-1L sets out strategies for urban design in Moreland.

(iii) Evidence and submissions

The submissions from almost all parties agreed the site was appropriate for development and that there would be an expectation for higher scale and density with such a development opportunity.

Mr Czarny gave urban design expert evidence for the Council. Mr Czarny stated he was satisfied with the general bulk, scale, and massing distribution of the proposal on the subject site. While having no significant concerns with these matters, Mr Czarny expressed concerns regarding other aspects of the proposal which are discussed further.

Mr O'Dwyer provided architectural and urban design expert evidence for the Proponent. He believed the proposal to be appropriate for the site and while the proposal did not comply with all aspects of DDO18, he stated it offered a considered response and was informed by the set back requirements of Clause 15.01-1L. The location of the ten-storey form within the northern central section of the site would enable the height to be masked by lower surrounding forms.

Mr Crowder provided expert planning evidence for the Proponent in which he provided an analysis of the proposal against DDO18. He considered the proposal appropriately responded to the design objectives of the Overlay. He noted the objectives were discretionary but stated the proposal substantially complied with street-wall heights and setbacks. Where the proposal exceeded height guidance, he considered the provision of setbacks at upper levels and the specific site conditions enabled the proposal to be acceptable.

Professor Jones submitted the proposal generally was visually overwhelming and did not respect the scale, character, and heritage values of the context.

Other submitters raised concerns regarding the visual impact of the proposal and the central higher form, specifically related to impacts the proposal may have on the public realm and adjoining properties. This latter issue is addressed in Chapter 4.6.

(iv) Discussion

The Committee considers the large scale of the site enables the opportunity for varied scales, massing and bulk within the site and at the streetscape edges. Potential visual impact of the proposal in respect to amenity external to the site is ameliorated by having the largest built form central to the site and surrounded by mid-scale forms. This will reduce the visual bulk of the larger scale forms from the surrounds. More distant views including those from the south across Princes Park would result in the greater visibility of the central forms, but the outcome would not result in a dominant expression.

The Committee agrees with the evidence of Mr Crowder that the proposal is an appropriate response to DDO18 and Clause 15.01-1L, and with Mr Czarny who had no issue with the general scale and configuration of the proposal.

The proposed interface with the residential zone to the east has separated the built form on the subject site from the adjoining boundaries of the eastern properties with a six-metre-wide landscaped pedestrian link along the full length of the site. The proposed built form would step down from six-storeys to four-storeys with the upper storey set back at the southern end. The Committee considers this landscaped set back provides an adequate buffer between the adjacent properties and the proposed development. The issues of overshadowing and overlooking of the residential properties to the east are addressed in Chapter 4.6.

(v) Findings

The Committee finds:

- The scale and bulk of the proposal is acceptable.
- The interface with the residential zone to the east of the subject site is acceptable.

4.2 Presentation of the façade of the southern building to Park Street

(i) The issues

The key issues are:

- the appropriateness of the Park Street elevation regarding scale and design treatment across the length of the southern boundary of the site
- the design treatment of the south-west corner of the site at the intersection of Park Street and Sydney Road regarding whether the proposal adequately marks the prominent corner location.

(ii) Relevant policies, strategies and studies

DDO18 includes design objectives related to cohesive built form character and strategies relevant to detailed design.

Clause 15.01.-1L includes strategies relating to design articulation and fine grain architectural expression.

(iii) Evidence and submissions

It was submitted by the Proponent and Council that the 90-metre length of the southern elevation that would face Park Street and Princes Park should be designed with variation of scale, modulation of façade and separation of features and major elements to break down the visual continuity of the length of the facade. A number of submitters including Professor Jones, Dr Fallshaw, and Ms Hicks on behalf of Protect Park Street Precinct Inc, expressed concern at the scale, length and treatment of the Park Street elevation.

The evidence of Mr O'Dwyer was that the elevation of such a length should have visual and physical breaks. He outlined the features on the proposed facade which he stated achieved the desired variety. These included vertical rebates that separated the elements of the west half of the elevation site and the townhouse forms to the eastern half. He pointed to the change in height across the elevation and the use of differing materials for the townhouse forms as contributing to visual variety.

Mr Czarny gave evidence that the proposed treatment of the Park Street elevation was inadequate in visually breaking down the façade and that more physical breaks and design features were needed. He suggested a change of materials to create a greater visual distinction for the corner section of the façade adjacent to Sydney Road to give greater prominence to the corner. He recommended increasing the setbacks of the upper levels to the central section of the elevation, larger physical rebates and a setback of the townhouse forms from the south boundary.

Mr Czarny noted his concerns regarding the height of the street walls of the ground floor apartments at the base of the townhouse forms. He stated the proposed design at footpath level would create a wall with associated planting and balustrade above, resulting in an imposing presence at pedestrian level and failing to create a connection between the apartments and the public realm of the street.

(iv) Discussion

The Committee considers that the proposed design of the Park Street façade is inadequate in providing visual prominence to the corner element at Sydney Road and in achieving visual breakdown of the façade length. The Committee considers the treatment of the street-wall of the ground floor apartments will be an imposing scale at pedestrian level and disconnection of the townhouse forms from the public realm of the footpath.

The proposed physical rebates in the façade are insufficient to create a sense of separation of forms and elements and the elevation would read more as a continuous façade along the Park Street interface.

The Committee recommends changes to improve the visual breakdown of the elevation to the satisfaction of the Responsible Authority.

In this regard, the Committee considers the Sydney Road corner section should be redesigned to better mark the corner without increased height. There should be increased visual separation of major elements along Park Street by increasing depth and width of the physical rebates. Setbacks to upper levels for part of the elevation to apartments 4.14 and 4.15 should be increased.

The ground floor level of the building facing Park Street is set above the footpath level. In the case of the ground floor apartments to the eastern section, pedestrian access is proposed from the

footpath leading to the apartment south facing balcony. The floor level is raised above the footpath between 1.6 and 2 metres (by scaling). The Committee notes that, while it is a common feature to raise ground floor levels above footpaths to provide a sense of separation, the degree proposed would isolate the ground floor and present a relatively blank street wall to the public realm.

The Committee considers the ground floor interface of the townhouse forms with Park Street be modified to lower the south balconies and the associated street walls by 650 millimetres.

The Committee considered whether it was necessary to recommend that a planning permit not be issued, and the recommended redesign be further scrutinised by it or through some other process prior to approval. On balance, the Committee considers that the guidance on redesign that it has set out above and which is incorporated into permit conditions is sufficient to achieve an acceptable outcome.

(v) Findings

The Committee finds:

- The elevation be redesigned to create a greater visual variety and separation of elements.
- The street wall design and the floor level of the southern balconies of the ground floor apartment of the townhouse forms be to be lowered 650 millimetres.

4.3 Overshadowing of Princes Park

The overshadowing of Princes Park is impacted both by the height of the proposed built form and the proposed treatment of the façade and massing of the building with a frontage to Park Street.

(i) The issue

The key issue is:

- whether it is acceptable that the proposal will cast shadow onto Princes Park during the winter solstice.

(ii) Relevant policies, strategies and studies

DDO18 includes discretionary guidance for the overshadowing of public space at the equinox.

(iii) Evidence and submissions

DDO18 addresses overshadowing of developments onto public land, including parks. It requires consideration of overshadowing only at the equinox between the hours of 10.00am and 2.00pm. The Proponent submitted shadow diagrams to show no encroachment of shadow onto the park at the equinox.

Mr Czarny noted the decisions from VCAT regarding the previous proposal for the site and stated the current proposal should not cast additional shadow in comparison with the latter scheme considered by VCAT. The issue of the shadow cast by the proposal onto Princes Park beyond the equinox was raised by Professor Jones, Ms Christian and Dr Fallshaw.

Ms Hicks submitted that no shadow from the proposed development should be cast on Princes Park at the winter solstice. She submitted the Committee should give weight to the Panel report

on Amendment C278 to the Melbourne Planning Scheme, Sunlight to Parks.² That Panel recommended that no additional shadow to be cast on parklands in the City of Melbourne between 10.00am and 3.00pm at the winter solstice. The Committee observes the Panel recommendation regarding sunlight to parks did not include the northern section of Princes Park as it is at the boundary between municipalities (Melbourne and Moreland) and the Committee was informed that the Melbourne C278 Panel Report indicates the shadow cast from properties in Moreland will not be controlled by this recommended amendment to the Melbourne Planning Scheme.

Notwithstanding the status of the recommended amendment, numerous submitters asked the Committee to consider the amenity impact of shade cast onto the northern section of Princes Park and to recommend the proposal be amended to ensure no additional shade be cast onto the park.

(iv) Discussion

The Committee notes the proposed development would not cast shadow onto Princes Park at the equinox between the hours of 10.00am and 2.00pm and considers this is compliant with the overshadowing provisions of DDO18.

The Committee notes the specific nature of Mr Czarny's concern with the shadow cast in that it should not extend onto the running/ exercise pathway in the northern section of the park at the winter solstice.

The Committee further considered the amenity impacts of shadow cast at the worst-case scenario of the winter solstice between the hours of 9.00am and 3.00pm. At these times, shadow would be cast across various sections of Princes Park between the street alignment and the running/exercise pathway, but not to the pathway itself. The Committee notes there are currently no provisions in the Planning Scheme to prohibit shadow being cast onto parklands during the winter solstice.

The Committee considers the shadow cast to be acceptable given the expansive size of Princes Park. For park usage in winter months, shade cast would not preclude such use in the extensive unshaded areas. The area north of the track which may be subject to shadow at certain times contains no infrastructure to support passive use such as seating and tables. These are located south of the track and are associated with the lake and fountain feature.

(v) Finding

The Committee finds:

- The shadow cast by the proposed development onto the north section of Princes Park is acceptable.

² The Committee understands that Amendment C278 has been superseded by Amendment C415 and that this latter Amendment is currently with the Minister

4.4 Interface between the northern and southern buildings

(i) The issue

The key issue is:

- whether the distance between parts of the elevation to the north and south buildings of the proposed development are acceptable.

(ii) Relevant policies, strategies and studies

Table 3 of Clause 15.01-2L Apartment developments in Moreland sets out guidance for building separation for apartment development within a site.

(iii) Evidence and submissions

Mr Czarny gave evidence that the planning policy guidelines for apartment development set the distance between buildings within development of five or more storeys between 12 to 13.5 metres between the southern elevation of the north building and part of the northern elevation of the south building proposed. Mr Czarny stated the proposed nine metre separation was inadequate and recommended changes to the configuration of the form of the south building to ameliorate this situation.

Mr O'Dwyer's evidence was that the nine-metre separation as proposed is adequate in providing separation. Mr Crowder considered the nine-metre setback to be acceptable, while acknowledging that Clause 15.01-2L could be interpreted to require 13.5 metres.

(iv) Discussion

The Committee notes the configuration of the apartments to the north and south buildings are set nine metres apart from each other. The apartments in the north building have a corner orientation with windows to the east or west, as well as to the south. Apartments in the south building have an aspect to the south and the north or have an aspect that looks to the west of the north building. The Committee considers that given the limited width of the north building, the six-storey height of the south building and the configuration of the apartment layouts, that the nine metre separation is acceptable.

(v) Finding

The Committee finds:

- The nine-metre separation between the north and south buildings is acceptable.

4.5 Brunswick Road frontage

(i) The issues

The key issues are:

- whether the new substation(s) location and presentation to Brunswick Road is appropriate
- whether two entries should be provided for the commercial tenancy space facing Brunswick Road.

(ii) Relevant policies, strategies and studies

DDO18. As for the Park Street frontage in Chapter 4.2.

Clause 15.01. As for the Park Street frontage in Chapter 4.2.

(iii) Evidence and submissions

Mr Czarny gave evidence regarding the length and prominence of the proposed dual substation at footpath level on the west section of the Brunswick Road elevation, in that the blank service-like nature of the substation would not encourage engagement with the street along a significant proportion of the elevation.

Mr O'Dwyer, while not challenging the length of the substation, explained that the size and access provisions for the substation were due to requirements of the electrical supply authority and could not easily be changed. Propositions that the substation be placed elsewhere or in a basement location were deemed by Mr O'Dwyer to be impractical. He contended substantial access requirements to the substation would not provide a better solution to public engagement. He noted the size of the substation was to accommodate both equipment for the proposed building and an electricity supply substation for part of the wider precinct.

Council submitted there should be two entries from Brunswick Road to the commercial space to enhance engagement and activity with the street. The Proponent did not believe this was necessary and that two entries at this stage of the proposal would limit tenancy options for the space.

(iv) Discussion

The Committee accepts the Proponent's position that the design of the substation is largely determined by the electricity supply authority and the requirements to effectively accommodate two substations. Substantive changes to the presentation to Brunswick Road would be impractical and would not provide a significantly improved aspect to the street.

The Committee does not accept that two entries to the commercial space at ground level facing Brunswick Street is needed or would enhance public engagement. If required, these could be provided at a later date.

(v) Findings

The Committee finds:

- The substation configuration on Brunswick Road should remain as proposed.
- The single entry to the commercial space should remain as proposed.

4.6 Interface with 180 Brunswick Road and 697 Park Street

(i) The issue:

The key issue is:

- whether the overshadowing and overlooking of 180 Brunswick Road and 697 Park Street is acceptable.

(ii) Relevant policies, strategies and studies

Clause 55.04-6 sets out overlooking guidance for residential development. Clause 55.04-5 provides guidance on overshadowing of secluded private open space.

(iii) Evidence and submissions

Council submitted the proposed development would cast unacceptable shadows on the solar panel on the west face part of the roof of 180 Brunswick Road, and on the secluded private open space to the rear of that property. Further, there would be unacceptable overlooking of habitable room windows and the private open space from a number of the apartments at the eastern end of the northern building.

With respect to the impact on the solar panels, the Proponent acknowledged there would be shading of the solar panels after 2.00pm at the equinox and submitted that this had been found previously by VCAT to be “*not unreasonable*”.

In evidence, Mr Crowder stated the impacts on 180 Brunswick Road were acceptable and that the property was likely to be redeveloped at some stage in the future. Council submitted possible future redevelopment is not a reason for it to be afforded appropriate protection now.

Council submitted there was potential for some overlooking of habitable rooms of 697 Park Street, which is an existing three storey apartment building. It acknowledged there had historically been some overlooking of this building.

No submission was made by the owners or occupiers of either 180 Brunswick Road or 697 Park Street.

(iv) Discussion

The Committee does not accept the evidence of Mr Crowder that the redevelopment potential of 180 Brunswick Road is a factor that should be taken into account in considering what protections should be afforded to the property. Its redevelopment potential is at best unknown, and the Committee observes it has a relatively narrow street frontage.

The Committee accepts there has been no evidence or submissions to it to convince it that the overshadowing of the solar panels will be unacceptable.

The Committee is concerned, however, that there is potential for overlooking of the secluded private open space to the rear of 180 Brunswick Road and to habitable rooms and balconies of 697 Park Street. It notes there are windows on the western elevation of 180 Brunswick Road, but it is not known how many of these are habitable rooms.

Further, the Committee notes that Standard B21 with respect to overshadowing of private open is almost but not quite met. The Committee accepts that the deficiency is minor and considers that the objective has been met.

The Committee is not able to accurately scale the extent of any non-compliance with Standard B22 of Clause 55 of the Planning Scheme but considers that appropriate measures should be taken to ensure that this standard is met.

(v) Findings

The Committee finds:

- No evidence was provided that overshadowing of the solar panels on the rooftop of 180 Brunswick Road will be unacceptable.
- Appropriate measures should be taken with respect to apartments at the eastern end of the proposed development to ensure standard B22 of Clause 55 of the Moreland Planning Scheme is complied with.

5 Traffic, parking and access

5.1 Traffic and parking

(i) The issues

The key issues are:

- the impact on on-street parking
- on-site parking provision and allocation
- pedestrian safety crossing Brunswick Road and Park Street.

(ii) Relevant policies, strategies and studies

As the site falls within the Principal Public Transport Network (PPTN) and within PO1, the number of car parking spaces required for use is calculated using the Rate in Column B of Table 1 of Clause 52.06-5.

The application of Column B results in the following requirement of parking for the use:

- Residential: 217 spaces (no visitor parking requirement)
- Office: nine spaces
- Food and drink premise: seven spaces
- Total: 233 spaces.

The development includes 221 spaces for residents and one space for the food and drink premise. A dispensation of nine spaces is sought for the office use and six spaces for the food and drink premise.

(iii) Evidence and submissions

Council, in its draft conditions, recommended that at least five car spaces be re-allocated from residential to the office use with at least one car space allocated to the food and drink premise. It argued the traffic report by Ratio Consultants provided with the Day 1 plans indicated the demand for residential parking was around 158 spaces. This indicated it would be reasonable to reassign some of the residential parking to the office use.

In traffic evidence for the Proponent, Mr Walsh estimated the food and drink premises and office will generate a demand for around 13 car spaces during weekday business hours, and seven spaces of evenings and weekends if the café is open at these times. He estimated that some six to seven new parking spaces could be created on the abutting roads with the removal of redundant crossovers. He advised that parking surveys demonstrated that there *“were never fewer than 32 unrestricted spaces available, with a further 96 ticketed/metered car spaces available”*³.

Mr Ganci questioned the ability to increase the on-street parking by six to seven spaces. He noted parking is already permitted across some of the redundant crossovers, with fencing stopping access to the site and line marking indicating parking is allowed; other crossings are near the

³ Document 037, paragraph 121.

signalised intersections or within a bus zone. This was acknowledged by Mr Walsh, who responded that the projected increase in parking was an estimate only.

Concern was raised by objectors about the potential for the proposed public path along the eastern boundary of the site encouraging pedestrians to cross the arterial road midblock rather than cross at the traffic lights on Sydney Road.

(iv) Discussion

The Committee considers the site is well served by public transport, car share and cycle facilities which will help to reduce the amount of trips by private car to the office and food and drink premises, in line with sustainability objectives. This accessibility will allow for reduced car ownership by residents.

The application of Column B rates for sites in the PPTN area takes into account a reduction in trips due to improved accessibility. Column B removes all requirements for residential visitor parking. The Committee notes the demand for visitor parking was not considered by Mr Walsh but was considered in the Ratio traffic report. That report estimated residential visitor parking demands of some 10 spaces during day and 15 spaces on weekends and evenings⁴. This will add to the demand for on-street parking in the immediate vicinity of the site.

The parking surveys show there is capacity in the area to accommodate overflow parking, regardless of the actual number of new spaces created by the removal of redundant crossovers. However, the Committee does not find any justification for the full dispensation of office parking when the parking for the residential exceeds the statutory requirement.

In relation to pedestrian safety, the Committee notes that this was not an issue raised by either the Department of Transport or the Council. The path through the site will serve a limited catchment and pedestrians will still have the opportunity to use the nearby traffic signals at Sydney Road to cross Park Street and Brunswick Road. Pedestrians can currently cross these roads midblock if they desire and this will continue as there are ample sight lines available. Median islands are provided in Park Street separating east and west bound traffic, reducing risks.

(v) Findings

The Committee finds:

- The parking for the residential component should be reduced to the statutory requirement of 217 spaces with excess parking allocated to the office use.
- The provision of a public pathway between Park Street and Brunswick Road is acceptable.

5.2 Access

(i) The issues

The key issues are:

- whether there are acceptable sight lines at the car park entry on Park Street
- whether there is appropriate height clearance for vehicles accessing the loading dock.

⁴ Document 20, page 33

(ii) Relevant policies, strategies and studies

Design standard 1 of Clause 52.06-9 – Accessways includes:

- Have a corner splay or area at least 50 per cent clear of visual obstructions extending at least two metres along the frontage road from the edge of an exit lane and 2.5 metres along the exit lane from the frontage, to provide a clear view of pedestrians on the footpath of the frontage road. The area clear of visual obstructions may include an adjacent entry or exit lane where more than one lane is provided, or adjacent landscaped areas, provided the landscaping in those areas is less than 900 millimetres in height.

Clause 15.01-2L Building design in Moreland includes the following strategy:

- Ensure development provides adequate on-site loading areas and waste collection vehicles where appropriate.

(iii) Evidence and submissions

Mr Walsh gave evidence that the sight line at the car park entry satisfies the decision guideline in Clause 52.06-9 as *“The column that is within the sight triangle occupies approximately 45% of the sight triangle”*⁵. In addition, a 2.5 metre gap is provided in the side wall preceding the column.

When asked by the Committee how deliveries of large goods like furniture for the residential apartments will be undertaken, Mr Walsh advised this would be done in the loading dock. He advised the dock was suitable for a small rigid vehicle. This he noted, would require a 3.5 metre height clearance and could be achieved to the dock, but he further noted the roller door protruded into this space (as shown in TP Car Park Entry Ramp Section 1 in the architectural drawing TP 10.11). In response to the draft condition the applicant included a requirement to amend the plans to provide a 3.5 metre height clearance at the security door entry to the car park, thus providing 3.5 metre clearance from the entry through to the loading dock.

(iv) Discussion

The Committee is not satisfied that adequate sight lines will be provided at the car park exit to the Park Street footpath. The standard requires a corner splay be provided within 2.5 metres of the exit with at least 50% transparency to allow motorists to see pedestrians on the footpath approaching within two metres of the exit. A column almost completely obscures that view. Mr Walsh’s calculations based on the total area of the sight triangle being only 45 per cent occupied by the column, misinterprets the requirement and fails to consider the purpose to *“to provide a clear view of pedestrians on the footpath of the frontage road”*.

While the gap in the wall prior to the column will provide some view to the footpath to the east of the column, motorists exiting the car park may not be paying attention to the footpath movements as they approach the exit point from where such a view is available. The sight line triangle in the standard is the last line of sight before the motorist moves onto the footpath and therefore it becomes the most critical.

As envisioned by Clause 15.01-2L, it is important that large developments have suitable loading and unloading facilities to minimise off-site impacts. There will be significant waste generated and the large number of apartments will generate regular movements of furniture and white goods by trucks.

⁵ Document 056, page 1

The loading dock is suitable for the movement of goods by a small rigid vehicle. Such vehicles can be driven on a standard driver's licence and include four tonne trucks with a length of 6.4 metres and clearance requirement of up to 3.5 metres.

The swept path diagram drawing number G32147-01 sheet 01 provided in Appendix C of Mr Walsh's evidence, shows trucks will be required to travel along the entry ramp some nine metres past the loading dock before reversing into the dock area. As such, it will be important for the height clearance to be maintained along the full length of the car park entry ramp as well as at the entry door. This will impact the design for the full length of the entry ramp shown in Sections 1 and 2 for the Car Park Entry Ramp shown in drawing TP 10.11.

(v) Findings

The Committee finds:

- The entry to the car park should be modified to provide a corner splay in accordance with Design standard 1 of Clause 52.06-9.
- The car park entry ramp should be modified to provide a 3.5 metre height clearance along the entire path required to allow small rigid vehicle to reverse into the loading dock.

5.3 Internal car park layout and clearances

(i) The key issues

The issues are:

- whether appropriate provision is made for the movement of waste from the café waste room to the loading dock
- whether there is appropriate spacing of bicycle parking racks.

(ii) Relevant policies, strategies and studies

Clause 52.06. Car Parking includes as a purpose:

- to ensure that the design and location of car parking is of a high standard, creates a safe environment for users and enables easy and efficient use.

Clause 52.34 Bicycle facilities includes as a purpose:

- to provide secure, accessible and convenient bicycle parking spaces and associated shower and change facilities.

(iii) Evidence and submissions

Council in its draft conditions required the double stacked bicycle parking facilities to have a spacing of 500 millimetres and that signage be provided directing cyclists to the bicycle facilities in accordance with Clause 52.34-7.

The Proponent argued that Mr Walsh noted in his evidence that the dynamic two-tiered bicycle parking spaces were shown on the plans at 300 millimetre spacing and found that satisfactory⁶.

⁶ Document 37, paragraphs 133-134

The Proponent argued against the need for bicycle parking directional signage. Mr Walsh was not questioned on these matters.

Mr Ganci questioned Mr Walsh on how waste bins would be transferred from the Café Bin Store, next to the Café and bike store lobby on Basement Level 1, to the loading dock for collection by a waste truck. Mr Walsh agreed that a path should be provided to facilitate movement from the Café bin store into the car park to facilitate movement of bins to the loading dock. He noted this could be achieved by the removal of a parking space.

(iv) Discussion

In relation to bicycle parking, it is not clear how Mr Walsh determined that a 300 millimetre spacing between the dynamic bicycle racks will be adequate. A product specification for a dynamic bicycle system (Josta 2-tier High Capacity Rack) was provided in the Transport Impact Assessment prepared by Ratio Consultants which accompanied the Proponent's Day 1 plans⁷. That specification sets out a minimum spacing of 400 millimetres centres with 450 millimetres recommended. Section 6.2 of the Ratio Consultant's report stated the bicycle spaces were designed to meet the dimensional requirements of AS2890.3:2015 and the dynamic two-tier bicycle systems have a spacing of 500 millimetres.

AS2890.3:2015 contemplates that dynamic tiered bicycle racks may allow bicycle racks to be closer than the standard 500 millimetres. The actual spacing will depend on the specific design to be implemented. To ensure the bicycle spaces are accessible, the spacing should conform to the requirements of AS2890.3:2015.

In relation to bicycle parking directional signage, such signage is of limited benefit to regular users such as residents and staff but is most useful for visitors who are not familiar with the site.

In respect to the waste bins, it is important that waste bins from the food and drink premises can be easily moved through the car park to the loading dock. The Basement Level 1 plan should be altered to include a suitable path into the car park from the Café Bin Store. This may require the removal of a car space, which is considered acceptable.

(v) Findings

The Committee finds:

- The spacing of the bicycle spaces should conform to the requirements of AS2890.3:2015.
- Bicycle parking directional signage should be provided to guide visitors to the bicycle spaces provided for visitor use.
- A pathway should be provided from the Café bin store into the car parking aisle in Basement Level 01.

⁷ Document 05, Appendix C

6 Other issues

6.1 Treatment of the heritage substation

(i) The issues

The key issues are:

- whether the existing heritage substation is appropriately addressed
- whether the context of the built form surrounding the substation is appropriate.

(ii) Relevant policies, strategies and studies

Two Heritage Overlay listings apply to the site and trigger the need for a planning permit:

- Heritage Overlay 149 applies to the Sydney Road Precinct, and therefore to 2 to 4 Sydney Road which is currently occupied by the disused Princes Park Motor Inn
- Heritage Overlay 279 which applies to 188 Brunswick Road, the location of the heritage electricity substation.

Local policy at Clauses 02.03-4 and 15.03-1L offer policy protection and guidance for heritage assets. The substation building is not listed on any of the Australian, Victorian or National Trust registers but has a statement of significance in the Victorian Heritage Database.

(iii) Evidence and submissions

The Proponent proposed to retain the existing heritage substation associated with the previous Brunswick Council electricity supply function. It is proposed to be flanked by six storey built form to the east and west and ten storeys to the south. It is set back from each of these by 4.5 metres, though there is a canopy at level 1 over part of this set back. The main pedestrian entry to the northern building is behind the heritage substation. The building is proposed to be repurposed for a yet to be finalised community use. New vertically presented openings are proposed in the east, west and south elevations on the advice of Ms Riddett, who gave heritage evidence for the Proponent.

In her evidence, Ms Riddett concluded:

The proposal will not adversely affect the cultural heritage significance of the place nor will there be any conflict with the applicable statement of significance. The location, bulk, form and appearance of the proposed building will not adversely affect the significance of the heritage place and will be in keeping with the character and appearance of the heritage place.⁸

Ms Riddett set out five reasons, not repeated here, upon which this conclusion is based. In oral evidence Ms Riddett further stated that apart from a retained roof feature, the building itself was not significant.

Council submitted that the setting of the retained substation was important and cited comments from VCAT in respect of the previous proposal by JW Land Pty Ltd and from the Burra Charter to support its contention the setting had not been appropriately protected. Mr Czarny concluded the proposed built form “*will visually dominate the heritage building without any reasonable transition*

⁸ Expert evidence of Ms Riddett para 48.

*in form to its western and eastern sides.”*⁹ He suggested the upper two levels of the built form to the east and west be set back two to three metres. Council further suggested the built form at the northern edges of the east and west flanking buildings provide for a degree of visual transparency that would be afforded by balconies in these locations at the levels above the roofline of the heritage building.

The approach proposed to the built form setting of the retained heritage building was opposed by Protect Park Street Precinct Inc, which supported Council’s position. Further, Protectors of Public Lands Victoria Inc cited evidence presented at the previous VCAT hearing that the retained building will be completely dwarfed and dominated.

The Royal Historical Society submitted the Heritage Overlay was being overridden and it opposed the height of the overall development. Ms Jackson for the Society suggested an internal pictorial display representing the history of the Brunswick electricity supply department. Professor Jones supported the Council position regarding the dominance of the heritage structure by the surrounding built form. Dr Fallshaw submitted the treatment of the site overall was inconsistent with the Heritage Overlay applied to areas near the site in both Moreland and the City of Melbourne. Mr Labriola submitted the proposed approach treated the heritage substation as an inconvenience rather than as an important piece of heritage.

In closing, the Proponent emphasised the evidence of Ms Riddett, that unlike other heritage buildings such as churches, the setting of the heritage substation was not significant because no prominence of the setting existed with the original location of these structures.

(iv) Discussion

The Committee accepts the evidence of Ms Riddett that the heritage significance of the retained heritage substation lies more in its cultural significance in representing an important historic marker in the early supply of electricity in Brunswick, rather than the building itself or its setting. However, there is a strong case for the building to be retained and the Committee accepts the modifications proposed as appropriate to adaptive re-use. Further, the Committee accepts the building will be dwarfed by the surrounding buildings, but the setback proposed will assist in ameliorating that impact.

The Committee was not convinced by the evidence of Mr Czarny that setting back the upper two levels of the flanking built form to the east and west is justified. From a near view, the casual observer’s eye and that of the pedestrian users of the entry to the building is unlikely to be taken to the upper levels. It is accepted that from a more distant view setting back, the upper levels as proposed by Mr Czarny could soften the impact of the setting. However, on balance the Committee is not convinced that any benefit gained is justified.

With respect to a semi-transparent built form, the Committee notes that on the north eastern corner of the flanking building to the west, are balconies. This is not repeated on the building to the east where the balconies are currently located away from the corner of the building. If these one-bedroom apartments could be redesigned to place the balconies on the northwest corner, a further softening could be achieved, but the Committee is reluctant to go as far as recommending this because of other possible negative internal and external amenity impacts.

⁹ Expert evidence of Mr Craig Czarny para 37.

(v) Findings

The Committee finds:

- The heritage substation should be retained and altered to facilitate its reuse, as proposed by Ms Riddett.
- The heritage substation will be dwarfed by the surrounding built form, but this impact will be ameliorated by acceptable setbacks to its east, west and south.
- Further setting back of the upper levels of the built form to the east and west of the heritage substation is not warranted.

6.2 Provision of affordable housing**(i) The issue**

The key issue is:

- whether the provision made for affordable housing is appropriate.

(ii) Relevant policies, strategies and studies

State Policy at Clause 16 seeks to increase the provision of affordable housing for households on very low to moderate incomes. These income levels are set in regulation and updated annually.

Clause 16.01-2L of the Planning Scheme seeks to:

- Encourage developments to include affordable housing to be owned and managed by a registered housing association, registered housing provider or the Director of Housing.

(iii) Submissions

The Proponent proposes to partner with a registered housing provider to deliver 10 per cent of dwellings (which the Committee interprets as 17 dwellings) within the development as affordable housing, by offering these at an average discount of 35 per cent to market price through a shared equity approach. Further, it proposes a 'Homes for Homes' caveat on title to realise 0.1 per cent of a property's sale price to provide social housing.

Council submitted the discount proposed does not meet the spirit of affordable housing and provided a memorandum prepared by Ms Hornsby, an affordable housing consultant engaged by Council as part of its submission (Document 50). Ms Hornsby stated that based on households contributing a maximum of 30 per cent of their income in housing costs, (the often accepted maximum that most households can afford to pay for housing), she concluded the average discount would not be sufficient for a mid-income range single household to afford a one-bedroom dwelling nor a mid-income range couple to afford a two-bedroom dwelling. She proposed a higher discount be entertained. Her conclusions were based on a range of assumptions about interest rates, income level and the level of need likely to apply to different household compositions. The Proponent expressed some surprise that Council would submit that a higher discount be provided.

Council questioned the \$4.5 million public benefit estimated by the Proponent resulting from this scheme, with Ms Hornsby calculating the benefit at closer to \$3.5 million. The Proponent responded that its calculation was that the benefit could be at this level but will depend on market movements and could be higher.

In closing, the Proponent submitted that Council had not fully comprehended the proposal in that the discount offered would average 35 per cent and would be assessed on a case-by-case basis by the registered provider. It further submitted by way of condition that subsequent sales would be to those eligible for affordable housing, thereby maintaining the affordable housing status of the 17 apartments. With respect to the 0.1 per cent contribution of sale price to the provision of social housing, Ms Hornsby stated it is not clear whether this applies to the first sale by Mirvac or the subsequent sale by an owner. Conditions subsequently tabled by the Proponent clarified that it is not proposed to be charged at the point of sale to the first purchaser by the developer.

In the discussion on permit conditions, Council submitted the proposal to provide only three two-bedroom apartments and the remainder as one bedroom apartments as affordable housing was not acceptable.

Mr Ganci was critical of the proposal, submitting it was likely that apartments in less desirable parts of the development would likely to be offered as affordable housing.

(iv) Discussion

The Committee acknowledges the significance of the issue of housing affordability for both Moreland and the broader community. The Committee further acknowledges the two components of the proposal proposed by the Proponent. It accepts the limitation of the average 35 per cent discount based on the assumptions made by Ms Hornsby. It does not criticise Ms Hornsby's assumptions and accepts the obvious conclusion that a higher discount would widen the eligibility amongst households in the relevant income categories. Further, the Committee accepts that based on the assumptions used by Ms Hornsby, the applicability of the scheme may be limited to some household types in some income groups and is not likely to be widely applicable in the lower income groups.

There is however no guidance in either State or local policy for applying a larger discount. When implemented, the proposed scheme will make an impact of addressing the housing affordability issue proportionate to the scale of the development. The temptation to react to what is acknowledged as a significant issue by seeking to impose greater than proportionate responsibility for a solution on a particular development, particularly in the absence of specific policy guidance should be resisted. On balance, the Committee accepts that the proposed average 35 per cent discount is appropriate.

The Proponent cited a recent VCAT case where it submitted that VCAT had found a similar affordable housing contribution acceptable. The Committee notes that, because that was a build to rent proposal, the comparison is of limited relevance.

The Committee accepts the 0.1 per cent of the sale price of subsequent sales towards the provision of social housing as appropriate.

The Committee offers no comment on the estimated value placed on the affordable housing component by the Proponent and questioned by some submitters, other than to note the eventual value of the benefit generated is not material to the outcome of the proposal.

The Committee agrees with Council regarding the prescription of only three two-bedroom apartment as affordable housing is not acceptable and considers that the mix of apartment types

provided should be the subject of future negotiation between the developer and the registered affordable housing provider, based on demand.

(v) Findings

The Committee finds:

- The provision of 10 per cent of the apartments at an average discount to sale price of 35 per cent is an appropriate contribution to affordable housing.
- The provision of 0.1 per cent of the subsequent sale price of any apartment for social housing is appropriate.
- The mix of apartment types provided as affordable housing should be the subject of negotiation between the developer and the affordable housing provider.

6.3 Compliance with Clause 58 of the Moreland Planning Scheme

(i) The issue

The key issue is:

- whether the proposed development meets the relevant objectives of Clause 58 of the Planning Scheme.

(ii) Relevant policies, strategies and studies

Clause 58 of the Planning Scheme sets out objectives and standards to apply to apartment developments of five stories or more in a Mixed Use Zone. Further guidance is provided in the *Apartment Guidelines for Victoria, 2021*.

(iii) Evidence and submissions

The Proponent relied on the evidence of Mr Crowder with respect to compliance with Clause 58 of the Planning Scheme and submitted that while there were minor variations from standards, which is not uncommon, all the required objectives have been met. Mr Crowder stated in summary:

- adequate storage is provided
- all apartments have reasonable daylight and outlook
- balcony sizes are acceptable,
- habitable rooms are well dimensioned and ventilated and have access to daylight
- the majority of bedrooms meet the required standard.

He further stated there was no unreasonable internal overlooking, that two thirds of apartments are accessible, and 46 per cent of dwellings have natural ventilation in compliance with standard D29.

Council submitted the communal open space provision fails to meet standard D7. It contended the ground level open space would be in shadow throughout much of the day and rooftop areas provide poor amenity due to inadequate size. It further submitted that eleven apartments do not meet the daylight standard, acknowledging that these are mainly larger apartments. The Proponent responded that any minor shortfall against this particular standard was more than offset by other amenity advantages.

Through his cross examination of Mr Crowder and later by way of submission, Mr Ganci identified a number of ways in which the proposal was significantly deficient with respect to compliance with the standards of Clause 58. He was critical of the Proponent for not having provided Apartment Design Guidelines for Victoria (ADG) compliance plans for all levels of the development. He acknowledged these were subsequently provided at the request of Mr Crowder.

Non-compliance with the standards of Clause 58 claimed by Mr Ganci included:

- 24.0 per cent of apartments did not meet the private open space requirement and a number of others only met the bare minimum
- balconies in apartments 1-34, 2-33, 3-25, 4-21, and 5-20 were irregularly shaped and usable space was significantly below the standard
- 15.6 per cent of apartments did not meet dimension or size standards for living rooms
- 21.6 per cent of bedrooms did not meet the dimension standards for bedrooms
- the breeze path for the natural ventilation standard was not met for 29 of the 76 apartments which were claimed to be compliant.
- Doorways in none of the 112 apartments claimed to be accessible met the standard 850 millimetre width.

Mr Ganci contended there was a tree canopy cover deficiency of 152.8 square metres comprising a reported deficiency against the standard and incorrect assumptions about the cover associated with intended species.

Mr Ganci gave examples of breeze pathways which he submitted had been drawn in error, including having been drawn through solid walls or fixed glass. Further, he cited examples where the plans provided show inappropriate measurements such as dimensions protruding into walls or glazing.

At the broad level of interpretation, the Proponent noted that some standards were not met and that this was normal for a large apartment complex. It submitted the objectives have been met.

Some of the errors with respect to breeze pathways were acknowledged and others disputed but the layout of the apartments was such that the relevant objective was achieved.

The Proponent disputed some of the balcony measurements provided by Mr Ganci.

It acknowledged a drafting error with respect to doorway widths but assured the Committee that doorway widths would meet the appropriate standard.

In closing, the Proponent stated that a number of submitters had misunderstood the various standards of Clause 58, interpreting them as requirements which must be met. It emphasised that meeting the objectives is the focus of the policy. However, it acknowledged the significant amount of work undertaken by Mr Ganci in meticulous checking against standards. The Proponent acknowledged that one of the benefits of this process was the level scrutiny that had occurred. The Proponent submitted that the final plans required to be submitted to the responsible authority would comply with the relevant standards and this could be required by way of a permit condition.

(iv) Discussion

The Committee acknowledges the significant work undertaken by Mr Ganci which aided in focussing attention on the extent of compliance with Clause 58. The Committee agrees with the

Proponent that there is no requirement for each standard to be met. The Committee notes the non-compliance with the maximum room depth standard for a number of the larger apartments but no evidence before it leads it to conclude that the level of amenity of these apartments will be significantly compromised.

The Committee notes the Proponent accepted that more work needs to be done to ensure compliance and that some measurements, for example doorway widths, were in error and will be corrected.

From the Committee's perspective, the key issue is whether it is acceptable to require compliance to the satisfaction of the responsible authority by way of a permit condition or whether the extent of non-compliance is such that a permit should be refused.

Given the nature of the plans tabled, the Committee cannot draw firm conclusions about the level of any non-compliance. However, the Committee has been presented with no evidence that the level of non-compliance is such that it cannot be rectified. It considers compliant plans can be prepared to the satisfaction of the responsible authority.

(v) Findings

The Committee finds:

- There are some deficiencies in the submitted plans with respect to compliance with Clause 58 of the Moreland Planning Scheme.
- The Proponent be required by way of a planning permit condition to submit plans which are compliant with Clause 58 of the Moreland Planning Scheme, to the satisfaction of the responsible authority.

6.4 Responsible authority

The key issue is:

- whether the Minister for Planning should be and should continue to be the responsible authority with respect to the subject site.

Council, Mr Ganci and the Protect Park Street Precinct amongst others, objected to the Minister for Planning being the responsible authority for the subject site. The Proponent submitted that given the significance of this site, it is appropriate that the Minister be made the responsible authority.

The Committee understands the wish of Council and indeed local residents to retain levels of control over local development. However, no evidence was lead nor submissions made which convinced the Committee that it is not appropriate for the Minister for Planning to become the responsible authority for the site, at least until the proposed development is completed.

The Proponent submitted that Amendment C218 should be approved, and this was formally opposed by Council because of its position that it should continue to be the responsible authority for the site.

However, the Committee can see no logical reason why the Minister for Planning would wish to be the responsible authority on an ongoing basis and could consider making Council the responsible authority at an appropriate time after completion of the proposed development.

The Committee finds:

- The Minister for Planning should be the responsible authority for the land at:
 - 699-703 Park Street Brunswick
 - 182-192 Brunswick Road Brunswick
 - 2-4 Sydney Road Brunswick.
- The Minister for Planning should prepare, adopt and approve Amendment C218 to the Moreland Planning Scheme and exempt herself under section 20(4) of the *Planning and Environment Act 1987* from the requirements of sections 17, 18 and 19 of the Act and Regulations.

6.5 Permit conditions

The planning permit conditions recommended by the Committee are at Appendix C.

In setting out its preferred permit conditions the Proponent used the version of the planning permit considered by Council at its meeting of 27 April 2022 as its base and tracked changes from that. For this reason, the Committee has adopted the same base document with any changes accepted by the Proponent or recommended by the Committee shown as tracked changes as follows:

Additions

~~Deletions~~

In other sections of this report the Committee has made findings that are given effect in its recommended version of the planning permit and no further comment is made here. Some recommended changes to permit conditions are not commented upon elsewhere in the report and a number are commented upon briefly as follows:

Specificity of conditions

The Proponent rejected several conditions proposed by Council on the basis that they were far too specific and that more general conditions, coupled with a requirement that they are met to the satisfaction of the responsible authority were more appropriate. While accepting the broad proposition put by the Proponent, in this particular instance because it is recommended that the Minister for Planning be the responsible authority, the Committee accepts some of the higher degree of specificity submitted by Council is appropriate.

Solar panel provision

The Proponent proposed 60kW of solar electricity be provided for, and Council submitted that one kilowatt per apartment, that it 167kW, be provided. The Proponent's proposal is to provide power for common areas. This was only raised as an issue in the context of a discussion of permit conditions and as a result detailed submissions on the implications of alternative proposals were not made. The Committee notes that 1kW per apartment is a very modest provision but absent any detailed submissions, is hesitant to recommend greater provision than proposed by the Proponent.

Open space

There was limited discussion about the extent of communal open space provision, except for a submission from Council that more rooftop open space should be provided to, in part,

compensate for the ground level communal open space that will be in shade for extended periods. The Committee notes there is substantial roof space on eastern end of the southern building not utilised by solar panels, but absent information on the extent of overshadowing by the 10 storey built form to the north and any more detailed proposal by Council, the Committee has no reason to recommend further open space be provided on rooftops.

7 Reasons and recommendation

7.1 Reasons

The current proposal follows earlier proposals which were the subject of VCAT orders, finally resulting in a planning permit being refused. As a result, the focus by the Proponent and submitters on this proposal related to deficiencies identified by VCAT. The Committee acknowledges this but emphasises that it is its responsibility to address the proposal before it.

In forming its recommendation, the Committee has identified key issues as follows:

Park Street façade

The presentation of the facade of the built form to Park Street is not regarded by the Committee as acceptable. Further work to better modulate the façade to break up the built form by way of reveals and material variation is required.

The street wall and floor level of the southern balconies of the ground floor easternmost four apartments on Park Street should be lowered by 650 millimetres to better present to Park Street. The Committee is satisfied that these changes can be made as conditions on the planning permit.

Brunswick Street façade

A significant part of the Brunswick Street façade contains a substation and other building services, and while not providing a good presentation to the street, the Committee is satisfied that there is no acceptable alternative.

Interface with 180 Brunswick Road and 697 Park Street

There is potential unacceptable overlooking of these two properties and measures should be undertaken to ensure that Standard B22 of Clause 55 of the Moreland Planning Scheme is complied with.

Overshadowing of Princes Park

The small amount of the northern end of Princes Park north of the existing running track at the winter solstice is consistent with relevant local policy and is regarded as acceptable.

Traffic and access

On-site parking provision is adequate but there should be a reallocation of spaces from residential to office uses. Some minor modifications are required to ensure a height clearance along the vehicle path to access the loading dock of at least 3.5 metres. A pathway should be provided to allow movement of bins between the café and the waste collection area. Each of these changes can be achieved by way of conditions on the planning permit.

Treatment of the heritage substation

The retention of the heritage substation is appropriate as are the proposed modifications to its façade to allow adaptive re-use. The heritage structure will be dwarfed by the surrounding built form, this is regarded as acceptable.

Compliance with Clause 58 of the Moreland Planning Scheme

The Committee considers that some work is required in order to ensure compliance with Clause 58 of the Planning Scheme. However, the Committee finds that compliance can be required as a condition on the planning permit. The Committee urges the responsible authority to apply appropriate scrutiny to ensure that the plans submitted for endorsement are compliant.

Provision for affordable housing

The provision of 17 one and two bedrooms apartments as affordable housing at an average 35 per cent discount to the market price should be supported as should the 0.1 per cent of the sale price of subsequent sales to Homes for Homes as a contribution to the provision of social housing.

Minister for Planning be the responsible authority

No evidence or submissions were made to convince the Committee that the Minister for Planning should not be the responsible authority for the subject site, at least until the current development is completed.

The key questions for the Committee as set out in the Minister's referral to it are whether Minister for Planning should prepare, adopt and approve Amendment C218 to the Planning Scheme to give effect to the Minister for Planning being the responsible authority for the subject site. Secondly, whether planning permit PA2201559 should be issued and the conditions under which it should be issued. Based on the reasons set out here, the Committee recommends approval of the proposed development and that the Minister for Planning be responsible authority until at least the development is completed.

7.2 Recommendations

The Priority Projects Standing Advisory Committee recommends:

- 1. The Minister for Planning support the proposed development at 699-703 Park Street Brunswick, 182-192 Brunswick Road Brunswick and 2-4 Sydney Road Brunswick and issue planning permit PA2201559 subject to the conditions included in Appendix C of this report.**
- 2. The Minister for Planning should prepare, adopt and approve Amendment C218 to the Moreland Planning Scheme and exempt herself under section 20(4) of the *Planning and Environment Act 1987* from the requirements of sections 17, 18 and 19 of the Act and Regulations.**

Appendix A Referral Letter



Hon Richard Wynne MP

Minister for Planning
Minister for Housing

8 Nicholson Street
East Melbourne, Victoria 3002

Ms Kathy Mitchell
Chair (Lead)
Priority Projects Standing Advisory Committee
Planning Panels Victoria
planning.panels@delwp.vic.gov.au

Ref: MBR047606



Dear Ms Mitchell

DEVELOPMENT FACILITATION PROGRAM – 699-703 PARK STREET, 182-192 BRUNSWICK ROAD AND 2-4 SYDNEY ROAD, BRUNSWICK

I refer to draft Amendment C218 to the Moreland Planning Scheme and draft Planning Permit PA2201559 affecting land at 99-703 Park Street, 182-192 Brunswick Road and 2-4 Sydney Road, Brunswick. The proposal has been considered by the Development Facilitation Program (DFP), which has deemed that it meets relevant criteria and should be prioritised for accelerated assessment and determination.

I am considering whether to prepare, adopt and approve draft Amendment C218 to the Moreland Planning Scheme and exempt myself under section 20(4) of the *Planning and Environment Act 1987* from the requirements of section 17, 18 and 19 of the Act and the Regulations. The amendment would make me the responsible authority for the site, allowing me to determine Planning Permit PA2201559 for the demolition and alterations to a heritage building and construction of a multi-storey mixed use development comprising dwellings, the use of the land for a food and drink premises and office, reduction in the car parking requirement and alteration of access to a road in a Transport Zone 2. I am considering these matters under Part 4, Division 5 of the Act which allows for a combined permit and amendment process.

To inform my decision about whether to prepare, adopt and approve Amendment C218 and grant Planning Permit PA2201559, I undertook consultation under section 20(5) of the Act. The parties consulted included Moreland City Council, the proponent Urbis c/ Mirvac Pty Ltd, adjoining owners and occupiers, resident groups, objectors to previous planning permit application MPS/2016/985, parties to Victorian Civil and Administrative Tribunal proceeding P966/2018, Melbourne City Council, Yarra City Council, the Department of Transport, Yarra Trams, NBN Co, CitiPower and Yarra Valley Water. There were 36 submissions received.

I advise that I have decided to refer the matter to the Priority Projects Standing Advisory Committee for advice and recommendations on whether I should approve the draft amendment and issue the planning permit. I request your specific advice about the drafting of Amendment C218 and whether planning permit PA2201559 should be issued and, if so, the appropriate conditions, taking into consideration the matters raised in submissions.

The submissions received will be provided to the advisory committee, along with the draft amendment, draft planning permit and application documents that were made available during the consultation period.

The cost of the advisory committee will be met by the proponent, Urbis c/ Mirvac Pty Ltd.

If you have any questions about this matter, please contact Bart Gane, Manager, Priority Projects, Department of Environment, Land, Water and Planning, on 0448 048 704 or on email bart.gane@delwp.vic.gov.au.

Yours sincerely



HON RICHARD WYNNE MP
Minister for Planning

24 / 6 / 22

Appendix B Document list

No.	Date	Description	Provided by
2022			
1	25 Jun	Letter – Referring matter to the Committee	Minister for Planning
2	29 Jun	JW Land Development Pty Ltd v Moreland CC [2019] VCAT 617	DELWP
3	29 Jun	JW Land Development Pty Ltd v Moreland CC (Corrected) [2020] VCAT 354	DELWP
4	29 Jun	Property titles (Subject land)	DELWP
5	29 Jun	Architectural plans and elevations, Bates Smart, 17 Dec 2021	DELWP
6	29 Jun	Feature and level survey (Subject land), Veris, 26 Oct 2021	DELWP
7	29 Jun	Metropolitan Planning Level Certificate (699 Park Street, Brunswick), 21 Dec 2021	DELWP
8	29 Jun	Supporting plans and reports: <ul style="list-style-type: none"> a. Acoustic assessment, Acoustic Logic, 17 Dec 2021 b. Affordable housing, Affordable Development Outcomes, Dec 2021 c. BESS daylight compliance advice, Cundall, 2 Mar 2022 d. Economic benefits statement, Urbis, Dec 2021 e. Heritage impact statement, Bryce Raworth, Dec 2021 f. Landscape plans, Jack Merlo, 15 Dec 2021 g. Planning report, Urbis, Dec 2021 h. Sustainable management plan, Cundall, 17 Dec 2021 i. Traffic, Ratio Consultants, 17 Dec 2021 j. Urban context report (including shadow analysis), Bates Smart, 25 Mar 2022 k. Waste management plan, Ratio Consultants, 17 Dec 2021 l. Water sensitive urban design, Robert Bird Group, 17 Dec 2021 m. Wind assessment, MEL Consultants, 15 Dec 2021 n. Wind tunnel report, MEL Consultants, 1 Mar 2022 	DELWP
9	29 Jun	Letter – Kirsa Environmental to Mirvac (Environmental audit), 14 Dec 2021	DELWP
10	29 Jun	Letter – Mirvac to DELWP (Shovel ready), 15 Dec 2021	DELWP
11	29 Jun	699 Park Street (P966/2108) VCAT Book on Interim Decision, Architectus, July 2019	DELWP
12	1 July	Letter – Notification to submitters of Committee process	PPV
13	26 July	Directions and Timetable (version 1)	PPV

No.	Date	Description	Provided by
14	29 July	Email – confirming order of expert witnesses	Proponent
15	29 July	Email – requesting changes to the Hearing dates	Council
16	1 Aug	Architectural Drawings (Day 1 – Hearing Plans)	Proponent
17	1 Aug	Town Planning Report (Day 1 - Hearing Plans)	Proponent
18	1 Aug	Landscape (Day 1 Hearing Plans)	Proponent
19	1 Aug	Waste Management Plan (Day 1 - Hearing Plans)	Proponent
20	1 Aug	Transport Impact Assessment (Day 1 - Hearing Plans)	Proponent
21	1 Aug	Sustainable Management Plan - (Day 1 - Hearing Plans)	Proponent
22	1 Aug	Green Travel Plan (Day 1 - Hearing Plans)	Proponent
23	1 Aug	Statement of changes (Day 1 - Hearing Plans)	Proponent
24	1 Aug	Environmental Wind Considerations Memo (Day 1 - Hearing Plans)	Proponent
25	1 Aug	Acoustic Assessment (Day 1 - Hearing Plans)	Proponent
26	1 Aug	WSUD Report (Day 1 - Hearing Plans)	Proponent
27	3 Aug	Shadow Diagrams (Day 1 – Hearing Plans)	Proponent
28	4 Aug	Architectural Renders (Day 1 – Hearing Plans)	Proponent
29	4 Aug	Timetable and distribution list (version 2)	PPV
30	5 Aug	VCAT Decision Plans by Architectus (15 July 2019)	Proponent
31	5 Aug	3D Massing Comparison (Day 1 Hearing Plans v VCAT Decision Plans) Southwest	Proponent
32	5 Aug	3D Massing Comparison (Day 1 Hearing Plans v VCAT Decision Plans) Northwest	Proponent
33	5 Aug	Submitter Map	Council
34	5 Aug	Email regarding ADG Compliance Plans	Mr Ganci
35	14 Aug	Expert witness Statement Craig Czarny Urban Design	Council
36	14 Aug	Expert Witness Statement of David Crowder	Proponent
37	14 Aug	Expert Witness Statement of Jason Walsh	Proponent
38	14 Aug	Expert Witness Statement of Mark O'Dwyer	Proponent
39	14 Aug	Expert Witness Statement of Robyn Riddett	Proponent
40	18 Aug	Letter to Parties	PPV
41	19 Aug	Email response to Mr Ganci	Committee
42	22 Aug	Email filing design overview presentation, 22 August 2022	Proponent
43	“	Design Overview Presentation, 22 August 2022	“

No.	Date	Description	Provided by
44	"	Email circulating late submission, 22 August 2022	PPV
45	"	Email correspondence with Mr Ganci regarding ADG compliance plans	"
46	"	Email response to Mr Ganci, 22 August 2022	"
47	"	Index of documents	Council
47a	"	Tab 1 – MUZ1	"
47b	"	Tab 2 – DDO18	"
47c	"	Tab 3 – PO1	"
47d	"	Tab 4 – DCPO1	"
47e	"	Tab 5 – HO279	"
47f	"	Tab 6 – EAO	"
47g	"	Tab 7 – Clause 11.01-1R	"
47h	"	Tab 8 – Clause 11.02-1S	"
47i	"	Tab 9 – Clause 11.03-1R	"
47j	"	Tab 10 – Clause 12.05-2S	"
47k	"	Tab 11 – Clause 15.01-1R	"
47l	"	Tab 12 – Clause 15.01-1L	"
47m	"	Tab 13 – Clause 15.01-2S	"
47n	"	Tab 14 – Clause 15.01-2L	"
47o	"	Tab 15 – Clause 15.01-2L	"
47p	"	Tab 16 – Clause 15.01-2S	"
47q	"	Tab 17 – Clause 15.01-2L-04	"
47r	"	Tab 18 – Clause 15.01-2L-05	"
47s	"	Tab 19 – Clause 51.01-5S	"
47t	"	Tab 20 – Clause 15.03-1S	"
47u	"	Tab 21 – Clause 15.01-1L	"
47v	"	Tab 22 – Clause 16.01-1L	"
47w	"	Tab 23 – Clause 16.01-1R	"
47x	"	Tab 24 – Clause 16.01-2L	"
47y	"	Tab 25 – Clause 19.02-6R	"
47z	"	Tab 26 – Clause 19.02-6L	"
47aa	"	Tab 27 – Brunswick Structure Plan (pt. 1)	"
47bb	"	Tab 27(a) Brunswick Structure Plan (pt. 2)	"

No.	Date	Description	Provided by
47cc	"	Tab 28 – Addendum Brunswick Structure Plan – Map	"
47dd	"	Tab 28 – Addendum to Brunswick Structure Plan	"
47ee	"	Tab 29 – Brunswick Structure Plan 2018	"
47ff	"	Tab 30 – Moreland C134 Panel Report	"
47gg	"	Tab 31 – VCAT 354	"
47hh	"	Tab 32 – VCAT 617	"
47ii	"	Tab 33 – Site photos Park St	"
48	"	Submission on behalf of Moreland City Council	"
49	"	Attachment 1 – Heritage Citation (extract)	"
50	"	Attachment 2 – Park Street Affordable Housing – Hornsby and Co	"
51	"	Attachment 3 – Draft-Planning-Permit-PA2201559 – Track Changes, 19 April 2022	"
52	24 Aug	Outline of submissions	Proponent
53	"	Presentation of Mr O'Dwyer	Proponent
54	25 Aug	Submission	Protectors of Public Lands Vic
55	25 Aug	Cross Ventilation Compliance Diagram	Proponent
56	"	Memo by Mr Walsh	Proponent
57	"	Submission	Protect Park Street Precinct
58	"	Panel Report – Amendment C278	"
59	"	Submission	Mr Ganci
60	"	Appendix – dwelling amenity analysis	"
61	26 Aug	Timetable (v3)	PPV
62	"	Various images of people in Princes Park	Protect Park St Precinct
63	29 Aug	Without prejudice draft planning permit – marked up	Proponent
64	30 Aug	Submission	Eveline Fallshaw
65	30 Aug	Submission	Professor Jones
66	30 Aug	Submission	Angelo Labriola
67	31 Aug	Email regarding draft permit conditions	Council
68	1 Sept	Without prejudice committee wording re Part Street facade	PPV

Appendix C SAC preferred Permit Conditions

PLANNING PERMIT GRANTED UNDER SECTION 96I OF THE PLANNING AND ENVIRONMENT ACT 1987

Permit No.: PA2201559

Planning Scheme: Moreland

Responsible authority: Minister for Planning

ADDRESS OF THE LAND: 699-703 PARK STREET, 182-192 BRUNSWICK ROAD AND 2-4 SYDNEY ROAD, BRUNSWICK

- Crown Allotment 1 Section 5 City of Brunswick Parish of Jika Jika (2 Sydney Road)
- Lot 1 on Title Plan 533579B (4 Sydney Road)
- Lot 1 on Title Plan 116765G (182 Brunswick Road)
- Lots 1 and 2 on Title Plan 374187D and Lot 2 on Title Plan TP389578D (184-186 Brunswick Road)
- Lot 1 on Title Plan 535297B and Lot 1 on Title Plan 761587D (188 Brunswick Road)
- Lot 2 on Plan of Subdivision 039359 (190-192 Brunswick Road)
- Lot 1 on Title Plan 531751C (699 Park Street)
- Lot 1 and 2 on Title Plan 907793R (701 Park Street)
- Lots 1 on Title Plan 389578D (703 Park Street)

THE PERMIT ALLOWS: Demolition and alterations to a heritage building and construction of a multi-storey mixed use development comprising dwellings, the use of the land for a food and drink premises and office, reduction in the car parking requirement and alteration of access to a road in a Transport Zone 2.

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT

In these conditions, any reference to a matter ~~then~~ that must be done before development commences does not apply to demolition, bulk excavation, in ground work, tree removal, remediation or any other matter required to conduct or respond to the environmental audit of the land.

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-~~ Day 1 Hearing Plans (TP00.000, TP01.00, TP01.02, TP01.04, TP03.00 to TP03.10, TP03.B1, TP03.B2, TP09.00 to TP09.03, TP09.10, TP10.00, TP10.01, TP10.11, TP20.00 to TP20.013, TP30.00, TP30.01, TP31.00 to TP31.05, TP40.00 to TP40.02) by Bates Smart, dated 1 August 2022 ~~17 December 2021~~, but modified to show:

Heritage

- (a) The east facing bi-fold doors on the substation reduced in size and replaced with metal shutter doors that are industrial in appearance and painted to blend in with the colours of the existing walls.
- (b) The west facing window on the substation replaced a series of smaller industrial style highlight windows.
- (c) The south facing window replaced with a window that has a 2:1 height to width ratio.
- ~~(d) Level 2, 3 4 and 5 of each building that flanks the substation to its east and west, setback a minimum of 6.5 metres from the substation (i.e. an additional two metres). Levels 2 and 3 may include semi open structures into the two metre setback.~~

Brunswick Road frontage

- ~~(e) At least two entries at ground level facing Brunswick Road for the commercial office use.~~
- ~~(f) Relocation of all services facing Brunswick Road to a location that does not face a street frontage.~~

Park Street frontage

- ~~(d) Before the development commences amended Park Street elevation drawings depicting a revised design to the satisfaction of the Responsible Authority must be submitted and approved by the Responsible Authority. When approved the elevation will be endorsed and will form part of the permit and Endorsed Plans.~~
- (d) The Park Street elevation be redesigned to show modifications to better mark the corner with Park Street and Sydney Road, improve the perception of the separation between facade elements and increased modulation of the façade. Modifications must include:
 - i) An enhancement of the visual prominence of corner section of the Park Street, Sydney Road corner extending to the Gridline 1S. This is to be achieved without increasing the height or overshadowing outcomes.
 - ii) Increase the depth and width of the separating elements to the elevation of Park Street to improve visual separation of façade between these elements. These vertical elements are located at gridlines 1S, 5S and adjacent to gridline 3S.
 - iii) Setback the southern walls as indicated on the plan TP03.04 for apartments 4.14 and 4.15 at level 4 between gridlines 5S and 7S to the depth of the balconies indicated for these apartments on drawing TP03.04 rev D dated 01.08.22.
 - iv) Lower the street wall and level of the southern ground floor balcony of apartments 1.24, 1.25, 1.26, 1.27, by 650mm to RL 45.850. Stair access to the ground floor balcony and internal ground floor stairs to be amended accordingly.

Park Street frontage

- ~~a) The built form on the corner of Sydney Road and Park Street (generally the built form that correlates to Apartment 5-17 and Apartment 5-16) built to the boundary to better mark the corner.~~
- ~~b) Deletion of Apartment 5-15 and the built form associated with the living areas and master bedroom of Apartment 5-14.~~
- ~~c) A minimum 6 metre setback clear to the sky between the building containing the townhouses and the apartment building facing Park Street. The setback must connect from Park Street to the east-west communal pedestrian link within the site.~~
- ~~d) A minimum setback of 4 metres from the Park Street frontage for all the townhouses at each level. The 4 metre setback is to include deep soil and landscaping (apart from the area associated with the access ramp).~~

- e) ~~Townhouses 1-24, 1-25 and 1-26 altered to have the entry and ground floor level at natural ground level (not raised), along with a commensurate reduction in overall height for the townhouses.~~
- f) ~~The setback from the eastern edge of the living area of Apartment 3-17 dimensioned with a minimum 11 metres from the eastern boundary.~~

Eastern interface

- g) ~~Increase setback and/or reduction in height of the built form along the eastern side of the site to ensure overshadowing to 180 Brunswick Road is no greater than the overshadowing caused by the plans by architectus Issue C 'issued for VCAT' dated 1 October 2018.~~
- (e) All fourth level balustrades facing the eastern boundary of the site amended to comply with the Design and Development Overlay Schedule 18 'Setbacks to residential land'.
- (f) Measures to prevent unreasonable overlooking to 180 Brunswick Road and 697 Park Street in accordance with Standard B22 of Clause 55.04-6 (Overlooking objective) of the Moreland Planning Scheme.
- ~~(g) An additional 1 metre width of landscaping between the vehicle accessway and the pedestrian path for the first 4 metres from the Park Street frontage~~
- (g) Widening of the pedestrian path to ~~3~~ 2.5 metres at the north and south entry points for a minimum of 5 metres length.

Car and bicycle parking and access

- (h) Appropriate signage for drivers to ~~indicate~~ regulate left in/left out only vehicular movements on Park Street.
- (i) At least ~~three~~ five car spaces to be re-allocated from residential to the office use and marked on the plans.
- (j) At least one car space allocated to the food and drink premise and marked on the plans.
- ~~(k) Deletion of the 'two small parking' bays and re-purposing these spaces for motorcycles on common property.~~
- (k) The vehicle entry gate dimensioned as ~~6.8~~ 6.6 metres from the Park Street frontage ~~and clearance of 3.5 metres.~~
- (l) The car entry ramp from Park Street to Basement level 01 dimensioned to have a minimum height clearance of 3.5 metres along its full length
- ~~(m) The internal accessway and vehicle crossing width dimensioned as 6.6 metres.~~
- ~~(n) The vehicle crossing with 1 metre straight splays on both sides commencing from the property boundary and finishing at the kerb in accordance with Council's Standard Vehicle Crossing design A 2.4 metre wide opening to the east of the basement entry ramp.~~
- (m) A corner splay or area at least 50 per cent clear of visual obstructions extending at least 2 metres along the frontage road from the edge of the exit lane of the driveway and 2.5 metres along the exit lane from the frontage, to provide a clear view of pedestrians on the footpath of the frontage road from the driveway exit lane. Relocation of the power pole to a point in front of the development that is over 1 metre from the vehicle crossing, including the 1 metre splays.
- ~~r) Each tandem set of car spaces to be dimensioned with one space 5.4 metres long~~
- (n) Each bicycle parking device (apart from the double stacked facilities) 500mm wide and the horizontal bike spaces 1800mm long and the vertical bicycle spaces 1200mm long, with every space accessed from a 1500mm wide access aisle as required by the Australian Standard for Parking Facilities – Bicycle Parking (AS2890.3).
- (o) The double stacked bicycle facility as 2000mm long and accessed from a 1700mm wide accessway as required by the manufacturer's specifications. The bike parking space widths must be dimensioned ~~500mm 300mm wide~~ as per manufacturer's requirements and accord with AS2890.3:2015.

- (p) Provision of a convex mirror at the top of vehicle entry ramp leading to loading bay level.
- (q) Provision for a pathway from the waste storage area servicing the café into the car parking aisle of Basement Level 01 suitable for the movement of waste bins to the loading dock, by the deletion of a car parking space or other design change.
- (r) The ramp to B2 dimensioned to have a width of at least 6.0 metres at its entry on Basement Level 01.

Apartment amenity

- (s) ~~9-metre maximum room depth for all apartments to ensure compliance with Standard D26 of Clause 58 (Apartment developments) of the Moreland Planning Scheme. Any amendments necessary to ensure that the development meets Standard D29 of clause 58.07, Standard D18 of clause 58.05-1 and the functional layout objective of Clause 58.07-1 of the Moreland Planning Scheme.~~

Materials

- ~~(d) Introduction of finer grain detail and brickwork generally in accordance with the 'Pre-Application Presentation' plans by BatesSmart November 2021.~~

Noise

- (t) Notations to reference the recommendations of the acoustic report by Acoustic Logic ~~17 December 2021~~ 1 August 2022

Other

- (u) Any level difference between the development and the public footpath made up using ramps or steps within the site, and a note that the levels of the footpath must not be altered.
- (v) The canopies modified so that it is setback not less than 750mm from the kerb and at a height of not less than 3m above the level of the footpath.
- (w) The Environmentally Sustainable Design initiatives that are required to be shown on plans, as contained within Condition 8 of this permit.
- (x) Any changes to the plans arising from the:
 - i) Landscape Plan in accordance with Condition ~~3~~ 4 of this permit.
 - ii) Accessibility Report in accordance with Condition ~~12~~ 13 of this permit.
 - iii) Acoustic Report in accordance with Condition ~~14~~ 15 of this permit.
 - iv) Waste Management Plan in accordance with Condition ~~17~~ 18 of this permit.
 - v) Park Street façade changes under Condition 1(d). ~~to 1(i).~~

ENDORSED PLANS

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

PARK STREET FACADE

- 3) ~~Before the development commences, amended Park Street façade drawings to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the elevation will be endorsed and will form part of the permit and the Endorsed Plans. The amended elevation must show modifications (through use of materials, or changes to the design or dimensions of rebates at the grid lines) to the~~

~~western section of the southern (Park Street) elevation (excluding the townhouses) which improve the perception of separation between façade elements, and to provide for improved visual breaks within the grid lines of the façade.~~

LANDSCAPING

3) Prior to the endorsement of plans, an amended landscape plan must be submitted to the Responsible Authority. The landscape plan must be generally in accordance with the [Day 1 Hearing Plan](#) prepared by Jack Merlo dated ~~15 December 2021~~ [1 August 2022](#), but amended to show:

- (a) Any changes required to align with the plans for endorsement.
- ~~a) Additional roof top terrace area or areas and associated landscaping~~
- (b) A detailed irrigation plan with water sources, controller and maintenance schedule for all garden beds, lawn areas and containers.
- (c) Sections for containerised planters. Planters with trees must contain at least 1 metre depth of soil and sufficient volume to ensure the trees remain healthy and stable.
- (d) drainage specifications
- (e) lighting in accordance with a lighting plan to the satisfaction of the responsible authority to be endorsed as part of the landscape plan.
- (f) A pergola on the roof terrace ~~with a deciduous climber~~
- ~~(g) Street tree planting in front of the site on Park Street and Brunswick Road with a 24 months maintenance and establishment plan in accordance with the Public Works Plan-~~
- (g) Within the north-south public pedestrian link:
 - i) Garden bed understorey vegetation below 1.2 metres to provide good CPTED sightlines
 - ii) [Provision of security lighting along the full length](#)
 - iii) [Design of landscaping and architectural treatments to ensure no opportunities for concealment of persons](#)
 - ~~I. Increase path widths from to 2 metres to 3.5 metres at the north and south entry point points and gradually narrow down to 2 metres maintain a width of 1.8 metres along the full length of the path.~~
 - ~~II. Green facades and shade trees (not raised garden beds) at the north and south entry points to soften these areas.~~
 - ~~III. Replacement of Fraxinus pennsylvancia along the western edge of the link with a species with a more columnar form.~~
- (h) Identification of any existing tree(s) and vegetation on site and adjoining land proposed to be removed and retained, including the tree protection zone(s) of trees to be retained and protected. ~~This must include retention and protection the significant Plane Tree on Sydney Road in front of the site.~~
- (i) Strategies for the retainment of vegetation (i.e. barriers and signage during the construction process) consistent with any conditions of this permit. ~~This must include details of tree management strategies to protect the significant Plane Tree on Sydney Road in front of the site to the satisfaction of Moreland City Council.~~
- (j) A schedule of all proposed trees, shrubs and ground covers, including numbers, size at planting, size at maturity, botanical names and common names. The flora selection and landscape design should be drought tolerant and based on species selection recommended in the Moreland Landscape Guidelines 2009.
- (k) Notes and diagrams detailing the establishment and maintenance of all proposed trees, shrubs and ground covers.
- (l) Details of the location and type of all paved and sealed areas. Porous/permeable paving, rain gardens and other water sensitive urban design features must be in

accordance with the Sustainability Design Assessment or Sustainability Management Plan.

- (m) Details of all planter boxes, above basement planting areas, green walls, rooftop gardens and similar, including:
 - i) Soil volume sufficient for the proposed vegetation
 - ii) Soil mix
 - iii) Drainage design
 - iv) Details of an automatic irrigation system, including maintenance program and responsibility for maintenance.

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

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

TREE PROTECTION

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

- (a) Tree Protection Fencing

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

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

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

- (b) Signage

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

- (c) Irrigation

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

(d) Provision of Services

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

TREE REMOVAL

- 7) Prior to the issue of an Occupancy Permit, 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, to the satisfaction of Moreland City Council.

ENVIRONMENTALLY SUSTAINABLE DESIGN (ESD)

- 8) Prior to the endorsement of plans, an amended Sustainability Management Plan (SMP) and plans must be submitted to the satisfaction by the Responsible Authority. The SMP must demonstrate a best practice standard of environmentally sustainable design through a minimum BESS score of 70% and an average 7 star NatHERS rating. The amended SMP must be generally in accordance with the SMP prepared by Cundall dated 1 August 2022 and include:

(a) A full MUSIC assessment and review

- a) ~~A comprehensive daylight modelling report to outline how the development achieves the daylight requirements of BESS, including but not limited to:~~

- ~~• Overlay daylight maps on to floor plans to ascertain that the modelling accurately depicts the dimensions and design of the space.~~
- ~~• Clear scale to accompany daylight maps~~
- ~~• A summary table showing the daylight value for each space with their floor area and the compliant area as both a percentage and as a sqm area~~
- ~~• An image of the development as modelled in the software which demonstrates that all external architectural features, overhangs, lightwells, screening, adjacent buildings and structures and other daylight obstructions have been accurately modelled and incorporated.~~
- ~~• All surrounding future equitable (including proposed) development modelled where relevant~~
- ~~• Glazing properties -VLT of all windows ensuring that the VLT and glazing specifications match the glazing specifications used in the JV3/energy/facade modelling~~
- ~~• Internal reflectance of walls, floor and ceilings~~
- ~~• Description of the software used to produce the model~~

- (b) Optimisation of the roof spaces for rooftop PV with provision for a minimum of 60 kW 1kW per apartment 25W per sqm of site coverage angled at a minimum of 10 degrees facing north and west.

- (c) Removal of BESS credits associated with areas not complied with.

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

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

ACCESSIBILITY

- 12) Prior to the endorsement of plans, an Accessibility Report prepared by a suitably qualified person must be submitted to the satisfaction of the Responsible Authority. [The report must be modified to include but not be limited to:](#)
 - (a) Align with the plans for endorsement
 - (b) Detail of how the development will incorporate design features in accordance with Standard D178 (Accessibility) of Clause 58 of the Moreland Planning Scheme, including the detailed design of the adaptable bathrooms (e.g. confirmation of hobless showers and removable hinges to doors).
 - (c) Detail how all publicly accessible and common areas incorporate best practice accessible design features. This must include DDA accessible entry from the main pedestrian entrance on Park Street.

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

- 13) Prior to the issue of an Occupancy Permit, a report from the author of the Accessibility Report, approved pursuant to this permit, or similarly qualified person or company, must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the Accessibility Report have been implemented in accordance with the approved report.

ACOUSTIC ATTENUATION

- 14) Prior to the endorsement of plans, an amended Acoustic Report prepared by a qualified Acoustic Engineer must be submitted to the satisfaction of the Responsible Authority. The Report must be generally in accordance with the Acoustic Report prepared by Acoustic Logic dated ~~17 December 2021~~ [1 August 2022](#). ~~but modified to:~~
 - a) ~~Align with the plans for endorsement.~~

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

- 14) The building must be constructed and thereafter maintained in accordance with the recommendations contained within the approved Acoustic Report to the satisfaction of the Responsible Authority, unless with the further written approval of the Responsible Authority.
- 15) Prior to the issue of an Occupancy Permit, 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.

WASTE MANAGEMENT

- 16) Prior to the endorsement of plans, an amended Waste Management Plan (WMP) must be submitted to the satisfaction of the Responsible Authority. The plan must be generally in accordance with the report prepared by Ratio and dated [1 August 2022](#) ~~December 2021~~, but modified to:
 - (a) Align with the plans for endorsement.

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

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

PUBLIC WORKS PLAN

- 18) 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 Public Works Plan relates to the following works, which, subject to the provision of land access by the relevant public authority, must be implemented by, and at the cost of, the person acting on this permit. The Public Works Plan must include:](#)
 - (a) All construction details generally in accordance with the *Moreland City Council Technical Notes July 2019* (or any updated version);
 - (b) A detailed level and feature survey of the footpaths and roads.
 - (c) The upgrade of the footpath adjacent to the site. Public footpaths are to be reinstated to the previous levels with a maximum cross fall slope of 1 in 40 (2.5%).
 - (d) Any Council or service authority pole or pit within 1 metre of the proposed vehicle crossing, including the 1 metre splays on the crossings, relocated or modified.
 - (e) For any vehicle crossing not being used, the kerb, channel and footpath reinstated.
 - (f) Any necessary drainage works.
 - (g) The relocation or replacement of existing and installation of new street furniture and infrastructure, such as parking and traffic signs, public seating, bicycle parking and similar.
 - (h) The provision of new narrow form street tree planting in the Brunswick Road footpath ~~at 6 metre centres~~ in front of the site to the satisfaction of Moreland City Council.
 - (i) The provision of new street trees and in road trees on Park Street ~~at 8 metre centres~~ in front of the site linked with structural soils integrated with water sensitive

urban design and connected to stormwater drainage to the satisfaction of Moreland City Council.

- (j) Any other works to the public land adjacent to the development.

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

- 19) Prior to the issue of an Occupancy Permit and subject to land access being provided by the relevant public authority all public works shown on the endorsed Public Works Plan as to be implemented by, or to be at the expense of the owner of the land must be implemented to the satisfaction of the Responsible Authority ~~at the expense of the owner of the land~~, unless otherwise agreed with prior written consent of the Responsible Authority.

ENVIRONMENTAL AUDIT

- 20) Before the commencement of construction of the permitted buildings above ground level ~~or carrying out of buildings and works~~ or the issue of a statement of compliance under the Subdivision Act 1988 (whichever is earlier), the owner(s) must provide:
 - (a) an environmental audit statement under Part 8.3 of the *Environment Protection Act 2017* stating that the land is suitable for the use or, if this permit authorises the construction or carrying out of buildings or works, is suitable for the use for which the buildings or works are constructed or carried out; or
 - (b) an environmental audit statement under Part 8.3 of the *Environment Protection Act 2017* stating that the land is suitable for the use or, if this permit authorises the construction or carrying out of buildings or works, is suitable for the use for which the buildings or works are constructed or carried out, if the recommendations made in the statement are complied with.
- 21) Where an environmental audit statement is issued for the land, and any recommendation of that environmental audit statement requires any maintenance and/or monitoring of an ongoing nature, such maintenance and/or monitoring must be secured to the satisfaction of the Responsible Authority ~~may require the Owner(s) to enter into an Agreement with the Responsible Authority pursuant to Section 173 of the Planning and Environment Act 1987 that provides for the undertaking of the ongoing maintenance and/or monitoring as required by the environmental audit statement.~~

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

- 22) ~~Prior to any remediation works (if required) being undertaken in association with the environmental audit, a 'remediation works' plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The plan must detail all excavation works as well as any proposed structures such as retaining walls required to facilitate the remediation works. Only those works detailed in the approved remediation works plan are permitted to be carried out prior to the issue of an environmental audit statement.~~

23) ~~No works to construct the development hereby approved shall be carried out on the land and no building contract to construct the development hereby approved may be entered into, other than in accordance with a building contract that stipulates that works must not be commenced until such time as Conditions Xx, XX and X are satisfied.~~

22) Prior to commencement of the use ~~of the permitted buildings~~, the issue of an Occupancy Permit under the *Building Act* 1993 or the issue of a Statement of Compliance under the *Subdivision Act* 1988 (whichever occurs first), written confirmation of compliance with all the recommendations of the environmental audit statement must be provided by an environmental auditor appointed under the *Environment Protection Act* 2017, including confirming that any requirements in the environmental audit statement recommendations regarding verification of works have been complied with. All the recommendations of the environmental audit statement must be complied with to the satisfaction of the Responsible Authority.

~~North – south publicly accessible link~~

23) Public access must be permitted at all times, other than any closures necessary for maintenance and emergency works, along ~~for~~ the north – south ~~6-metre-wide~~ pedestrian link adjacent ~~along~~ the eastern boundary and indemnity for Moreland City Council in relation to public use of the link

SECTION 173 AGREEMENT

24) Prior to the commencement of the development ~~hereby permitted~~, an agreement under Section 173 of the *Planning and Environment Act* 1987 between the Owners of the land and the Responsible Authority must be prepared ~~in a form satisfactory~~ to the satisfaction of the Responsible Authority, providing for:

~~North – south publicly accessible link~~

~~Public access at all times, for the north – south 6 metre wide pedestrian link along the eastern boundary and indemnity for Moreland City Council in relation to use of the link.~~

Affordable Housing

- (a) Sale of 10% of the total number of residential dwellings within the development to Eligible Households or to a registered housing agency ~~(as defined in the Planning and Environment Act 1987) through a shared equity mechanism managed by a registered housing agency (or its subsidiary)~~ **(Affordable Housing Dwellings)**. The registered housing agency must demonstrate that ~~the policies and processes of the shared equity scheme address the matters for consideration set out in the Ministerial Notice to the satisfaction of the Responsible Authority.~~
- (b) The provision of Affordable Housing Dwellings comprising a mix of 1 and 2 bedroom dwellings ~~but no more than 3 x Affordable Housing Dwellings with 2 bedrooms.~~
- (c) The Affordable Housing Dwellings ~~being~~ that are sold to Eligible Households must be sold subject to a condition requiring the Eligible Household to participate in an established shared equity affordable home ownership program, or such other alternative proposal acceptable to the Responsible Authority.
- (d) Subject to (e), the ~~landowner~~ owner(s) who is the owner upon the first sale of the newly constructed Affordable Housing Dwelling must ensure that a purchaser of an Affordable Housing Dwelling does not have to pay or personally secure finance for the full Sale Price, by providing (directly or indirectly) each Eligible Household with an average contribution of 45% 35% of the market value Blue Price (Affordable Housing Contribution).

- (e) The amount or value of the Affordable Housing Contribution provided in relation to each Affordable Housing Dwelling may vary depending on the financial and borrowing capacity of the relevant Eligible Household, provided that the aggregate Affordable Housing Contribution provided across all of the Affordable Housing Dwellings is 45% ~~35%~~ of the ~~market value~~ Sale Price of the Affordable Housing Dwellings.

- (f) Any subsequent sale of an Affordable Housing Dwelling by the Eligible Household or a registered housing agency must only be to another Eligible Household or to a registered housing agency.

‘Eligible Household’ means a purchaser that, at the time of entering the contract of sale, ~~meets the threshold for~~ is a low- income household, moderate income household or very low-income household, as those terms are defined in section 3AA(4) of the Planning and Environment Act 1987.

‘Sale Price’ means the purchase price as stated in the contract of sale for each Affordable Housing Dwelling.

- (g) The entering into the ‘Homes for Homes’ program, with the ~~first contribution payable on starting from~~ the ~~first future~~ sale of lots ~~following the creation of new titles~~, equating to 0.1% of the contract price, ~~and then with a right to register~~ a caveat, ~~if necessary, registered on newly-created titles at or after settlement to bind subsequent purchasers and otherwise on terms agreed between the owner and Homes for Homes. No contribution is payable under this condition in respect of the sale of lots by the owner who undertakes the development hereby permitted and who makes the Affordable Housing Contribution otherwise required by this permit condition. and transferred to new purchasers for on-going contributions of future sales.~~

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

- (a) 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
- (b) 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.

~~28. To ensure the provision of affordable housing and social housing, prior to a certificate of occupancy being issued, the owner must:~~

- ~~a) Register the agreement on the title(s) for the land in accordance with Section 18 of the Planning and Environment Act 1987; and~~
- ~~b) Provide the Responsible Authority with the dealing number confirming the registration on the title.~~

~~The agreement must contain covenants to be registered on the title of the property so as to run with the land, and must provide for the following:~~

- ~~i) On the issue of the certificate of occupancy, 10 % of the total number of the dwellings (rounded up to the nearest whole number) are to be allocated for sale to eligible households as part of a shared equity scheme managed by a registered housing agency (or their subsidiary).~~
- ~~ii) The Affordable Housing dwellings shall be designed, constructed, and finished to the same standard as the other dwellings in the development.~~

- iii) ~~If at any point after the cessation of this Agreement the owner of an Affordable Housing wants to sell the dwelling/s they may do so provided the share of value retained by the Registered Agency (or their subsidiary) is used to provide affordable housing within the City of Moreland or neighbouring municipalities.~~

3D MODEL

- 26) 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.

DEVELOPMENT CONTRIBUTIONS

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

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

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

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

ENGINEERING MATTERS

- 28) Prior to the issue of an Occupancy Permit, a vehicle crossing must be constructed in every location shown on the endorsed plans to a standard satisfactory to the Responsible Authority.
- 29) Prior to the issue of an Occupancy Permit, 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.
- 30) Prior to the issue of an Occupancy Permit, access to the site, including any vehicle crossover and any ancillary road and road drainage works must be constructed in accordance with any requirement of the Responsible Authority.
- 31) Prior to the issue of an Occupancy Permit, all telecommunications and power connections (where by means of a cable) and associated infrastructure to the land must be underground or otherwise suitably located, to the satisfaction of the Responsible Authority.
- 32) Prior to the issue of an Occupancy Permit, the car park access must be automatic and remote controlled.
- 33) Prior to the issue of an Occupancy Permit, the bicycle storage room must have self-closing and self-locking doors or gates that are only accessible using keys, codes or swipe cards in accordance with the Australian Standard for Bicycle Parking (AS2890.3).

- 34) Prior to the issue of an Occupancy Permit, bicycle signage that directs the cyclists to the [visitor](#) bicycle facilities must be provided to the satisfaction of the Responsible Authority. Bicycle signage should be at least 0.3 metres wide and 0.45 metres high; display a white bicycle on a blue background on the top half of the sign and display information about the direction of facilities on the bottom half of the sign.

STORMWATER

- 35) All stormwater from the land, where it is not collected in rainwater tanks for re-use, must be collected by an underground pipe drain approved by and to the satisfaction of the Responsible Authority (Note: Please contact Moreland City Council, City Infrastructure Department).
- 36) The surface of all balconies are to be sloped to collect the stormwater run-off into stormwater drainage pipes that connect into the underground drainage system of the development to the satisfaction of the Responsible Authority.

CAR PARKING

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

GENERAL

- 38) Prior to the issue of an Occupancy Permit, all boundary walls must be constructed, cleaned and finished to the satisfaction of the Responsible Authority.
- 39) Unless with the prior written consent of the Responsible Authority, any plumbing pipe, ducting and plant equipment must be concealed from external views. This does not include external guttering or associated rainwater down pipes.
- 40) The shopfront/retail window must not be painted or blocked out in any way to the satisfaction of the Responsible Authority.
- 41) All lighting of external areas must be designed not to emit direct light onto adjoining property to the satisfaction of the Responsible Authority.
- 42) ~~The north-south pedestrian link must remain open to the public at all times.~~

PRIVACY SCREENS TO BE INSTALLED AND MAINTAINED

- 42) Prior to the issue of an Occupancy Permit, all visual screening measures shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority. All visual screening and measures to prevent overlooking must be maintained to the satisfaction of the Responsible Authority. Any screening measure that is removed or unsatisfactorily maintained must be replaced to the satisfaction of the Responsible Authority.

NOISE ABATEMENT

- 43) Prior to the commencement of works, the Acoustic Report by Acoustic Logic dated ~~17 December 2021~~ 1 August 2022, or any updated version, must be endorsed and will form part of this permit.
- 44) The building must be constructed and thereafter maintained in accordance with the recommendations contained within the approved Acoustic Report to the satisfaction of the Responsible Authority, unless with the further written approval of the Responsible Authority
- 45) Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, a report from the author of the Acoustic Report approved pursuant to this permit or similarly qualified person or company must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the Acoustic Report have been implemented in accordance with the approved Acoustic Report.

GLAZING REFLECTIVITY

- 46) 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% 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.

REFERRAL AUTHORITY CONDITIONS

- 47) Prior to the occupation permitted by this permit, all disused or redundant vehicle crossings along Brunswick Road and Royal Parade, 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) The permit holder must take all reasonable steps to ensure that disruption to tram operation along Sydney Road and bus operation along Brunswick Road is kept to a minimum during the construction of the development. Foreseen disruptions to tram and bus operations during construction and mitigation measures must be communicated to Yarra Trams and Public Transport Victoria eight (8) weeks prior by emailing customerservice@transport.vic.gov.au

PERMIT EXPIRY

- 49) This permit will expire if one of the following circumstances applies:
 - (a) the development is not commenced within ~~one (1)~~ two (2) years from the date of issue of this permit.
 - (b) the development is not completed within five (5) years from the date of issue of this permit.
 - (c) the use is not commenced within five (5) years from the date of issue of this permit.

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

- within 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:

~~**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/>.~~

i) —

~~**Note 4:** The proposed development requires reinstatement of disused crossovers to kerb and channel. Separate approval under the Road Management Act 2004 for this activity may be required from the Head, Transport for Victoria. Please contact Department of Transport prior to commencing any works.~~

IMPORTANT INFORMATION ABOUT THIS PERMIT

WHAT HAS BEEN DECIDED?

The responsible authority has issued a permit. The permit was granted by the Minister under section 96I of the **Planning and Environment Act 1987** on approval of Amendment No. C216more to the Moreland Planning Scheme.

WHEN DOES THE PERMIT BEGIN?

The permit operates from a day specified in the permit being a day on or after the day on which the amendment to which the permit applies comes into operation.

WHEN DOES A PERMIT EXPIRE?

1. A permit for the development of land expires if—
 - the development or any stage of it does not start within the time specified in the permit; or
 - the development requires the certification of a plan of subdivision or consolidation under the **Subdivision Act 1988** and the plan is not certified within two years of the issue of the permit, unless the permit contains a different provision; or
 - the development or any stage is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit or in the case of a subdivision or consolidation within five years of the certification of the plan of subdivision or consolidation under the **Subdivision Act 1988**.
2. A permit for the use of land expires if—
 - the use does not start within the time specified in the permit, or if no time is specified, within two years after the issue of the permit; or
 - the use is discontinued for a period of two years.
3. A permit for the development and use of land expires if—
 - the development or any stage of it does not start within the time specified in the permit; or
 - the development or any stage of it is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit; or
 - the use does not start within the time specified in the permit, or, if no time is specified, within two years after the completion of the development; or
 - the use is discontinued for a period of two years.
4. If a permit for the use of land or the development and use of land or relating to any of the circumstances mentioned in section 6A(2) of the **Planning and Environment Act 1987**, or to any combination of use, development or any of those circumstances requires the certification of a plan under the **Subdivision Act 1988**, unless the permit contains a different provision—
 - the use or development of any stage is to be taken to have started when the plan is certified; and
 - the permit expires if the plan is not certified within two years of the issue of the permit.
5. The expiry of a permit does not affect the validity of anything done under that permit before the expiry.

WHAT ABOUT REVIEWS?

- In accordance with section 96M of the **Planning and Environment Act 1987**, the applicant may not apply to the Victorian Civil and Administrative Tribunal for a review of any condition in this permit.

Appendix D Terms of Reference

1. The letter of referral will be a public document.
2. In making a referral, the Minister for Planning or delegate must, either:
 - a. be satisfied that any proposed planning controls for the land make proper use of the Victoria Planning Provisions and are prepared and presented in accordance with the Ministerial Direction on The Form and Content of Planning Schemes, or
 - b. seek advice from the Committee on the drafting of the planning controls or permit conditions.
3. The Committee may inform itself in anyway it sees fit, but must consider:
 - a. The referral letter from the Minister for Planning,
 - b. referred submissions,
 - c. the comments of any referral authority,
 - d. the views of the project proponent,
 - e. the views of the relevant Council,
 - f. The relevant planning scheme.
4. The Committee is not expected to carry out additional public notification or referral but may seek the views of any relevant referral authority, responsible authority or government agency.
5. The Department of Environment, Land, Water and Planning (DELWP) will be responsible for any further notification required. New submissions will be collected by DELWP.
6. The Committee may seek advice from other experts, including legal counsel where it considers this is necessary.
7. The Committee is not expected to carry out a public hearing but may do so if it is deemed necessary and meets its quorum.
8. The Committee may:
 - a. assess any matter 'on the papers'.
 - b. conduct discussions, forums, or video conferences when there is a quorum of:
 - i. a Chair or Deputy Chair, and
 - ii. at least one other member.
9. The Committee may apply to vary these Terms of Reference in any way it sees fit.

Submissions are public documents

10. The Committee must retain a library of any written submissions or other supporting documentation provided to it directly to it in respect of a referred project until a decision has been made on its report or five years has passed from the time of the referral.
11. Any written submissions or other supporting documentation provided to the Committee must be available for public inspection until the submission of its report, unless the Committee specifically directs that the material is to remain confidential. A document may be made available for public inspection electronically.

Outcomes

12. The Committee must produce a concise written report to the Minister for Planning providing the following:
 - a. A short description of the project.
 - b. A short summary and assessment of issues raised in submissions.
 - c. A draft planning permit including relevant conditions from Section 55 referral authorities, or draft planning scheme control depending on the nature of the referral.
 - d. Any other relevant matters raised in the course of the Committee process.
 - e. Its recommendations and reasons for its recommendations.
 - f. A list of persons or authorities/agencies who made submissions considered by the Committee.
 - g. A list of persons consulted or heard, including via video conference.

1. Following the completion of a report, the Committee may deliver an oral briefing to the Minister for Planning and/or DELWP. The briefing may be by video conference or telephone.

Timing

2. The Committee is required to submit its reports in writing as soon as practicable, depending upon the complexity of the referred project between 10 and 20 business days from either:
 - a. the date of receipt of referral, if no further submissions or information are to be sought, or
 - b. receipt of the final submission of material or final day of any public process in respect of a referral.

Fee

3. The fee for the Committee will be set at the current rate for a Panel appointed under Part 8 of the *Planning and Environment Act 1987*.

The costs of the Advisory Committee will be met by each relevant proponent.



Richard Wynne MP
Minister for Planning

Date: 14 / 06 / 2020