

**Moreland Planning Scheme
Referral 21 Assemble Brunswick**

Priority Projects Standing Advisory Committee Report

Planning and Environment Act 1987

22 November 2021

Planning and Environment Act 1987

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

Moreland Planning Scheme

Referral 21: Assemble Brunswick

22 November 2021

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

A handwritten signature in black ink, appearing to be 'DM', with a stylized, flowing script.

David Merrett, Chair

A handwritten signature in black ink, reading 'Nicola Ward', in a cursive script.

Nicola Ward, Member

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Glossary and abbreviations

the Amendment	Draft Moreland Planning Scheme Amendment C216more
the Applicant	Assemble Communities Pty Ltd
the Committee	Priority Projects Standing Advisory Committee Referral 21
BESS	Built Environment Sustainability Scorecard
Council	Moreland City Council
DDO18	Schedule 18 to the Design and Development Overlay
DELWP	Department of Environment, Land, Water and Planning
ESD	Environmentally Sustainable Development
HO385	Heritage Overlay 385 – Former Perucci shirt factory
MILS	Moreland Industrial Land Strategy 2015-2030
PE Act	Planning and Environment Act 1987
RHA	Registered Housing Agency
SCO	Specific Controls Overlay

Overview

(i) Referral summary

Referral summary	
Date of referral	5 September 2021
Members	David Merrett (Chair), and Nicola Ward (Member)
Description of referral	Proposed demolition and use and development of land for a 8-storey building (with basement) comprising dwellings and office, a reduction in car parking requirements and associated works
Common name	Assemble Brunswick
Municipality	City of Moreland
Planning Authority	Minister for Planning
Draft Amendment	Moreland Planning Scheme Amendment C216more
Draft Permit Application	PA2101205
Subject land	2-6 Ballarat Street and 14-18 Ovens Street, Brunswick
Submissions	5
Site inspection	30 September 2021
Directions Hearing	21 September 2021
Hearings	14, 15, 18, 19 and 20 October 2021
Parties	<p>Moreland City Council represented by Briana Eastaugh of Maddocks Lawyers, calling the following evidence:</p> <ul style="list-style-type: none"> - Heritage from Nigel Lewis of Nigel Lewis Pty Ltd - Urban design from David Pryor of Place Design Studio <p>Assemble Communities Pty Ltd represented by Jeremy Gobbo QC and Carly Robertson barrister, instructed by Mark Naughton of Planning Property Partners, calling the following evidence:</p> <ul style="list-style-type: none"> - Planning from Sophie Jordan of Sophie Jordan Consulting - Urban design from Amanda Roberts of Lat37 Studio - Heritage from Bryce Raworth of Bryce Raworth Conservation and Heritage - Traffic from Jason Walsh of Traffix Group - Environmentally Sustainable Development from Lindsay Richardson of Sustainable Development Consultants - Affordable housing from Kris Daff of Assemble Communities <p>Brunswick Baptist Church (later withdrawn)</p> <p>Bart Verduci (did not appear)</p>

Information relied upon	All referred material including submissions, draft Planning Permit PA2101205, draft Planning Scheme Amendment C216more, draft planning permit application documents, additional submissions received, and documents tabled during the course of the Hearing (see Appendix C)
Date of this report	22 November 2021

(ii) Findings

The Committee finds the proposal is well supported by State and local policy, it provides for change that is anticipated in the Brunswick Major Activity Centre and it will provide a pathway to home ownership for middle income households. In relation to the key issues addressed at the Hearing, the Committee finds that:

- Amendment C216more is appropriately drafted.
- The Minister for Planning should be the responsible authority for the land at 2-6 Ballarat Street and 14-18 Ovens Street, Brunswick.
- A reduced height of 2 storeys will ensure the development responds appropriately to its heritage context and that of adjoining sites.
- Overall appropriate daylight will be provided to habitable rooms and complies with the Built Environment Sustainability Scorecard (BESS) requirement.
- The proposed affordable housing model is appropriate and there is no need to incorporate a low-income household component.

(iii) Recommendations

Based on the reasons set out in this Report the Priority Projects Standing Advisory Committee recommends:

- 1. Draft Moreland Planning Scheme Amendment C216more as provided in Document 3 be approved.**
- 2. Planning Permit PA2101205 be issued subject to the Committee preferred version of the Permit in Appendix D, including a reduction in height of two storeys.**

1 Introduction

(i) 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 A) to:

... provide timely advice to the Minister for Planning on projects referred by the Building Victoria's Recovery Taskforce (BVRT), 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 Committee was provided with a letter of referral from the Minister for Planning dated 5 September 2021 (Appendix B) that tasked it to consider:

- the drafting of draft Planning Scheme Amendment C216more
- whether Planning Permit PA2101205 should issue having considered the affordable housing model, built form, heritage and carparking.

This is Referral 21.

The letter of referral makes it clear that the Committee is to only consider the matters referred. *This means that the overall merits of the proposal have not been tested and the SAC confines its review to particular issues.*

(ii) Membership

Due to the issues to be resolved, the members of the Committee dealing with Referral 21 include:

- David Merrett, Chair
- Nicola Ward, Member.

The Committee was assisted by Georgia Thomas, Project Officer, of the office of Planning Panels Victoria.

Two declarations were made by Mr Merrett at the Directions Hearing. Mr Merrett declared he had no conflict of interest but did chair the Moreland C164 Panel Hearing which introduced the Moreland Industrial Land Strategy 2015-2030 (MILS) into the Planning Scheme. The permit land is in MILS Area 72, is identified for transition to residential and had Schedule 18 to the Design and Development Overlay applied to the site and surrounds. The second declaration was that Mr Merrett had used the services of Traffix Group in his private consulting role on other client projects.

No party expressed any concern with the declarations when invited to do so.

(iii) Background to the proposal

In November 2020 the Applicant lodged an application with the State Government's Development Facilitation Program to enable the redevelopment of the site for an 8 storey mixed use building using the Special Controls Overlay (SCO) with an accompanying Incorporated Document (refer Document 3, Town Planning Submission by Planning and Property Partners November 2020).

The application outlined that the proposal was to be delivered through the *Assemble Housing Model*, which seeks to provide a bridge between renting and purchasing a home in response to the home ownership and affordability challenges evident across metropolitan Melbourne.

Council received notice from the Minister for Planning of an application to amend the Moreland Planning Scheme to facilitate the redevelopment of the subject site. Though the application was proposed to be approved under section 20(4) of the *Planning and Environment Act 1987*, the application was referred to Council in accordance with section 20(5), which provides for targeted consultation. Notice was also given to the Applicant, the Environment Protection Authority, the Department of Transport and the owners and occupiers of surrounding land.

By the time notice was given to Council the approach to the approval ‘mechanism’ had changed to that of a combined amendment and planning permit application, in place of the application of the SCO with an Incorporated Document. The proposed amendment amends the Schedule to Clause 72.01 of the Moreland Planning Scheme to make the Minister for Planning the responsible authority for administering proposed planning permit PA2101205 for land at 2-6 Ballarat Street and 14-18 Ovens Street, Brunswick and any matters required by planning permit PA2101205 to be endorsed, approved, or done to the satisfaction of the responsible authority.

The proposed Amendment was subsequently modified further to propose changes to the Schedule to Clause 72.01 to make the Minister for Planning the responsible authority more broadly for the land at 2-6 Ballarat Street and 14-18 Ovens Street, Brunswick rather than only in association with planning permit PA2101205. It is this version of the Amendment the Committee has been asked to provide advice on.

Planning permit PA2101205 seeks to allow the following:

Demolition and use and development of the land for the construction of an eight-storey building (with basement) comprising dwellings and office, a reduction in car parking requirements and associated works.

The permit application plans propose the following:

- part demolition of the existing heritage building at 2-6 Ballarat Street (HO385)
- 171 residential apartments on Ground to Level 7 including 45 studio apartments, 25 one bedroom apartments, 77 two bedroom apartments and 24 three bedroom apartments
- a retail tenancy of 378 square metres, multipurpose space of 206 square metres
- a bicycle workshop and bicycle spaces and an open to sky central communal courtyard at ground level
- Pedestrian access is provided via both the Ballarat Street and Ovens Street frontages
- communal spaces including terrace areas, common areas, a laundry, a pet zone and plant and services on the roof level
- two basement levels accommodating 75 car spaces, 207 bicycle spaces, services and storage areas.

The Committee was advised that the Applicant in this matter is a housing developer and community management business that seeks to make home ownership more accessible to middle income households (called the Assemble Futures model). It also has a model for low-income households.

The application proposes that at least 70 per cent of the dwellings must comply with the meaning of ‘affordable housing’ at section 3AA of the *Planning and Environment Act 1987* (PE Act) and must be affordable to households with a ‘moderate income range’ consistent with section 3AB of the PE Act. This is proposed to be implemented via a section 173 Agreement.

(iv) Consultation

The Committee conducted a Directions Hearing on 21 September 2021 and subsequently a Hearing on 14, 15, 18, 19 and 20 October 2021. Both were conducted via video conference. All correspondence was conducted through the Project Officer, Ms Thomas.

1.1 Process

The Committee was provided with a letter of referral from the Minister for Planning dated 5 September 2021. The Committee had already been provided with the relevant DELWP files in anticipation of the referral and wrote to the submitters, Council and the Applicant on 14 September 2021 advising of its referral and inviting those parties to a Directions Hearing on 21 September 2021.

The Committee was advised five submissions were made in relation to the matter, one of which (Submitter 4 - Brunswick Baptist Church) was subsequently withdrawn following discussions with the Applicant. The remaining four submitters were Council (2), Environment Protection Authority (3 - EPA), Mr Bart Verduci (1) and the Applicant (5). Mr Verduci requested time to present to the Committee but did not appear at the scheduled time. The Committee is still required to consider Mr Verduci's submission.

As there were many unresolved issues between Council and the Applicant that would be the subject of detailed submissions and expert evidence the Committee decided to conduct the Hearing in the traditional manner, rather than a roundtable which the Terms of Reference provide for.

The evidence statement from Jason Walsh of Traffix Group on behalf of the Applicant was tabled with no evidence-in-chief as Council indicated this was not a significant issue.

The Committee provided Directions on reviewing and responding to permit conditions and consequently a set of draft conditions containing tracked changes was provided to the Committee (Document 58) on Day 4 for a without prejudice discussion at the Hearing on Day 5. This represented the agreed position of the Applicant and Council, as well as those matters where agreement had not been reached. It is this document that has been used by the Committee as the base document for the Committee preferred conditions at Appendix D.

The Committee thanks all parties for the way in which they participated in this process and for their willingness to engage.

2 Site and planning context

2.1 The subject site

The subject site is located at 2-6 Ballarat Street and 14, 16-18 Ovens Street, Brunswick. Figure 1 contains an aerial photo of the land. 2-6 Ballarat Street contains the former Perucci shirt factory building that occupies most of the land. 14 Ovens Street did contain a dwelling, but this has now been demolished. 16-18 Ovens Street once contained an at-grade carpark.

The combined site has an area of 3,312 square metres. The land has a 40 metre frontage to Ballarat Street and 73 metres to Ovens Street.

Figure 1 Subject site



Source: Moreland City Council submission

The site is in the Brunswick Major Activity Centre that is focussed on Sydney Road but includes off-corridor locations. Sydney Road is located 42 metres to the east and the Upfield railway line is 124 metres to the west.

On the southern side of Ballarat Street are:

- the former Hoopers Store at 459-475 Sydney Road, 2-22 Tripovich Street and 2-8 Sparta Place is affected by an individual Heritage Overlay (HO161 and is included on the Victorian Heritage Register (H1296)
- the former Brunswick Market at 1-7 Ballarat Street, 208 Sparta Place and 1 Tripovich Street affected by an individual Heritage Overlay (HO12) and is included on the Victorian Heritage Register (H1307).

To the east are:

- a set of seven shops fronting Sydney Road (477-489) affected by an individual Heritage Overlay (HO149)
- the Brunswick Baptist Church at 491 Sydney Road affected by an individual Heritage Overlay (HO162)

- a former dental surgery at 503 Sydney Road affected by an individual Heritage Overlay (HO163)

To the west, 8 Ballarat Street has an approved but yet-to-be constructed 8 storey development, the permit for which issued on 29 November 2017.

(i) Planning Policy Framework

Relevant State policies are:

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

The Committee highlights the following clauses that are relevant to the key issues:

- Clause 15.01-2S (Building design)
- Clause 15.02-1L (Environmentally sustainable development)
- Clause 15.03-1S (Heritage conservation)
- Clause 16.01-2S (Housing affordability)
- Clause 18.02-1S (Sustainable Transport).

The Committee considers the proposal responds well to the planning policies of the Planning Policy Framework in that it:

- provides for a high quality built form outcome that will contribute positively to the local area and public realm
- is in an area designated for considerable built form change
- appropriately considers and responds to energy and resource efficiency objectives
- will deliver well located and well serviced affordable housing
- is located in proximity to excellent public transport options
- makes ample provision for bicycle parking and facilities.

The unresolved issues that require further detailed consideration are the extent of demolition of the heritage building, impacts on adjoining heritage buildings, the street wall and overall height of the building and how to administer the affordable housing model.

(ii) Municipal Planning Strategy and local policies

Clause 02.03-1 (Settlement) states most of the population growth is expected to occur in Brunswick, Brunswick East and Coburg in proximity to public transport and services. The Brunswick Major Activity Centre is expected to play an important role in accommodating this growth.

Clause 02.03-4 (Built environment and heritage) notes Council seeks to protect heritage assets and improve the built environment by:

- encouraging development that is designed to respond to and contribute to its context and any relevant heritage significance

- encouraging development that is designed to integrate with landscape design to improve aesthetic quality and amenity for occupants and the public domain
- improving the quality of design of housing development
- protecting Moreland's valued heritage places from demolition and unsympathetic development or subdivision.

Council seeks to incorporate sustainability principles in the design of buildings to provide ongoing benefits such as:

- reduced living costs
- improved amenity and liveability
- reduced greenhouse gas emissions
- greater resilience to the impacts of climate change.

Clause 02.03-5 (Housing) seeks to facilitate residential development in industrial areas identified as *Transition Residential Areas* in the Economic Development Framework Plan. The site is within this area.

Clause 02.03-7 (Transport) notes Moreland is committed to a modal shift from motor vehicles to more sustainable public and private modes of transport.

Relevant local policies include:

- Clause 15.01-1L (Urban design in Moreland)
- Clause 15.01-2L (Building design in Moreland)
- Clause 15.01-2L (Apartment developments in Moreland)
- Clause 15.02-1L (Environmentally sustainable development)
- Clause 15.01-2L (Energy efficiency in Moreland)
- Clause 15.03-1L (Heritage in Moreland)
- Clause 16.01-2L (Housing affordability Moreland)
- Clause 18.02-1L (Sustainable transport in Moreland)
- Clause 18.02-4L (Car parking in Moreland).

The Committee has considered the key directions of the Municipal Planning Strategy and Local Policies highlighted above and considers that the proposal responds appropriately to the key directions. The proposal will facilitate well located, higher density, affordable housing in an area identified for significant housing change, that responds to the sustainable development policies included in the Planning Scheme. This is discussed further in later sections of this Report.

As discussed above, the extent of demolition of the heritage building, impacts on adjoining heritage buildings, the street wall and overall height of the building, internal amenity and how to administer the affordable housing model are issues considered in more detail in this Report.

(iii) Zones and overlays

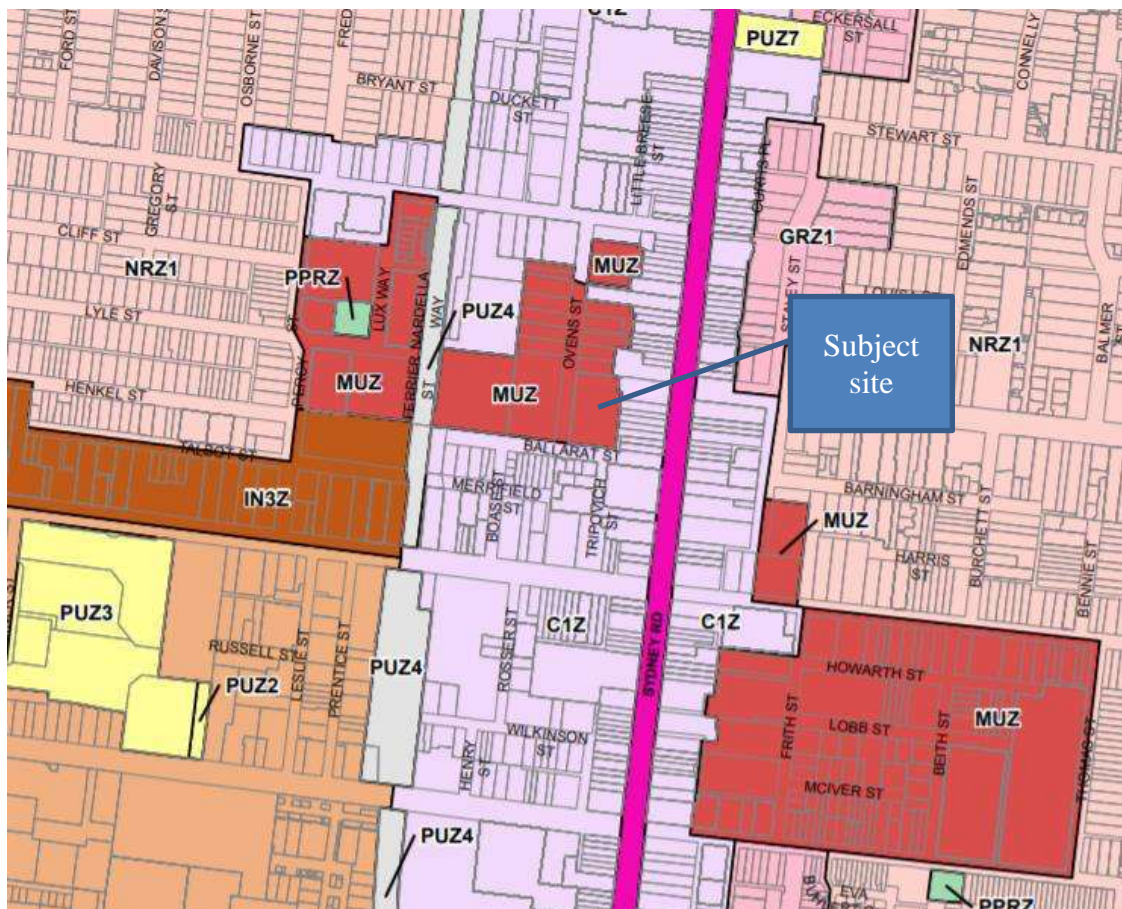
The site is located in the Mixed Use Zone (Figure 2) and affected by:

- Schedule 18 to the Design and Development Overlay (Brunswick Activity Centre – Sydney Road and Upfield corridor) (DDO18)
- Schedule 385 to the Heritage Overlay (Former Perucci shirt factory) (HO385)
- Schedule 1 to the Development Contributions Plan Overlay
- Environmental Audit Overlay
- Parking Overlay - Precinct 1.

The purposes of the Mixed Use Zone as contained at Clause 32.04 of the Moreland Planning Scheme are:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To provide for a range of residential, commercial, industrial and other uses which complement the mixed use function of the locality.
- To provide for housing at higher densities.
- To encourage development that responds to the existing or preferred neighbourhood character of the area.
- To facilitate the use, development and redevelopment of land in accordance with the objectives specified in a schedule to this zone.

Figure 2 Zone map



Source: Moreland Planning Scheme

The schedule to the Mixed Use Zone has the following objective:

To ensure the design and siting of new buildings maximise landscaping throughout the site, including the retention of existing canopy trees (where practicable) and the planting of new canopy trees and vegetation.

It contains local content for landscaping (Standard B13) and does not nominate a maximum building height. The use of the land for a 'dwelling' is a 'Section 1 – Permit not required' land use. However, a permit is required for the construction of two or more dwellings on a lot and due to the building being more than five storeys it must also meet the requirements of Clause 58. In addition, a permit is required for the use and development of the retail component of the proposal.

DDO18 contains the following design objectives:

- To encourage a new mid-rise built form character with lower built form at the interfaces with the adjoining low rise residential areas.
- To complement the valued built form and heritage character along Sydney Road and respect the form, design and context of buildings of individual heritage significance in the precinct.
- To ensure the street wall remains the visually dominant element of all development in Sydney Road and that any height above the street wall is visually recessive, subservient and does not dominate the streetscape appearance.
- To establish a new cohesive built form character in off-corridor locations to the east and west of Sydney Road to achieve an appropriate balance between a sense of enclosure and openness and to ensure new street walls reinforce the existing character of street walls in nominated off-corridor streets.
- To protect the amenity of existing and proposed public open spaces and key pedestrian streets and maintain reasonable amenity for residential properties within and adjacent to the activity centre.

The following discretionary provisions apply:

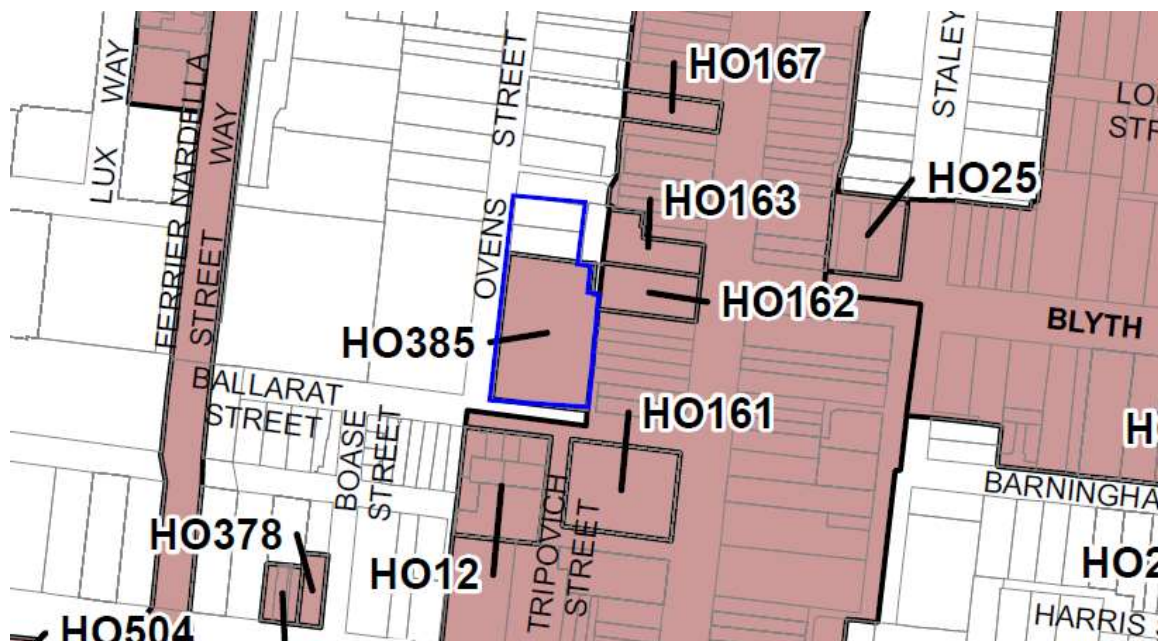
- building height of 17 metres applies to the land. Land to the east that fronts Sydney Road has a height limit of 19 metres
- street wall heights on Ballarat Street and Ovens Street between 9 and 12 metres
- upper-level setback of 5 metres with a concession of 2 metres for balconies and architectural features
- Ovens and Ballarat Street frontages (Type C) require individual entry doors to ground floor dwellings. Privacy is to be provided by elevating the ground floor approximately 0.5 to 1 metre above the street level and/or provide a landscaped front setback.

Ballarat and Ovens Street have not been identified as key pedestrian streets.

The relevant decision guidelines are:

- The *Brunswick Structure Plan* Reference Document, Moreland City Council, 2018
- The opportunities and constraints of the site
- Whether the maximum building height is achievable having regard to lot size, dimensions (width and depth) and/or those sites within or adjoining the Heritage Overlay
- Whether an increased upper-level setback is required having regard to the heritage significance of the site or an adjoining site within the Heritage Overlay
- Whether the preferred maximum street wall height is achievable having regard to the heritage significance of the site or an adjoining site within the Heritage Overlay
- How the development responds to the fine grain character of Sydney Road
- How the development considers views along Sydney Road to landmark buildings of individual heritage significance
- The extent to which development achieves the design objectives in Part 1.0 of this schedule.

Figure 3 contains the Heritage Overlay map. There are several individually significant heritage buildings on adjacent land, including two on the Victorian Heritage Register.

Figure 3 Heritage Overlay map

Source: Moreland Planning Scheme

(iv) Particular provisions, general requirements and performance standards

Provisions relevant to this permit application include:

- Clause 52.06 (Car parking)
- Clause 52.34 (Bicycle facilities)
- Clause 53.18 (Stormwater Management in Urban Development)
- Clause 58 (Apartment Developments).

Clause 52.06 deals with car parking requirements for various land uses including dwellings, office floorspace and retail floorspace (refer Table 1 at Clause 52.06-5). The Parking Overlay applies to the site and the Column B rates apply. A total of 213 car spaces are required for the development, including 195 spaces for the apartments and 18 spaces for the retail and commercial uses. The total number of spaces to be provided is 75 spaces (70 spaces for the apartments and 5 spaces for the retail/commercial uses) so a reduction of 138 car spaces is sought.

Clause 52.34 requires the provision of bicycle parking for a range of uses including for dwellings and office floorspace, noting that the retail floorspace does not generate a requirement due to it being less than 300 square metres in area. A total of 53 bicycle spaces is required comprising 34 resident spaces, one for retail staff and 18 for visitors. A total of 201 bicycle spaces is proposed.

Clause 53.18 seeks to ensure stormwater is managed to mitigate its impacts on the environment, property and public safety. This requirement was addressed as part of the lodged application material.

Clause 58 relates to apartment developments of five or more storeys and outlines a series of objectives, standards and decision guidelines. The clause requires that a development must meet all the objectives and should meet all the standards. Section 3.6 addresses the relevant provisions of Clause 58.

3 The issues

The issues to be resolved are:

- Amendment C216more – whether it is appropriately drafted.
- Demolition – whether the partial demolition of the former Perrucci shirt factory is appropriate
- Street wall height – whether the street wall height is appropriate
- Building height and context – whether the overall building height is appropriate to its context
- Equitable development rights – whether appropriate development opportunities for adjoining land is provided for
- Internal amenity – whether the proposed building layout provides appropriate access to daylight to habitable rooms, noise attenuation and a functional apartment layout
- Housing affordability – whether the Applicant’s proposed affordable housing model is appropriate or should be amended to address low-income households
- Car parking – whether the proposed reduction in on-site car parking is appropriate including the allocation of car spaces to the office floorspace
- Planning Permit – whether the drafting of the planning permit conditions is appropriate.

3.1 Amendment C216more

(i) The issue

The issue is whether Amendment C216more is appropriately drafted.

(ii) Submissions

As outlined in the letter of referral from the Minister, the version of Amendment C216more that was the subject of targeted consultation, proposed to make the Minister the responsible authority for the Planning Permit PA2101205. The Amendment was then changed to make the Minister the responsible authority for the land at 2-6 Ballarat Street and 14-18 Ovens Street, Brunswick.

Council submitted:¹

Council maintains the proposal does not meet the statutory tests which would justify intervention by the Minister under s 20(4) of the Act but acknowledges that this matter is not before the SAC as it has not been included in the SAC’s Terms of Reference.

Council noted that it would still be responsible for any enforcement matters for the site under Part 6 of the PE Act.

The Applicant noted other Assemble Communities referrals to the Committee adopted this approach and it was important to have a consistent approach.

(iii) Findings

As Assemble Communities has had several projects referred to the Committee it believes it is important to have a consistent approach to the drafting of the Amendment. An ongoing role for

¹ Council submissions, page 2, paragraph 7

the Minister as the responsible authority will ensure any future permit applications would be considered by the Minister for any permit amendments.

The completed development will operate under an owner's corporation. It would manage any future approvals for the site however this is unlikely as the proposal is to comprehensively develop the land.

The Committee finds:

- Amendment C216more is appropriately drafted
- it is appropriate that the Minister is the responsible authority for the land at 2-6 Ballarat Street and 14-18 Ovens Street, Brunswick (not just the permit).

3.2 Demolition

(i) Context

A permit is required under the Heritage Overlay to demolish the building on the land.

Clause 15.03-1L (Heritage in Moreland) is relevant. It contains the following demolition strategies:

- Encourage retention of contributory or significant heritage fabric required to maintain the original streetscape appearance.
 - Discourage total demolition of a contributory or significant heritage place unless:
 - The building is structurally unsound, and that the contributory or significant heritage fabric has deteriorated beyond reasonable repair and would require reconstruction of the whole as shown through the submission of a structural engineering report prepared by a suitably qualified person.
- Any proposed replacement building makes a positive contribution to the heritage significance of the heritage place.
- Ensure total demolition is not based on the grounds of poor condition or low integrity of a heritage place.
- Support the demolition of non-contributory buildings in a heritage precinct, subject to the provision of a replacement building.
- Support partial demolition of a heritage place, if either:
 - The fabric proposed to be removed does not contribute to the heritage significance of the place.
 - The removal will enhance the significance of the place or facilitate conservation outcomes in accordance with the provisions of this policy.
 - The extent of demolition will not result in facadism.
- Discourage total reconstruction of a heritage place as an alternative to retention.

(ii) The issues

The issues are whether the:

- concrete shroud on the Ballarat Street frontage should be demolished and reconstructed
- existing street wall along Ovens Street and part of the saw-tooth roof should be retained.

(iii) Submissions and evidence

HO385 applies to 2-6 Ballarat Street in respect of the former Perucci shirt factory building. It is classified as 'individually significant' in the *Moreland-Assessment of Places within Brunswick Major Activity Centre*, prepared by Heritage Alliance in 2009.

The Statement of Significance describes the building as:

a modernist factory comprising a sprawling sawtooth-roofed production building and a double-storeyed office/showroom on Ballarat Street. The latter presents a particularly striking facade, with a projecting concrete-framed and fully-glazed upper storey and a sloping lower level with tiled cladding, plain black columns and tinted paving.

The Statement of Significance recognises HO385 as being of historical (Criterion A), technical (Criterion F) and associative (Criterion H) significance to the City of Moreland for the following reasons:

Historically, the factory is significant for associations with a succession of important Australian clothing manufacturers that have become household names (AHC Criterion H.1). Built in 1955 for Yakka Overalls Pty Ltd, it provides evidence of the post-war expansion of an important local company after it had outgrown two earlier premises in Brunswick. The building marks a significant phase in the ongoing development of this company, which saw it move to even larger premises in Broadmeadows in 1964 and to establish additional factories in regional Victoria and New South Wales in the 1970s. In the same way, the building's occupation by the Warrnambool-based firm of Fletcher Jones demonstrates the expansion of that company's industrial activity into the Melbourne metropolitan area due to the local unavailability of skilled workers. With its subsequent occupation by Perucci Shirts until very recently, the building has been continuously occupied by the clothing manufacturers for more than fifty years. Once cited as Brunswick's last remaining clothing factory, the building thus demonstrates a significant sub-theme in the industrial history of the municipality (AHC Criterion A.4).

Aesthetically, the building is significant for its Ballarat Street frontage: bold and striking modernist composition that is virtually unaltered and thus remains highly evocative of the 1950s period (AHC Criterion F.1). The projecting upper storey, with expressed concrete frame and fully glazed window wall, is typical of fine commercial and industrial design of the era, while the ground floor, with its plain black columns, tinted concrete paving and inward sloping wall being particularly distinctive elements. Overall, the building exhibits a notable (and notably rare) level of physical intactness, consequent to being continuously occupied for more than fifty years by companies engaged in the same industry.

The building occupies almost all of 2-6 Ballarat Street. The development proposes to retain the double storey front administrative office façade and its return around the corner of Ovens Street and the laneway to the east. Based on a Façade Observation Report by BG and E Façade Consultants April 2021 the concrete shroud on the first floor and the ground floor is to be demolished and reconstructed to a depth of 1.65 metres. Figure 4 shows the building as it presents to Ballarat Street. Figure 5 has the same view circa 1955.

Figure 4 **Facade fronting Ballarat Street**



Source: Committee

Figure 5 1955 photo of the Ballarat Street frontage



Source: Mr Lewis evidence statement

The balance of the building is proposed to be demolished, including the saw-tooth roof over the factory floor (Figure 6).

Figure 6 Internal view of saw-tooth roof



Source: Committee

The extent of demolition is shown in the elevations contained in Figure 7 by the red cross hatching.

Council called heritage evidence from Mr Lewis. He considered the building was “*very significant for its architectural values and for its role in the history the clothing industry in Brunswick*” and considered it is “*possibly the best example of a modernist industrial building in Brunswick.*”

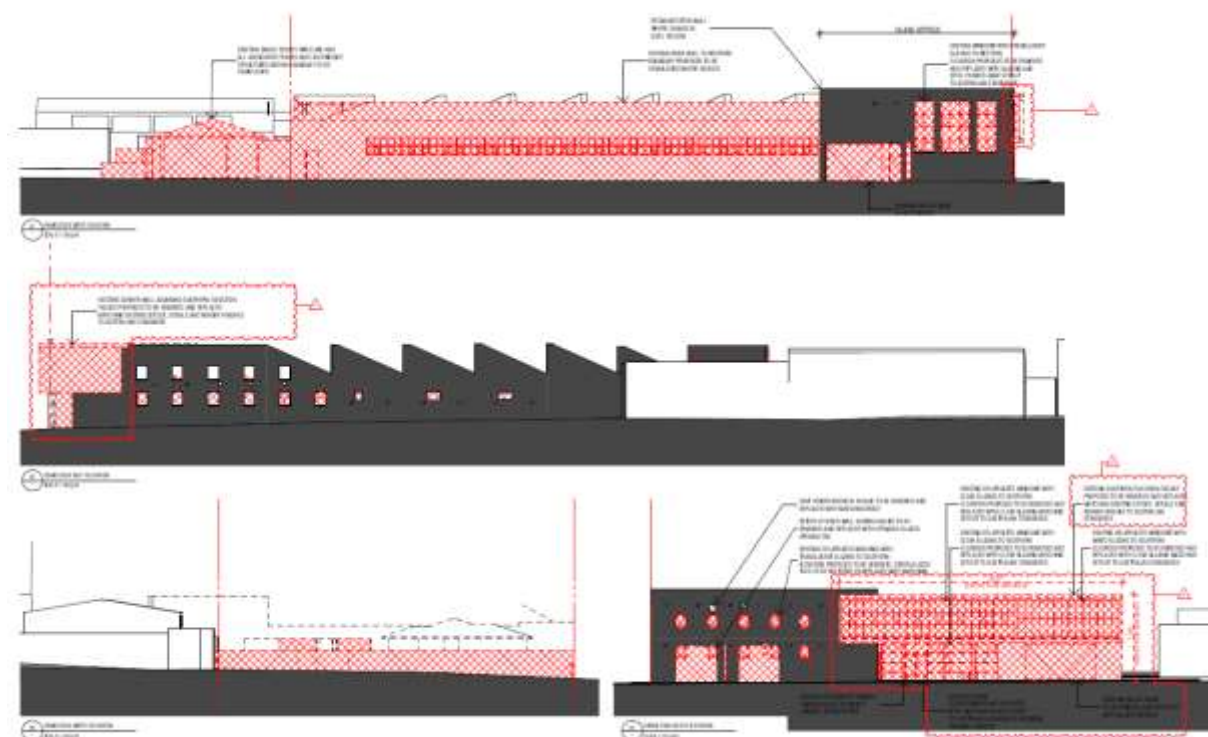
In response to the extent of demolition, Mr Lewis submitted:

The extent of demolition is completely unacceptable and lacks any justification. Little more than a token section of this building is being conserved, the brickwork on the two-storey corner section and the east wall that faces rear yards of properties in Sydney Road. The expedient reconstruction of other facade elements and all windows defies accepted conservation practice.

The small setbacks and mass of the new development represents an extreme example of facadism. The scale of the 8 storey building will dominate and overwhelm the former Yakka factory, and the very significant site context.

The proposal completely fails to conform to the heritage provisions of the Moreland Planning Scheme with respect to Clause 15.03-1L Heritage in Moreland, and Clause 43.01 Heritage Overlay.

Figure 7 Proposed extent of demolition (red hatching)



Source: Application plans

Mr Lewis' position was that the Ballarat Street façade, at least three bays of the saw-tooth roof and the side walls to Ovens Street as well as a 6.5 metre depth of roof behind it should be retained.

Council submitted that demolition should meet the requirements of Clause 43.02 (Heritage Overlay) and the demolition strategies of Clause 15.03-1L (Heritage in Moreland).

The Applicant considered it was difficult to justify any demolition against this policy and considerable weight should be given to the significant change that is expected within the Brunswick Major Activity Centre.

Council's position reflected that of its heritage adviser who recommended *"the retention of the full extent of the double-storey flat roofed office/showroom fronting Ballarat Street in addition to at least one bay in depth for the full length of the single-storey production building behind."*

The Applicant called heritage evidence from Mr Raworth. His opinion was that *"the factory is largely intact externally but part of the Ballarat Street façade comprising a window wall within an expressed concrete envelope (the 'shroud') has been found to be in poor condition."* Mr Raworth relied upon the Façade Observation Report in demonstrating the shroud's poor condition but did consider that it while it was deteriorated, *"its reconstruction is preferable to straightforward demolition."*

Regarding the demolition of the building fabric inside the external walls Mr Raworth noted:

- HO385 does not include internal controls
- the roof and all internal features have *"limited visibility"* from the public realm
- the roof and internal features adopt a *"fairly generic form, and hence do not make a strong important contribution to the architectural character of the place"*
- this would not lead to facadism as the upper-level setbacks ensure the *"retained building will not present as a 'skin deep' façade only"*.

Mr Raworth supported a permit condition that would require a detailed reconstruction methodology prepared by a suitably qualified heritage architect for the shroud.

In cross examination Mr Raworth agreed that:

- facadism would result but it was not that relevant as most developments along Sydney Road would be developed in this manner and a 3-dimensional form (referring to the corner returns) would be retained
- the Facade Observation Report did not conclude the shroud should be demolished and he would support a further structural engineering analysis. If this investigation found the shroud was not structurally unsound, then he agreed it should be retained and renovated.

(iv) Findings

The Applicant relied upon the Facade Observation Report to prove the proposition the shroud was unsound and required demolition and reconstruction. In reviewing the Facade Observation Report, the Committee notes that it is a compilation of photos with comments that identify purported defects in the external presentation of the shroud and its internal connecting roof structure. Both the Applicant and Mr Raworth accepted that it was not a structural engineering report and proposed a modified Condition 42 titled Heritage Works Plan that required:

Prior to the commencement of the development, excluding works to remediate contaminated land, a detailed heritage works plan prepared by a suitably qualified heritage consultant/architect must be submitted to, approved and endorsed by the responsible authority in consultation with Moreland City Council. The heritage works plan must include:

- A report prepared by a suitably qualified structural engineer assessing the structural condition of the shroud, and in particular whether or not it is capable of being repaired having regard to relevant safety and building standards and regulations;
- If capable of being repaired, a detailed schedule of the heritage conservation works including a statement of methodology for carrying out the repairs; and
- If not capable of being repaired, a detailed schedule including a statement of methodology and any necessary amended plans, elevations and detailed specifications, of the works to reconstruct the shroud on a 'like for like' basis.

Council agreed with the text for Condition 42 but was still concerned it allowed for the potential demolition of the shroud.

The Committee agrees with Council that the Facade Observation Report is not a structural engineering assessment of the shroud and considers this type of investigation is required to confirm its integrity. The Committee is therefore not able to determine whether it should be demolished or retained. The Committee supports the proposed permit condition and notes the shroud could only be demolished if the structural engineering report recommended this.

The Committee does not agree with the retention of the Ovens Street wall (as put by Mr Lewis) beyond that supported by Council as this would result in a street wall at a significantly less height than that supported by DDO18 and have further significant impositions for the overall design.

Saw-tooth roof architecture is often found in industrial buildings to provide light and ventilation to work areas. On inspection, the roof structure seemed to be in good order. The Committee agrees with Mr Raworth that it cannot be seen from either Ovens Street or Ballarat Street. Council's position of retaining one complete roof bay would impact the overall design and the ability to construct above it. The Statement of Significance emphasises the Ballarat Street frontage as the basis for significance and not what form lies behind it. There is little mention of the saw-toothed roof in the Statement of Significance.

The Committee agrees with the Applicant that a balance needs to be achieved between the anticipated growth and change in this area of Brunswick and the amount of heritage fabric to be retained. The Committee supports the retention of the built form that is considered most significant (Ballarat Street frontage) and agrees that the Oven Street brick wall (northern section) and the saw-tooth roof can be demolished.

The Committee finds:

- The demolition of the shroud has not been justified.
- The drafting of Condition 42 (Heritage Works Plan) puts in place a process to overcome the deficiencies of the Facade Observation Report.
- The demolition of the saw-tooth roof and the northern section of the Ovens Street wall is supported.

3.3 Street wall height

(i) Context

The Ballarat Street wall and the return onto Ovens Street retains the height of the existing heritage fabric. The new four storey street wall along the Ovens Street frontage is generally 14.3 metres along Ovens Street (Figure 8).

The relevant provisions of DDO18 are to:

- Objective – to ensure the street wall remains the visually dominant element of all development in Sydney Road and that any height above the street wall is visually recessive, subservient and does not dominate the streetscape appearance
- Height – a street wall height between 9 and 12 metres for Ballarat and Ovens Street. Map 1A calls for street wall heights to match the street widths, with both Ballarat Street and Ovens Street being approximately 12 metres (Figure 9)
- Guidance – development that seeks to vary the street wall heights must demonstrate how the design objectives and requirements of this schedule will be met.

- Decision guideline – whether the preferred maximum street wall height is achievable having regard to the heritage significance of the site or an adjoining site within the Heritage Overlay.

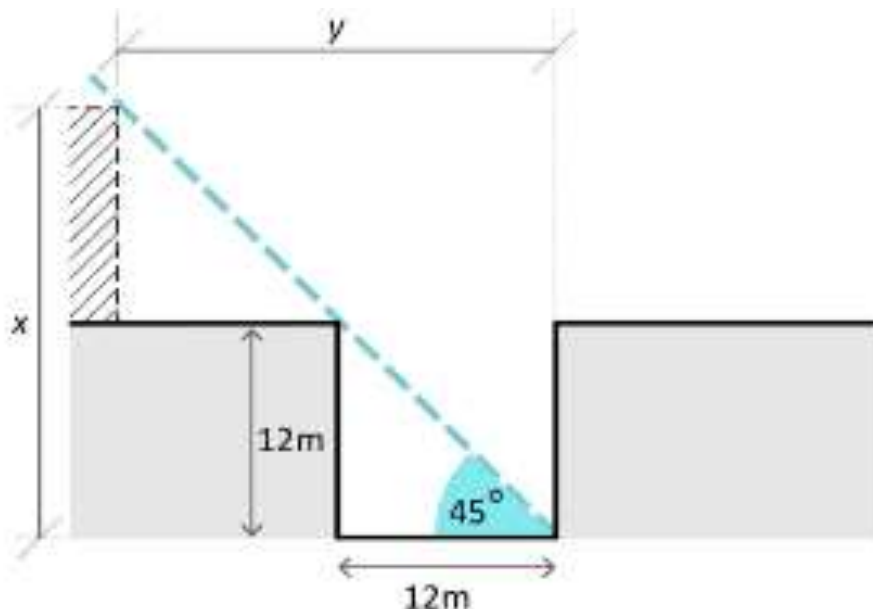
Figure 8 Render of Ovens Street elevation



Source: Fieldwork Town Planning BRVT 24-02-21

Where a proposal does not comply with the street wall heights it must demonstrate how the design objectives and requirements of the schedule are met.

Figure 9 Figure 2 of DDO18



Source: DDO18

(ii) The issue

The issue is whether the street wall height is appropriate on Ovens Street.

(iii) Submissions and evidence

The Applicant explained the Ovens Street wall height:

- provides for elevated private open space for the ground floor apartments that create a sense of overlooking to the public realm
- enables the internal floor levels of the new building to connect with the heritage building
- supports reasonable floor to floor heights in the apartments
- aligns with the approved development at 8 Ballarat Street.

Ms Roberts gave urban design evidence for the Applicant. She noted the Ovens Street facade presents as an interesting juxtaposition of the 2 storey retained heritage fabric with a retail/commercial use against the new four storey residential use. The distinct difference in height at the intersection of the old and the new is a feature of the architecture. Her opinion was the:

- additional height of the podium helps to obscure the upper levels and contributes to the sense of openness
- elevated ground floor for dwellings along Ovens St was a positive built form outcome.

Ms Roberts advised that people at street level perceive the number of storeys not the street wall height. Her opinion was the discrepancy between 12 metres and 14.3 metres was minor and the design responds well to the desire for a street wall that balances openness and enclosure and provides an attractive contrast to the 2 storey heritage fabric.

Mr Pryor gave urban design evidence for Council. His evidence was the street wall would have an overbearing presence and fails to achieve a satisfactory balance between enclosure and openness. Council submitted Mr Pryor's evidence should be preferred and if the floor to floor heights cannot be provided for a four storey development to comply with the preferred street wall height in DDO18 (12 metres), then the number of storeys should be reduced.

(iv) Findings

The Committee considers the Ovens Street façade presents an attractive frontage with activation at ground level. The 4 storey new street wall contrasts with the two storey heritage street wall and appears balanced. The Committee agrees with Ms Roberts' opinion that people walking on a street, between street walls, would tend to observe the number of storeys rather than assess any variation in height between the opposite street walls. Matching the 4 storey street wall at the site with the approved development at 8 Ballarat Street supports a more cohesive built form character for Ovens Street than Council's suggestion that a storey be removed. At the upper level this exceedance of 2.3 metres would be barely perceivable.

The Committee finds:

- the street wall height in the DDO18 is a preferred height
- the design objectives of the DDO18 are met with a 4 storey street wall on Ovens Street, notwithstanding that it marginally exceeds the preferred street wall height of X metres
- the design and height of the street wall achieves an appropriate sense of openness and enclosure
- the height exceedance (2.3 metres) is acceptable.

3.4 Built height and context

(i) Context

DDO18 provides that:

- the preferred maximum building height is 17 metres
- any part of the building above the street wall height:
 - should be setback at least 5 metres from the street boundary
 - from ground level should not exceed the horizontal distance from the opposite street boundary
 - should be designed to respect the form and design of adjacent civic buildings and heritage places
- development that seeks to vary the upper-level setback requirements of the DDO18 is required to demonstrate how the design objectives and requirements will be met.

The relevant decision guidelines require consideration of whether:

- the maximum building height is achievable having regard to lot size, dimensions (width and depth) and/or those sites within or adjoining the Heritage Overlay
- an increased upper-level setback is required having regard to the heritage significance of the site or an adjoining site within the Heritage Overlay.

Figures 9, 10 and 11 contain photos of the surrounding heritage buildings.

Figure 9 Brunswick Baptist Church and former dental surgery and house in Sydney Road



Source: Committee

Figure 10 Hoopers Building on south west corner of Sydney Road and Ballarat Street



Source: Lewis evidence statement

Figure 11 Former Brunswick Market building opposite and south of Ballarat Street



Source: Committee

(ii) The issue

The issue is whether the overall building height is appropriate considering the site's context with adjoining heritage buildings.

(iii) Submissions and evidence

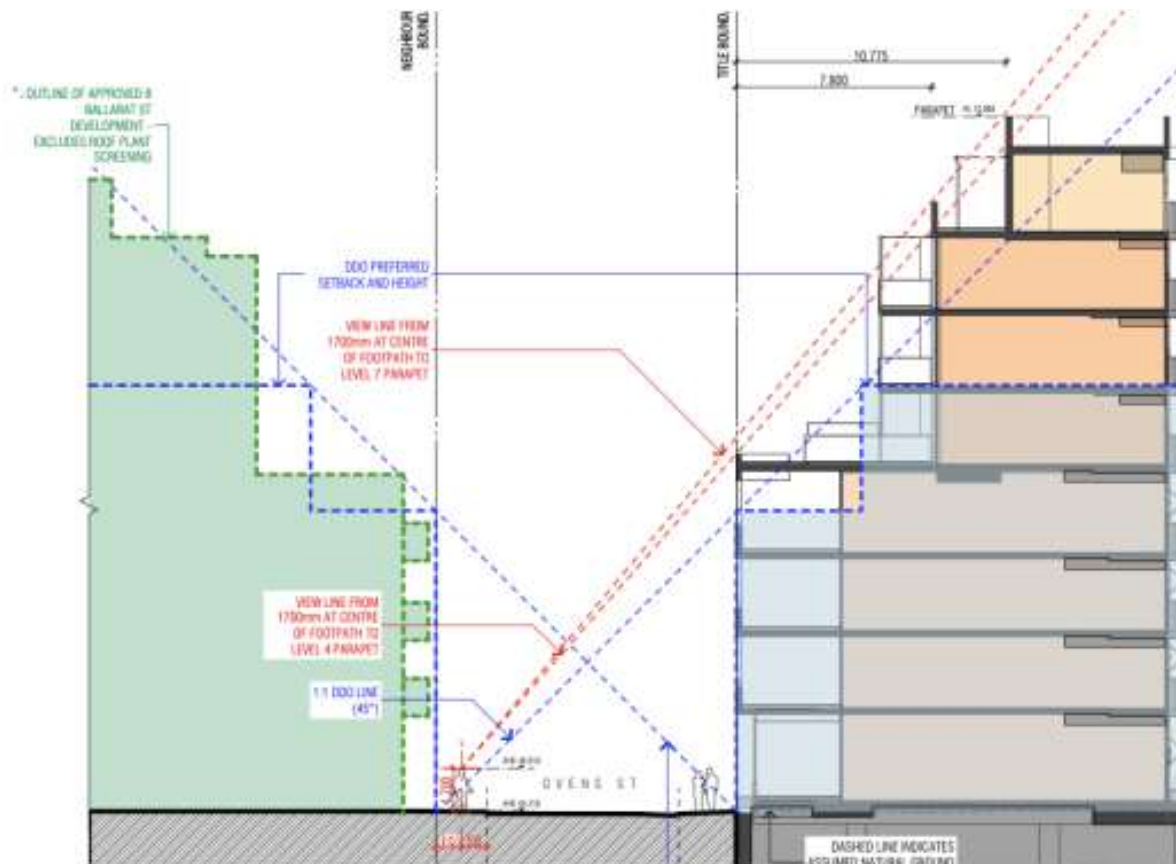
The DDO18 provides a preferred maximum building height of 17 metres for the site and 19 metres for sites abutting Sydney Road. Council submitted that, at 8 storeys with a partial 9th storey (extending to a height of 27.5 metres and 32 metres including the lift core), the proposed development significantly departs from the preferred height.

The upper-level setback from Ballarat Street exceeds the 5 metre minimum requirement but on both frontages the height of the building results in an encroachment in the view line from the opposite street boundary at the upper levels. This is shown in Figure 12.

Mr Pryor's opinion was that the upper levels would dominate the view line from Sydney Road and the views from Tripovich Street to the south. He recommended two storeys be removed to address the DDO18 objectives.

The Applicant referred to the approval of an 8 storey development opposite the site at 8 Ballarat Street in support of the proposal. Council in response advised that the 8 Ballarat Street building complied with the preferred street wall height and generally complied with the upper-level setbacks in the DDO18. Council submitted that the site at 8 Ballarat Street had a different context with less heritage implications and that the proposal should be assessed on its merits and not rely on other approvals for development nearby.

Figure 12 Comparative analysis of building heights at 8 Ballarat Street (approved, left) and the proposal (right)



Source: Fieldwork BRVT 24-02021, p 45

Ms Roberts' urban design evidence was that the building height is consistent with the emerging and preferred built form character of the Brunswick location. She supported the increased setbacks as a sensible and respectful response to the heritage facade and to minimise

overshadowing to the south. Ms Roberts considered building height had no relationship with heritage and that the overall height was appropriate.

Council submitted that although the proposal had obvious positive attributes the building fails to achieve an acceptable built form response to the DDO18 and other policies. Ms Eastaugh explained that *“a more modest built form outcome is warranted on the site given its particular characteristics and site context.”*

Council submitted that the height, massing and setbacks will have an unacceptable impact on the adjoining properties to the east and will adversely affect the significance of the heritage precinct and heritage context.

The building abuts a low-rise precinct south of Ballarat Street including Tripovich Street that includes heritage buildings fronting Ballarat Street. Mr Pryor’s evidence was that the upper levels would dominate the heritage precinct to the south.

The Applicant submitted that the design was respectful of the context and responded appropriately to the heritage buildings in the precinct, including the view from Sydney Road. It considered the retention of the 3 dimensional heritage façade including the saw-toothed roof line along the eastern edge ensures the building is understood in its heritage context.

Ms Jordon’s evidence was that the best way to transition from a heritage precinct is a low street wall, the treatment of the facade and the upper-level setback. She considered the building achieves a successful integration with the surrounding heritage context.

Mr Raworth’s evidence was:²

... heritage issues have been weighed and considered in the preparation of the DDO18, and they are not in and of themselves something that should be seen to moderate the DDO. Rather, the DDO should be seen to moderate the expectations typical in exercising discretion in relation to the Heritage Overlay.

Mr Raworth’s opinion was that the perspective view from the south would focus on the good relationship of the building to the street and the setback and design. He noted *“there will be a clear juxtaposition between the low scale industrial feel of the precinct and the building. This is inevitable as an area such as this transitions to new uses. But this is not distinctly an issue because of a heritage perspective.”*

(iv) Findings

The Committee accepts that planning policy for this area of the Brunswick Major Activity Centre will see a significant change to the character of these off-corridor areas. The approved development at 8 Ballarat Street is a good example. A new mid-rise character will eventuate. This is represented by the preferred maximum building heights for the area. The Committee considers there is still some restraint to this new mid-rise character with the use of preferred maximum building heights and the objective to consider the context of heritage buildings.

This proposal requires the consideration of these matters directly. The site has sensitive heritage interfaces to the south and east. The Committee considers this site requires design constraint to respond appropriately to these matters.

The Committee questioned whether the view from Sydney Road had been considered as part of the proposal. The Applicant advised that no perspectives were provided and agreed to provide

² Raworth evidence statement, page 25, paragraph 67

these. Figures 13 and 14 contain these perspectives from the corner of Sydney Road and Blyth Street opposite the Brunswick Baptist Church. These show the indicative forms that could be achieved under the DDO18 provisions on adjacent sites with the proposal superimposed.

Figure 13 Perspective from Sydney Road and Ballarat Street intersection



Source: Applicant

Figure 14 View from Blyth Street – proposed development to the rear



Source: Applicant

The Committee agrees with the Applicant that they should be considered as indicative and not of a certified photomontage standard.

The Committee acknowledges the references made to the proposed building at 8 Ballarat Street and agrees with Council that it is located further away from Sydney Road, does not have a heritage context and generally meet the setbacks. The Committee considers the subject site is contextually different because:

- the entire eastern boundary is shared with buildings in the Heritage Overlay with the Brunswick Baptist Church and former dental surgery as individually significant places
- on the southern side of Ballarat Street are two buildings in the Victorian Heritage Register (Hoopers building and former Brunswick Market)
- DDO18 recognises this context and requires proposals to *“respect the form, design and context of buildings of individual heritage significance in the precinct.”*

The Committee considers the overall height of the proposal is excessive and fails to appropriately consider this heritage context. The Committee has formed this view based on:

- The preferred maximum height of 17 metres applies to a large area west of Sydney Road where there are many sites that are not encumbered by heritage issues. From a policy context, sites that do have heritage issues to contend with are more constrained.
- The redevelopment potential of the narrow sites along Sydney Road north of Ballarat Street will need to consider the retention of the heritage buildings and a height of 19 metres (preferred maximum building height) may not be achievable.
- Significant redevelopment at the Brunswick Baptist Church is unlikely.
- The Committee was advised redevelopment to the rear of the former dental surgery is likely, replacing existing non-contributory buildings with a height possibly less than 19 metres. At this interface and on the common boundary an 8-storey high blank masonry wall is proposed that would present as a backdrop to the former dental surgery building. This is shown in Figure 15. Until, and if this redevelopment ever proceeds, the Committee considers the blank wall at this height this is a poor design outcome as it would likely extend well above any redevelopment to the rear of the former dental surgery. The blank wall will be readily seen from Sydney Road as it extends above the existing built form. A reduced height will mitigate this impact. This matter is considered further in section 3.5 on equitable development issues.
- While greater upper-level setbacks are provided above the podium, the exceedance of the preferred maximum height results in built form intersecting and extending into the view line from Ovens Street.

The Committee does not agree with Ms Roberts that heritage has no relationship with height. In fact, it is an important policy consideration in DDO18. The Committee does note the Applicant acknowledged this was also the case.

The height of the proposed development to the parapet is 27.5 metres and to the lift core, 32 metres. The preferred maximum building height in the DDO18 is 17 metres. The Committee is of the view a height closer to the preferred height is appropriate and considers the removal of two levels will ensure:

- significant redevelopment can still occur
- the objectives of the DDO18 are met in considering the site’s heritage context
- an appropriate transition is made between Sydney Road and sites that are less constrained.

The removal of two levels will result in an overall height to the parapet of 21.3 metres, reducing the exceedance from 76 per cent to 20 per cent. The Committee is reluctant to nominate how this

height reduction should be achieved but acknowledges that other design implications may flow from this.

The Committee finds:

- The site is encumbered by buildings with heritage significance on and surrounding it and the design must consider this constraint.
- The proposal would result in a mid-rise built form that is expected by policy and DDO18. However, at this height the proposal will unacceptably dominate its heritage context.
- Upper-level setbacks in excess of the DDO18 requirements do not overcome concerns on overall building height.
- A reduced height presents an appropriate balance between the change expected in this area and the need to respect and consider the site's heritage context.
- A reduction in height equivalent to two storeys is appropriate. How this is achieved is for the Applicant to consider.

Figure 15 Perspective of the eastern façade to existing Sydney Road context



3.5 Equitable development rights

(i) Context

The issue of equitable development is limited to the eastern interface (Figure 15). To the east of the site there are:

- seven narrow shops at 477-489 Sydney Road covered by the Heritage Overlay (HO149)
- the Baptist Church at 491 Sydney Road with an individual Heritage Overlay (HO162)

- the former dental surgery and residence at 503 Sydney Road with an individual Heritage Overlay (HO163).

The relevant strategies at Clause 15.01-2L (Apartment Developments in Moreland) are:

- enable the reasonable future development opportunities of adjoining sites
- manage the amenity impacts to adjoining sites.

This local planning policy includes the preferred setbacks at Table 1 and Table 2 (Figures 16 and 17). At the rear of the properties at 477-489 Sydney Road is a small public lane that also provides rear access to the shops. Table 2 applies for the limited length of the lane at the south east corner of the site.

Figure 16 Clause 15.01-2L Table 1 Building setbacks to side and rear boundary

Table 1 Building setbacks to the side or rear boundary

Building height	Living room or Main balcony outlook to boundary	Bedroom outlook to boundary
Up to 4 storeys or 12 metres	6 metres	3 metres
5-8 storeys or up to 25 metres	9 metres	4.5 metres
9 or more storeys or over 25 metres	12 metres	6 metres

Source: Moreland Planning Scheme

Figure 17 Clause 15.01-2L Table 2 Building setbacks to a lane

Table 2 Building setbacks to a lane

Building height	Living room or Main balcony outlook	Bedroom outlook
2 storeys or 9 metres	0 metres (from boundary)	0 metres (from boundary)
3-8 storeys or up to 25 metres	6 metres (from lane centre line)	3 metres (from lane centre line)
9 or more storeys or over 25 metres	9 metres (from lane centre line)	6 metres (from lane centre line)

Source: Moreland Planning Scheme

Table 1 setback requirements apply to a bedroom at the interface (4.5 metre setback) or living room (9 metre setback). Setback requirements vary with height. The building adopts the 3 metre setback at the lane and a 4.5 metre setback for the 8 storeys (although the building is higher than 25 metres).

The policy guidelines at Clause 15.01-2L indicate consideration should be given to:

- Whether the building setback requirements specified in Tables 1, 2 and 3 have been achieved.
- The reasonable future development opportunities for adjoining sites where a building does not achieve the building setback requirements specified in Tables 1, 2 and 3.
- Whether building separation is not required provided:
 - There is no outlook from a living room to a side or rear boundary; and

- It does not affect the reasonable future development opportunities of the adjoining site.

(ii) The issue

The issue is whether equitable development rights for adjoining buildings to the east fronting Sydney Road have been considered appropriately.

(iii) Submissions and evidence

The issue of equitable development is limited to the future development opportunities for sites at 477-489 Sydney Road. Council contends that the building does not meet setback requirements, and this impacts the development options for these sites. The landowners of the sites were not parties and did not submit.

Submission 5 was concerned with the equitable development of 491 and 503 Sydney Road. On 8 October 2021 a representative of the Brunswick Baptist Church advised the Committee that it no longer wished to be heard and on 13 October 2021 provided further correspondence indicating it supported the development. Council did not contest the interface of a blank boundary wall (referred to in section 3.4), acknowledging it would support future development of 503 Sydney Road.

Council submitted that the building complies with the setback for bedrooms but is only half that required for living rooms or main balconies, which is the predominate condition at the eastern interface. Council acknowledged the 9 metre setback (allowing for 4.5 metre setbacks on the adjacent properties) would address unreasonable overlooking but did not address the building setback and separation strategies of Clause 15.01.2L to:

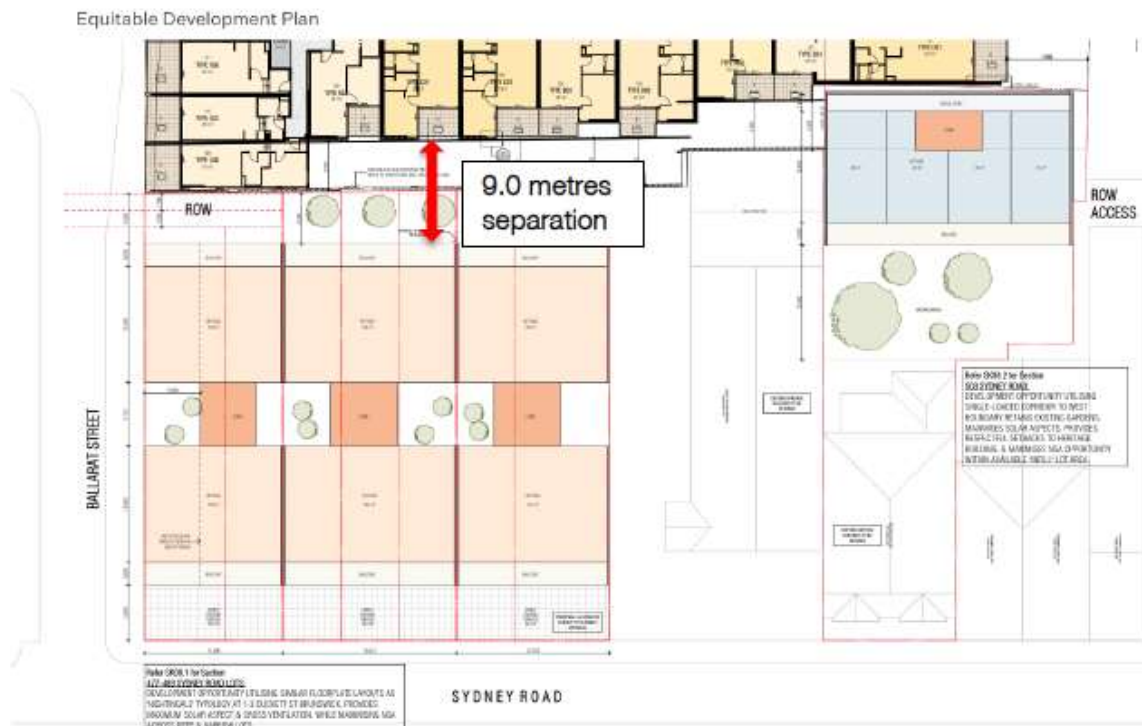
- Allow adequate daylight to living rooms and bedrooms (should the adjacent sites develop to the same or similar scale).
- Achieve a greater level of privacy and higher levels of daylight compared to bedrooms.

The Applicant relied on the Equitable Development Plan prepared by Fieldwork³ (Figure 18) to show how the setback would interact with adjacent development. The Applicant submitted the 9 metre separation (6 metres at the laneway) was consistent with other inner city municipalities and would provide adequate levels of daylight and outlook.

Ms Jordon advised that the 9 metre setback would not impact on the development of the adjacent properties to the south east. She considered that, whilst the design did not meet the separation requirements of 12 metres for the upper levels (triggered by the height of the building), this requirement was excessive for a mid-rise evolving character, and it was not an urban design outcome that needed to be achieved. She suggested that the 4.5 metre setback, if able to be matched on the Sydney Road properties, would facilitate a better future development outcome for these properties affected by HO149.

Ms Roberts also considered the setback of 4.5 metres to be an appropriate response to the interface with the properties at 477-489 Sydney Road.

³ Fieldwork Town-Planning BRVT 24-02-21 in Assemble Communities submission – Document 3

Figure 18 Equitable Development Plan

Source: FieldWork

(iv) Findings

The Committee considers the evidence of Ms Jordan compelling as she explained how the 4.5 metre setback and the blank wall to the boundary at the north east of the site would support likely future development outcomes for the properties along Sydney Road (477-489 and to the rear of the former dental surgery) affected by the Heritage Overlays.

The Committee notes that Council acknowledged a 4.5 metre setback would address reasonable overlooking and that it is the *type* of habitable room that drives the setback variation in the DDO18 in the development, not the setback size itself.

The Committee finds:

- The proposal appropriately provides for equitable development at the eastern interface.
- The 4.5 metre setback for the whole of the eastern wall is acceptable and will support likely development scenarios for adjacent properties.

3.6 Internal amenity**(i) Context**

The building includes a central, open lightwell (Figure 19) that separates two wings with a walkway through the space at each level. The separation distance between the wings is 6 metres. The corridor walls are treated as external walls and the majority of the apartments include bedrooms which have an outlook to the lightwell (Figure 20).

Issues of amenity and noise were raised with the Applicant by DELWP. The Applicant provided additional information to DELWP addressing how the proposal responds to the various standards

of Clause 58⁴ and undertook to increase the acoustic treatment of the interface between the corridor and the adjacent habitable room with double glazing, solid core doors and acoustic seals⁵.

Clause 15.02-1L (Environmentally Sustainable Development) requires a Sustainability Management Plan (including an assessment using BESS or Green star, STORM/MUSIC or other methods) for 10 or more dwellings.

Standard D24 (Functional layout) includes preferred minimum dimensions for bedrooms and living areas (Figure 21).

Figure 19 Proposed design of open communal corridor



Source: Fieldwork Town Planning BRVT 24-02-21

⁴ Additional Information response to DELWP dated 12 March 2021, in Assemble Communities submission with attachments – Document 3

⁵ Letter from Acoustic Logic dated 3 March 2021 in Assemble Communities submission with attachments – Document 3

Figure 20 Images of precedents of the design and treatment of the exposed corridor

Oxford & Peel Apartments, Collingwood - Jackson Clements Burrows



Source: Fieldwork Town Planning BRVT 24-02-21

Figure 21 Extract of Clause 58.07-1 Standard D24**Standard D24**

Bedrooms should:

- Meet the minimum internal room dimensions specified in Table D7.
- Provide an area in addition to the minimum internal room dimensions to accommodate a wardrobe.

Table D7 Bedroom dimensions

Bedroom type	Minimum width	Minimum depth
Main bedroom	3 metres	3.4 metres
All other bedrooms	3 metres	3 metres

Living areas (excluding dining and kitchen areas) should meet the minimum internal room dimensions specified in Table D8.

Table D8 Living area dimensions

Dwelling type	Minimum width	Minimum area
Studio and 1 bedroom dwelling	3.3 metres	10 sqm
2 or more bedroom dwelling	3.6 metres	12 sqm

Source: Moreland Planning Scheme

(ii) Issue

The issue is whether the proposed building layout provides acceptable levels of internal amenity.

(iii) Submissions and evidence

Council submitted:

- the design is unacceptable due to the compromised internal amenity including inadequate daylight, lack of outlook and poor acoustic outcomes for rooms adjacent to the internal corridor
- the studio apartments and one bedroom dwellings fail to meet the requirements of Clause 58.07-1 (Functional layout).

The Applicant submitted the features of the development provide a high level of amenity including:

- diverse apartment sizes and arrangements
- carefully considered layouts that minimise the need for screening and provide for daylight and outlook
- a central courtyard that provides landscaped outlook and facilitates natural cross ventilation of the majority of apartments
- well-proportioned open space accessed directly off living areas
- communal facilities including gardens, outdoor seating areas and a pet zone
- bedrooms that have direct access to natural light.

The Applicant referred to the benefits of the overall design, additional communal features and the diversity of apartments to cater to different households and price points as evidence of the high amenity proposed for an affordable housing development.

Acoustics

The Applicant submitted the design allows interaction between floors and within the corridor to encourage a sense of community in the development which is a feature of the Assemble Futures model. Reference was made to:

- the Acoustic Specification prepared by Acoustic Logic which undertook the assessment of acoustic requirements and standards and the built form response
- Ms Jordan's Clause 58 assessment against Standard D16 (Noise impact) which found the layout of dwellings has been designed to minimise noise transmission, with no apartments immediately adjacent to the lift core, and the additional acoustic treatments will protect residential amenity from reasonable noise.

Council acknowledged that the acoustic measures proposed by the Applicant would mitigate some noise impacts but suggested that residents will likely keep windows closed because of noise and therefore lose natural cross flow ventilation benefits, advanced by the Applicant as a benefit of the development.

Functional layout

The Applicant submitted that all living areas meet the minimum width and area requirements, and all bedrooms meet the minimum internal room dimensions except the bedroom areas in five dwellings. These studios have bedrooms slightly less than the Standard D7 requirement. The Applicant indicated that the diversity of dwelling configurations, including in the smaller dwellings, responds to market research by the Applicant.

Ms Jordan's assessment was that two of the six studio apartment types do not meet the technical requirements of Standard D24 but noted there is no minimum standard for a genuine studio which features combined living and bedroom. She considered the studio dwelling was a valuable addition to housing diversity. She noted some apartments show a dining area within a living area. She considered this was an acceptable outcome as most apartments have living spaces that exceed the minimum requirement. She concluded that five of the 171 apartments (2.9 per cent of the development) do not technically comply with standard D24.

Access to daylight

Council considered there is unacceptable daylight access to rooms adjacent to the external corridor due to:

- shadowing by the walkways in the external corridor
- the depth of the communal corridor area due to the building's excessive height
- the use of small, highlight windows for privacy.

The Applicant provided the BESS Daylight Compliance Report⁶ which indicated a lack of daylight to the habitable rooms adjacent to the external corridor, particularly at the lower levels of the building, but this still complied with the 80 per cent compliance standard of BESS for daylight to living and bed rooms. The Applicant noted that reduced daylight access can be an issue for lower level apartments in a dense context and that this was not unique to the project. He submitted the design positively responds to two street frontages and the eastern and northern aspects to optimise daylight to living areas which is confirmed by Atelier Ten in the BESS Daylight compliance report.

Council queried whether the BESS daylight modelling had considered the equitable development of the properties along Sydney Road.

Environmentally Sustainable Development report

Mr Richardson's evidence statement noted that some standard assessments were missing from the Sustainability Management Plan and suggested these should be provided to further demonstrate compliance with Clause 15.02-1L (Environmentally Sustainable Development) and Clause 58.03-1 (Energy Efficiency) including:

- preliminary NatHERS Energy rating details to demonstrate how apartments can achieve cooling load requirements
- a detailed Stormwater Management Plan
- an updated BESS assessment that includes all the ESD initiatives in the project, amends input errors and uses the latest version of the BESS tool.

Mr Richardson suggested that prior to endorsement of plans, the project should demonstrate that the internal daylight amenity of the development will meet the 80 per cent minimum compliance for living zones and bedrooms across the development, when assessed under an equitable development scenario. Proposed permit condition 14 addresses this issue.

(iv) Findings

The Committee went to some length to test Council's concerns about internal amenity. Having done so, the Committee agrees with the Applicant that the overall design seeks to optimise

⁶ BESS Report prepared by Atelier Ten dated 10 June 2021

multiple sustainable development and internal amenity objectives, and overall produces an acceptable outcome.

Acoustics

The Committee accepts the exposed corridor is a design feature that creates an inwards-facing external wall that increases the apartments' exposure to noise.

The Committee notes that planning inherently involves a balancing exercise. State and local planning policy and Council's strategic documents support denser development and smaller dwellings to respond to housing affordability and demographic change in this area. The external circulation corridor is a design feature that allows for visual and acoustic connection between floors, with the impact being increased noise compared to a more conventional corridor treatment. This is balanced by design objectives of energy efficiency and natural ventilation inherent in the design response.

The Committee considers the Applicant has addressed potential higher acoustic impact by increasing the acoustic treatment of the interface between the corridor and the adjacent habitable room with double glazing, solid core doors and acoustic seals. It will be a matter for any future resident to determine how they manage that interface for their own comfort. The additional acoustic treatment will assist to minimise the impact of noise.

The Committee finds:

- The design will deliver an acceptable acoustic outcome.

Functional layout

The Committee agrees with the Applicant that the development provides diverse dwelling types and configurations that will offer future purchasers the opportunity for choice in dwelling type and price point.

The Committee notes the living areas are generally larger than required in the Standard D24, with the added benefit that they directly connect with private open space. This design response seeks to optimise usable space within the footprint of a dwelling which will have particular benefit for the studio and one bedroom dwellings. The rooftop and courtyard common recreational areas are available to all residents and provide additional space for purchasers of the smaller dwellings.

The Committee notes Ms Jordan's comment that Clause 58 does not contemplate a genuine studio typology with combined living and bedroom space. The Committee agrees that this type of dwelling adds to housing diversity.

The Committee notes that Standard D7 allows discretion and the percentage of non-compliant dwellings is minor. In the context of the overall design response and the decision guidelines, the Committee finds the dwellings have habitable rooms that are useable, functional and have a good level of amenity. The Committee therefore finds the objective has been met.

The Committee notes the Applicant has undertaken market research that has informed the dwelling design and has identified a demand for the small studio. This is a new model of affordable housing development for a Build-to-Rent-to-Buy market. The Committee considers it is reasonable to allow for this type of dwelling to be offered to the market as part of the broader affordable housing response.

The Committee finds:

- Five apartments do not technically comply with Standard D24

- The design response for the non-compliant dwellings is acceptable and the habitable rooms are useable, functional and have amenity.

Access to daylight

The Committee agrees with the Applicant that the design response generally optimises daylight to living areas for the majority of dwellings. The outlook of rooms adjacent to the external corridor is limited by the walkways, especially at the lower levels and daylight access will be compromised. However, compared to apartments accessed off a conventional corridor, the design will support superior access to daylight and provide the benefit of natural ventilation flows.

The Committee notes that the bedrooms adjacent to the external corridor will be limited in outlook and access to daylight, particularly at the lower levels of the building, due to the use of the highlight windows and their treatment for privacy. They are not without daylight however, and the Committee find this is an acceptable outcome as daylight is accessible in each dwelling with the living room being placed next to private open space.

The Committee notes the Atelier Ten report found the development exceeded best practice for living and bedrooms and delivered exceptional quality across 80 per cent of the development. However, the errors identified by Mr Richardson should be addressed prior to endorsement of plans. BESS modelling should be undertaken that accounts for equitable development on the eastern interface.

The Committee finds:

- BESS does not anticipate that all dwellings should meet the daylight access provisions, hence the 80 per cent standard
- daylight access of rooms adjacent to the external walkway is acceptable
- the design provides for acceptable daylight to dwellings across the development
- the daylight modelling should be updated to account for an equitable development scenario at the eastern interface.

Environmentally Sustainable Report

The Committee agrees with Mr Richardson that the application should have appropriate sustainable development documentation to demonstrate it responds to Clause 15.02-1L (Environmentally Sustainable Development) and Clause 58.03-8 (Integrated water and stormwater management objectives). The Committee supports the proposed permit condition 14 for an Environmentally Sustainable Development report that addresses the need for preliminary NatHERS Energy rating details, a detailed Stormwater Management Plan and an updated BESS assessment, addressing the issues raised in Mr Richardson's evidence statement.

The Committee finds proposed permit condition 14 (Environmentally Sustainable Development) is appropriate to address the range of internal amenity and other sustainability issues.

3.7 Housing affordability

(i) Context

Clause 16.01-2L (Housing affordability Moreland) 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."*

(ii) The issues

The issues are:

- whether the affordable housing model should include low-income households
- whether the affordable housing model is appropriate for moderate income households
- how the affordable housing model should be managed and administered.

(iii) Submissions and evidence

Council submits that the proposal should have a low or very low-income household affordable housing component. In 2018 Council commissioned ID Consulting to prepare the *A Home In Moreland* report. This, Council submitted, indicated that very low and low-income households experienced significant housing stress (90 per cent) while only a small percentage (10 per cent) of moderate income households did. Figure 22 shows this outcome.

Council submitted:⁷

It could be said that the provision of affordable housing to some households within a moderate group is 'better than nothing', and that it is not up to the Applicant to address every income group in the municipality.

The affordable housing commitment has, however, been put forward as a significant community benefit of the proposal. When considering whether a permit should be granted, the SAC needs to weigh up the various aspects of the proposal and determine whether it would be an acceptable planning outcome and achieve a net community benefit.

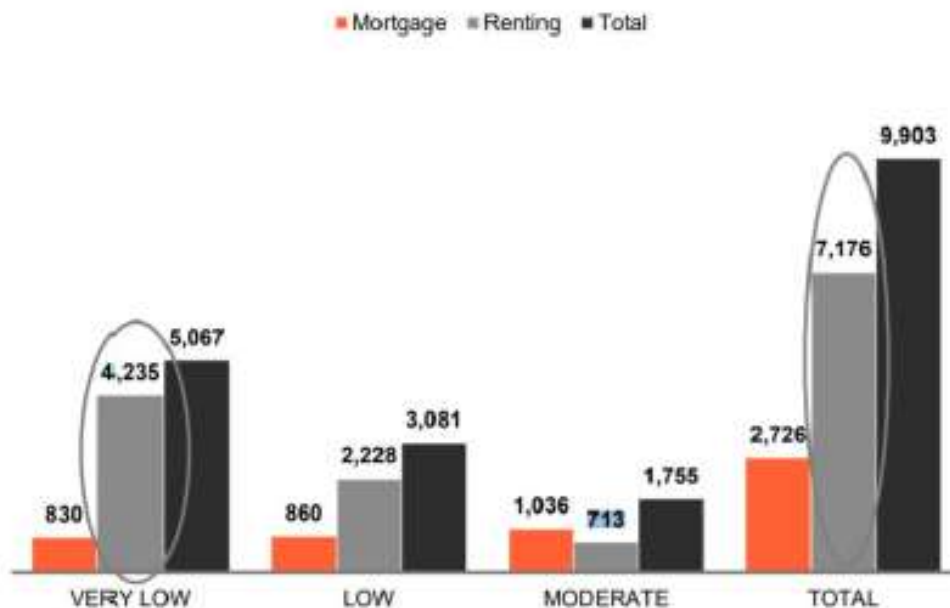
Council referred to section 3AA(2) of the PE Act and considered the proposal responded well to some but not all of the eight matters. The three matters appropriately addressed are tenure, location and integration. The remaining five matters Council considered are not met include allocation, affordability, longevity, type of housing in terms of form and quality and official estimates of housing need:

- Allocation – Council submitted that the model should be managed by a Registered Housing Agency (RHA).
- Affordability – annual rents will be set at 30 per cent of gross income and annual mortgage costs at 35 per cent of gross income. Council considered this would bring moderate income households into mortgage stress as it exceeds the 30 per cent benchmark of the Australian Bureau of Statistics.
- Longevity – the Applicant's Hardship Policy "*only applies for 6 months, after which the policy envisages the eviction of the resident if they are unable to afford the set rent after this time.*" Council questioned whether the purchased property would suit the purchaser in 5 years' time and was concerned the affordable housing benefit would be lost if the property is sold.
- Form and quality of housing – internal amenity is compromised by daylighting issues and size of one bedroom and studio apartments (addressed in section 3.6 of this Report)
- Housing need – addressed above with regard to household income.

⁷ Council submission, paragraph 181-182

Figure 22 Housing stress by income group in Moreland

Figure 78. Housing stress by income group, Moreland 2016
Number of households



Based on all household income definition

Source: ABS custom data order

Source: Council submission

Council proposed some changes to the planning permit conditions that address the housing model. This is discussed in section 3.9 of this Report.

Mr Daff of Assemble Communities explained that it operates two models (Build-to-rent and Build-to-rent-to-own) with the latter the focus of this proposal. He confirmed that the home ownership model is unlikely to be accessible for very low and low-income households and the project would not work with a mix of tenures. Mr Daff referred to a near-complete project in Macaulay Road which is the focus of the built-to-rent model.

The Applicant considered *“Council’s concerns with regard to affordable housing appear to result from a number of incorrect assumptions about the housing model proposed.”* It responded to Council’s concerns in the following manner:

- The moderate household income range represents income required to both rent and purchase. The Applicant conducts an additional affordability assessment based on catchment specific income levels. It also considers the individual circumstances of some applicants where appropriate.
- The definition of affordable housing includes moderate income households and *“there is no requirement that a proposal must address every aspect of need, or only be directed towards the largest cohort of need.”*
- Very low-income and low-income households are unlikely to enter home ownership and their focus is on the built to rent models. Assemble Communities has a build-to-rent model that is the focus of other proposals in Melbourne.

- As the model is administered by Assemble Communities and is to be governed by a section 173 Agreement, it is not considered necessary that the number of dwellings, the pricing and the allocation are validated by a RHA on an annual basis.

(iv) Findings

The Committee acknowledges the high regard that Moreland City Council places on the provision of social and affordable housing. The Committee was assisted by a greater understanding of the two models and how Assemble Communities implements them. The Committee agrees, regrettably, with Mr Daff that a home ownership model is unlikely to be achievable to very low and low-income households.

The matters that must be considered under section 3AA(2) of the PE Act are not, on the Committee's reading, mandatory requirements for every affordable housing proposal. The Committee considers the Applicant has, regarding its two models, admirably addressed these matters. The fact that an individual project targets a section of the market should not be seen as a poor response. The Committee notes Clause 16.01-2L does not set a metric for the provision of affordable housing.

The Committee agrees with the Applicant that committing at least 119 (70 per cent) of the apartments to affordable housing is a significant commitment. No one development will resolve local affordable housing issues and innovative approaches such as that proposed by the Applicant are one part of the solution. The two models combined will make a more substantial contribution than other more conventional proposals for affordable housing.⁸

The matters regarding form and quality of housing are addressed under section 4.6.

The Committee finds:

- affordable housing includes moderate income households
- the proposed affordable housing model is appropriate and there is no need to incorporate a low-income household component
- the proposal makes a substantial contribution to affordable housing in Moreland.

3.8 Car parking

(i) Context

The Moreland Integrated Transport Strategy 2019 has strategic objectives that support modal shift including:

A sustainable Moreland which achieves a city-leading shift towards sustainable mode of travel, supporting the transition to active and zero-emissions transport by 2040 and address the climate emergency.

Key local planning policies are:

- Clause 15.02-1L (Environmentally Sustainable Development):
 - design development to promote the use of walking, cycling and public transport, in that order, and minimise car dependency
 - promote the use of low emissions vehicle technologies and supporting infrastructure.
- Clause 18.02-1L (Sustainable Transport):

⁸ The Committee refers to many proposals that have a 5-6 per cent affordable housing commitment

- ensure the provision of bicycle parking is suitable to the likely demand generated by the use or development and nature of the locality.
- Clause 18.02-4L (Car parking in Moreland) that has the objective to promote the use of sustainable transport through car parking provision and strategy to encourage shared car parking arrangements and support reduced car parking rates in developments:
 - within and close to activity centres
 - with excellent access to a range of public transport options
 - with increased provision of bicycle parking above the rates specified in Clause 52.34.

The site is within the Principal Public Transport Network and Column B rates under Clause 52-06 apply, generating a requirement for 207 car spaces. The proposal provides for 75 car spaces (70 spaces for the apartments and 5 spaces for the retail/commercial uses) and seeks a reduction of 123 spaces.

Clause 52.34 (Bicycle facilities) seeks to:

- encourage cycling as a mode of transport
- provide secure, accessible and convenient bicycle parking spaces and associated shower and change facilities.

(ii) The issue

The issue is whether the proposed reduction in on-site car parking is appropriate, including the allocation of car spaces to the office floorspace.

(iii) Submissions and evidence

After the initial consultation period conducted by DELWP Council was concerned that the traffic and parking assessment did not undertake parking surveys or analysis of anticipated traffic in the road network or identify how the on-site car parking would be managed. Council initially submitted that the proposal should be required to contribute toward the upgrade of the intersection of Victoria Street and Sydney Road and that the proposal had insufficient parking.

Following circulation of Mr Walsh's evidence Council advised on Day 1 of the Hearing it was not pursuing the issue of car parking. Other parties were not concerned with the parking and traffic⁹ so the Applicant tables Mr Walsh's evidence statement but did not call Mr Walsh to provide oral evidence.

Mr Walsh's traffic assessment is the proposal will generate up to 24 vehicle movements in the AM and PM peak hours. He concluded the traffic level is low and would not have a material impact on the road network or surrounding intersections.

Mr Walsh undertook a Car Parking Demand assessment and a strategic assessment. He considered the Moreland Integrated Transport Strategy (2019), the Brunswick Structure Plan (2010) and the statutory requirements and decision guidelines at Clause 52.06. He identified car ownership in Brunswick is typically lower than that on which the minimum statutory requirement is based, particularly for studio, 1 bedroom and 3 bedroom dwellings.

Mr Walsh assessed the demand generated by the retail component to be 12 spaces (three spaces for staff and 9 spaces for customers) and concluded that existing on-street parking could cater for visitor parking.

⁹ Some submitters did refer to parking issues but did not wish to be heard by the Committee

He concluded the reduced car parking provision was justified noting:

... the site is very well serviced by public transport and has excellent access to everyday services and multiple fixed rail and priority bus routes. The location of the site offers a significant opportunity to be much less reliant on the private car.

He recommended that the allocation of spaces be adjusted to 72 for the apartments and 3 for the retail/commercial uses including the Accessible Parking Space. Council supported this revised allocation. The Committee supports this.

Clause 52.34 requires the provision of bicycle parking. The development provides 207 bicycle spaces and the requirement is 53 spaces. A bicycle workshop is included at the ground floor with access from Ovens Street. Clause 52.34 requires the provision of one shower and either one change room or direct access to a communal change room. The proposal provides for two showers, therefore also exceeding the statutory requirement for end of trip facilities. The Committee supports the level of provision of bicycle spaces and end of trip facilities.

Mr Walsh's expert statement noted vertical rail spaces in the basement are provided with a minimum width of 500 mm and that this should be increased to 800 mm to appropriately fit the bicycle handles.

(iv) Findings

Traffic and parking issues have been resolved between Council and the Applicant.

The site is within the Principal Public Transport Network (PPTN) and can accommodate a significant reduction from the statutory requirements for parking. This has been offset with substantially more bicycle parking than required and a bicycle repair workshop the residents can use.

The Committee finds:

- the site is well serviced by public transport and its location within the Brunswick Activity Centre means diverse services and facilities are accessible within a walkable catchment
- the reduced car parking provision is appropriate for the site
- 3 car parking spaces should be allocated to the commercial/retail space including the Accessible Parking Space and 72 spaces for the apartments
- the development provides substantially more bicycle spaces than required.

3.9 Planning permit

The issue is whether the draft planning permit conditions are appropriate.

(i) Submissions

Direction 4 required both Council (Document 19) and the Applicant (Document 29) to circulate a preferred version of the planning permit prior to the Hearing. The Committee requested the Applicant provide another version that clearly identified areas of agreement (untracked) between it and Council and unresolved issues (tracked) for discussion at the 'without prejudice' session on the last Hearing day. This is Document 58 and has been used as the basis of the Committee's consideration. The Committee appreciates the efforts of both parties in this process.

The key changes endorsed by the Committee are:

- Condition 1(f) – changes arising from the Heritage Works Plan at Condition 42

- Condition 1(g) – updating the form of glazing to the eastern façade of the concrete shroud
- Condition 1(h) – deletion of two storeys
- Conditions 5 and 6 – insert '*prior to the occupation*' and delete reference to an alternate housing model and reporting by Registered Housing Agency
- Condition 13 – insert '*unless otherwise approved...*'
- Condition 14(a) – new BESS report to address latest version of BESS and consider equitable development built form
- Conditions 28-32 – delete as there are no street trees to be protected
- Condition 43 – new text for the Heritage Works Plan.

(ii) Findings

The Committee has included at Appendix D its preferred permit conditions. These address the Condition 1 matters discussed above and ensures condition numbers are cross referenced correctly.

The Committee finds the draft permit conditions and changes made to those conditions impose typical and appropriate conditions on the use and development.

The Committee's position on building height is reflected in Condition 1.

4 Reasons and recommendations

4.1 Reasons

After considering all the written material submitted as part of the combined Amendment and permit application, the referred documents, written submissions by the parties, evidence and the presentations at the Hearing, the Committee concludes:

- Amendment C216more is appropriately drafted
- draft Planning Permit PA2101205, as amended and included at Appendix D, should be issued.

The key changes the Committee proposes are:

- the use of a Heritage Works Plan that requires a structural engineer to investigate the integrity of the concrete shroud. The Committee found it did not have sufficient evidence to support its demolition
- the reduction of the overall height by the equivalent of two storeys to ensure the development responds appropriately to its heritage context and setting.

The site is constrained by heritage buildings on and surrounding it. The proposal to exceed the preferred maximum building height by 10.5 metres or 76 per cent is not a suitable approach to this site and neighbourhood context. The Committee has recommended a reduction in height to approximately 21.3 metres, or 4.3 metres above the preferred maximum height.

Assemble Communities is a dedicated developer of affordable housing. It operates two models for rental and purchase. This proposal provides a pathway to home ownership for moderate income households through its Build-to-Rent-to-Buy model (Assemble Futures model). The Committee was not persuaded that it should be required to broaden its offer to low-income households as sought by Council. Assemble Communities is developing its rental model (which is more suited to low-income households) on other sites in Melbourne. The provision of at least 70 per cent of the apartments for affordable housing is admirable.

Car parking provision is well resolved and supported by Council. The site is within the PPTN and able to accommodate a significant reduction in on-site parking. There is strong policy to create a modal shift from the private vehicle to public transport.

The Committee acknowledges the concerns raised by Council on internal amenity issues. The BESS tool does not require a 100 per cent compliance for access to daylight and inter alia accepts that some apartments, particularly those lower in the tower may have difficulty in meeting the standard. Overall, the Committee believes the development will provide good internal amenity with excellent cross flow ventilation, access to open space and access to roof top facilities.

4.2 Recommendations

The Committee recommends:

- 1. Draft Moreland Planning Scheme Amendment C216more as provided in Document 3 be approved.**
- 2. Planning Permit PA2101205 be issued subject to the Committee preferred version of the Permit in Appendix D, including a reduction in height of two storeys.**

Appendix A Terms of Reference

Terms of Reference

Priority Projects Standing Advisory Committee

Standing Advisory Committee appointed pursuant to Part 7, section 151 of the *Planning and Environment Act 1987* to advise the Minister for Planning on referred priority planning proposals.

Name

1. The Standing Advisory Committee is to be known as the 'Priority Projects Priority Projects Standing Advisory Committee' (the Committee).
2. The Committee is to have members with the following skills:
 - a. statutory and strategic land use planning
 - b. land development and property economics
 - c. urban design and architecture
 - d. heritage
 - e. civil engineering and transport planning
 - f. social impacts
 - g. environmental planning
 - h. planning law.
3. The Committee will include a lead Chair, Chairs, Deputy Chairs and not less than ten other appropriately qualified members.

Purpose

4. The purpose of the Committee is to provide timely advice to the Minister for Planning on projects referred by the Building Victoria's Recovery Taskforce (BVRT), 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.

Background

5. The Victorian Government has identified Victoria's building and construction sector as a key mechanism to revitalise Victoria's economy during the coronavirus (COVID-19) pandemic.
6. The Government has committed to a fast-track assessment process for priority projects of state and regional significance that are shovel-ready and that will provide immediate benefits to Victoria's economy, keeping Victorians in work and priority infrastructure on track for completion.
7. The BVRT was formally announced on 26 April 2020. The Taskforce was established by the Minister for Planning and Treasurer to help keep Victoria's building and development industry running during the coronavirus crisis. The Taskforce will investigate planning and investment opportunities to boost Victoria's building and development industry over the short, medium and long term.

Method

8. The Minister for Planning or delegate will refer projects by letter to the Committee for advice on whether the project achieves acceptable planning outcomes.
9. The referral letter must specify:
 - a. the specific issues the Minister for Planning seeks advice about
 - b. the mechanism of intervention being considered
 - c. whether, or which previously collected, submissions are to be considered by the Committee
 - d. how the costs of the Committee will be met.

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Land, Water
and Planning

Terms of Reference | Priority Projects Standing Advisory Committee

10. The letter of referral will be a public document.
11. 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.
12. 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.
13. 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.
14. The Department of Environment, Land, Water and Planning (DELWP) will be responsible for any further notification required. New submissions will be collected by DELWP.
15. The Committee may seek advice from other experts, including legal counsel where it considers this is necessary.
16. The Committee is not expected to carry out a public hearing but may do so if it is deemed necessary and meets its quorum.
17. 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.
18. The Committee may apply to vary these Terms of Reference in any way it sees fit.

Submissions are public documents

19. 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.
20. 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

21. 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.

Terms of Reference | Priority Projects Standing Advisory Committee

22. 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

23. 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

24. 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

Appendix B Letter of Referral



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: MBR045409



Dear Ms Mitchell

DEVELOPMENT FACILITATION PROGRAM - 'ASSEMBLE BRUNSWICK' 2-6 BALLARAT STREET AND 14-18 OVENS STREET, BRUNSWICK

I refer to the proposed draft Planning Scheme Amendment C216more and draft planning permit PA2101205 affecting land at 2-6 Ballarat Street and 14-18 Ovens Street, Brunswick. The project has been considered by the Development Facilitation Program (DFP), which has deemed it to meet relevant criteria and should be prioritised for accelerated assessment and determination.

I am considering preparing Amendment C216more to the Moreland Planning Scheme to make me the responsible authority for the site, allowing me to determine PA2101205 for the demolition and use and development of an eight-storey building (with basement) comprising dwellings and office, a reduction in car parking requirements and associated works at the subject sites. I am considering these matters under Part 4, Division 5 of the *Planning and Environment Act 1987* (PE Act), which allows for a combined permit and amendment process. I am also considering exempting myself from the normal exhibition and notice requirements under section 20(4) of the PE Act.

To inform my decision about whether to prepare, adopt and approve draft Amendment C216more and grant draft planning permit PA2101205, I undertook consultation with a range of parties to seek their views about the draft amendment, the draft planning permit and consultation under section 20(5) of the PE Act about the proposed exemption under section 20(4) of the PE Act. Parties consulted with were the council, the proponent, the Environmental Protection Authority, the Department of Transport and adjoining owners and occupiers. As a result, submissions have been received from five parties. Matters raised in the submissions include concerns about the affordable housing model, built form, heritage and car parking provision.

I also advise that a change has been made to draft Amendment C216more since consultation was undertaken. The change affects the Schedule to Clause 72.01 and provides clarity about responsibility for decision making for this site. Originally, the draft amendment proposed to make me the responsible authority for the issue of planning permit PA2101205. The amendment now proposes to make me the responsible authority for the land at 2-6 Ballarat Street and 14-18 Ovens Street, Brunswick. Extracts of the relevant sections of both the original and the altered Schedule to Clause 72.01 of the draft amendment are attached to this letter.

I have decided to refer the matter to the Priority Projects Standing Advisory Committee for advice and recommendations about whether planning approval should be given for the project. I request your specific advice about the drafting of draft Amendment C216more and whether draft planning permit PA2101205 should be issued and, if so, the appropriate conditions. The submissions received will be provided to the advisory committee, along with the draft amendment, draft planning permit and the draft planning permit application documents that were made available during the consultation period.



The cost of the advisory committee will be met by the applicant, Assemble Communities.

If you would like more information about this matter, please email Dr Jane Homewood, Executive Director, Statutory Planning Services, Department of Environment, Land, Water and Planning, at jane.homewood@delwp.vic.gov.au.

Yours sincerely



HON RICHARD WYNNE MP
Minister for Planning

5 1 9 21

Encl.

**EXTRACT OF DRAFT SCHEDULE TO CLAUSE 72.01 OF THE MORELAND PLANNING SCHEME
PROVIDED DURING CONSULTATION PERIOD**

**SCHEDULE TO CLAUSE 72.01 ADMINISTRATION AND ENFORCEMENT OF THIS
PLANINNG SCHEME**

**2.0 Responsible authority for administering and enforcing a provision of this
planning scheme:**

...

For the purposes of the relevant provisions of Divisions 1, 1A, 2, 3 and 5 of Part 4 of the *Planning and Environment Act 1987*, the Minister for Planning is the responsible authority for administering:

- Planning permit PA2101205 for land at 2-6 Ballarat Street and 14-18 Ovens Street, Brunswick; and
- Any matters required by planning permit PA2101205 to be endorsed, approved, or done to the satisfaction of the responsible authority.

**EXTRACT OF DRAFT SCHEDULE TO CLAUSE 72.01 OF MORELAND PLANNING SCHEME
AS AMENDED AFTER CONSULTATION PERIOD**

**SCHEDULE TO CLAUSE 72.01 ADMINISTRATION AND ENFORCEMENT OF THIS
PLANINNG SCHEME**

**2.0 Responsible authority for administering and enforcing a provision of this
planning scheme:**

...

The Minister for Planning is the responsible authority for matters under Divisions 1, 1A, 2, 3 and 5 of Part 4 and Division 2 of Part 9 of the *Planning and Environment Act 1987* and matters required by a permit or the scheme to be endorsed, approved or done to the satisfaction of the responsible authority, in relation to the land at 2-6 Ballarat Street and 14-18 Ovens Street, Brunswick.

Appendix C Document list

No.	Date	Description	Presented by
1	14/6/21	Terms of Reference	Minister for Planning
2	5/9/21	Letter of Referral	"
3	7/9/21	Referred material including: <ul style="list-style-type: none"> - Submissions - Draft Planning Scheme Amendment - Permit application documents 	Development Facilitation Program (DELWP)
4	14/9/21	Directions Hearing Notification letter	Committee Chair
5	16/9/21	Email circulating link for access to attachments to the Applicant's submission	"
6	17/9/21	Letter confirming attendance	Moreland City Council
7	20/9/21	Email confirming evidence to be called	Assemble Communities Pty Ltd
8	27/9/21	Committee Directions and Hearing Timetable	Committee Chair
9	5/10/21	Email advising of evidence to be called and representation	Assemble Communities Pty Ltd
10	"	Email advising of evidence to be called	Assemble Communities Pty Ltd
11	"	Email regarding directions for engagement between the Applicant and Council	Assemble Communities Pty Ltd
12	6/10/21	Hearing Timetable (version 2)	Committee Chair
13	7/10/21	Applicant Part A Submission	Assemble Communities Pty Ltd
14	"	Summary of submissions	"
15	"	Letter filing evidence and comments on the draft permit conditions	Council
16	"	Heritage evidence statement - Nigel Lewis	"
17	"	Urban design evidence statement - David Pryor	"
18	"	Documents referred to by Expert Witnesses	"
19	"	Draft Planning Permit PA2101205 (marked up)	"
20	"	Email filing evidence (Documents 21 – 25)	Assemble Communities Pty Ltd
21	"	Planning evidence statement - Sophie Jordan	"
22	"	Traffic evidence statement – Jason Walsh	"
23	"	Heritage evidence statement – Bryce Raworth	"

No.	Date	Description	Presented by
24	"	ESD evidence statement – Lindsay Richardson	"
25	"	Affordable Housing evidence statement – Kris Daff	"
26	8/10/21	Urban Design evidence statement – Amanda Roberts	"
27	"	Withdrawal of Brunswick Baptist Church from the Committee process	Brunswick Baptist Church
28	11/10/21	Email filing document 29	Assemble Communities Pty Ltd
29	"	Track changes to Council drafted permit conditions	"
30	"	Letter of support for Assemble Communities	Brunswick Baptist Church
31	13/10/21	Letter filing submission	Council
32	"	Submission	"
33	"	Documents (34 – 41) referred to in submission	"
34	"	17(a). Amended planning permit no. MPS_2016_854_A, dated 29 November 2019	"
35	"	17(b). Endorsed plans, dated 16 April 2021	"
36	"	18(a). Amended Planning Permit No. MPS_2018_362_D, dated 19 February 2020	"
37	"	18(b). Endorsed plans, dated October 2019 - February 2020	"
38	"	19(a). Planning Permit No. MPS_2018_856, dated 14 July 2020	"
39	"	19(b). Decision plans, dated 07 November 2019	"
40	"	20(a). Planning Permit No. MPS_2020_580, dated 28 July 2021	"
41	"	20(b). Decision plans dated 8 February 2021	"
42	"	Presentation of Mr Holland	Assemble Communities Pty Ltd
43	15/10/21	Email filing document 44	Council
44	"	Ministerial Notice under section 3AA(2) of the <i>Planning and Environment Act 1987</i>	"
45	"	Email filing document 46	Assemble Communities Pty Ltd
46	"	Massing views of the proposal from Sydney Road	"
47	18/10/21	Email filing documents 48 and 49 (photo montages)	Council
48	"	Church and former Dental Surgery – height comparison a) Street view and b) Submitter's render	"

No.	Date	Description	Presented by
49	“	Blyth Street view – Council prepared a) Street view and massing – Council prepared b) Submitter’s render c) Street view – current condition	“
50	“	Massing views of the proposal from corner Ballarat Street and Sydney Road	Assemble Communities Pty Ltd
51	19/10/21	Email filing document 52 and appendices	“
52	“	Applicant’s Closing Submission with appendices a) Examples of built form above heritage buildings b) The Court of Appeal’s decision in <i>Boroondara CC v 1045 Burke Road Pty Ltd</i> [2015] VSCA 27	“
53	“	Email filing document 54	“
54	“	VCAT decision 8 Ballarat Street Pty Ltd v Moreland CC [2018] VCAT 748	“
55	“	Email filing document 56	“
56	“	Report prepared by 4D Workshop Pty Ltd (engineering)	“
57	20/10/21	Email filing document 58	“
58	“	Applicant’s preferred permit conditions	“

Appendix D Committee preferred version of the Planning Permit PA2101205

FORM 9

Section 96J

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

Permit No.: PA2101205

Planning Scheme: Moreland

Responsible authority: Minister for Planning

ADDRESS OF THE LAND: 2-6 Ballarat Street and 14, 16-18 Ovens Street, Brunswick

- Lot 1 on Title Plan 838517A (2-6 Ballarat Street, Brunswick)
- Lot 1 on Title Plan 6929878U (14 Ovens Street, Brunswick)
- All of land within Plan of Consolidation 158970K (16-18 Ovens Street, Brunswick)

THE PERMIT ALLOWS: Partial demolition and use and development of the land for the construction of a multi-storey building (with basement and rooftop terrace) comprising dwellings and office, a reduction in car parking requirements and associated works.

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT

AMENDED PLANS

1. Prior to the commencement of the development, excluding works to remediate contaminated land, amended development plans must be submitted to, approved, and endorsed by the responsible authority, in consultation with the Moreland City Council. When endorsed, the plans will form part of this permit. The plans must be fully dimensioned and drawn to scale. The plans must be generally in accordance with the plans by Fieldwork, project no. 180019, drawing no's TP1-102(B), TP1-103(B), TP1-104(B), TP2-098(A), TP2-099(A), TP2-100(A), TP2-101(A), TP2-102(A), TP2-103(A), TP2-104(A), TP2-105(A), TP2-106(A), TP2-107(A), TP2-108(A), TP2-109(A), TP3-101(A), TP3-102(A), TP3-103(A), TP3-104(A), TP3-110(A), TP3-111(A), TP3-112(A), TP3-113(A), TP3-114(A), TP5-101(A), TP5-102(A), TP5-103(A), TP5-104(A), TP5-105(A), TP5-106(A), TP5-107(A), TP6-101(A), TP6-110(A), TP6-120(A), TP6-121(A), TP6-122(A), TP6-125(A), TP6-126(A), TP6-130(A), TP6-131(A), TP6-135(A), TP7-101(A) but amended to show:
 - a. Detailed elevation drawings showing the extent of new or changed opening(s) to the heritage façade.
 - b. Plans detailing whether elements such as the existing slab levels are to be retained and how the existing or proposed slab levels sit in relation to the balconies and windows.
 - c. Any changes required by the updated Waste Management Plan required by Condition 18.
 - d. Any changes required by the accessibility report required by Condition 41.

- e. The following changes including any other changes required by the amended ESD report required by Condition 14:
 - i. Provide typical elevation detail for shading to windows (north and west facing on the floor plans); ~~and~~
 - ii. Identify the approximate size, location and number of individual panels, orientation and tilt angle of photovoltaic array; ~~and~~
 - iii. The size and location of stormwater storage tanks arising from the STORM or MUSIC report required by Condition 14(d). ~~Stormwater management details consistent with the STORM or MUSIC report~~
- f. Any changes required by the heritage schedule of conservation works required by Condition 43~~2~~.
- g. Alteration to the form of glazing at the first floor level of the south elevation in accordance with Figure 3 on Page 6 of the Facade Observation Report.
- ~~fh.~~ The deletion of 2 storeys to result in an overall height of approximately 21.3 metres AHD to the parapet.

ENDORSED PLANS

2. The use and development must be generally in accordance with the plans endorsed in accordance with this permit. The development plans endorsed under Condition 1, and any other plan endorsed under a condition of this permit, must not be altered or modified without the written consent of the responsible authority.

MATERIALS AND FINISHES

3. Prior to the commencement of the development, excluding demolition, bulk excavation and works to remediate contaminated land, a schedule and samples of all external glazing reflectivity, materials, colours and finishes, including a colour render and notated plan/elevation must be submitted to, approved and endorsed by the responsible authority, in consultation with the Moreland City Council. When endorsed, the schedule and samples will form part of this permit.

NON-REFLECTIVE GLAZING

4. Glazing materials used on all 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 glass surface, to the satisfaction of the responsible authority.

MANAGEMENT PLAN FOR ALTERNATIVE HOUSING MODEL

5. ~~Within three months from the issue of the permit,~~ Prior to the occupation of the development, a Management Plan requiring 70% of the dwellings to be in the form of the Assemble Futures for all dwellings within the alternative housing model must be submitted to, approved, and endorsed by the responsible authority, in consultation with the Moreland City Council. When endorsed, the plan will form part of this permit. This plan must:
 - a. Provide for regular reporting to the responsible authority for the relevant 70% of dwellings at (for example) years 1, 3 and 5.
 - ~~ab.~~ Detail the parameters of rental rate and purchase price (including any associated annual increases in either) during a 5-year lease and purchase arrangement, to be agreed between the prospective renter/owner and the housing provider (Assemble) at the point of ~~occupation~~ sale, including:

- i. Ensuring the annual cost of the rent, until the point of sale, does not exceed 30% of the gross household income for ~~the mid-point of the~~ moderate income households ~~types as gazetted pursuant to Section 3AB of the Planning and Environment Act 1987~~ at time of occupation.
- ii. Ensuring the cost of ~~the future~~ mortgage repayments (principal and interest) does not exceed 35% of the gross household income for ~~the mid-point of the~~ moderate income households ~~at the time of sale. types as gazetted pursuant to Section 3AB of the Planning and Environment Act 1987 at the time of occupation.~~
- ~~iii. Ensuring that the tenant / prospective owner can elect for the option to purchase the dwelling at the conclusion of the 5-year lease.~~
- ~~iv. The requirements of condition 6.a)i and 6.a)ii may be varied to allow an alternative affordable housing contribution (other than the 70% of dwellings offered to moderate income households referred to in condition 7.a), comprising fewer dwellings at a greater discount for rent and purchase. The option of an alternative affordable housing contribution must be set at a point to allow eligibility for low income households to rent and / or purchase dwellings.~~
- ~~b. Require annual reporting authored by a Registered Housing Agency to be submitted to the responsible authority and Moreland City Council for all affordable housing dwellings and provide confirmation:~~
 - ~~i. that the Registered Housing Agency has validated the allocation of affordable housing dwellings to eligible low to moderate income households;~~
 - ~~ii. of the number of affordable housing dwellings rented;~~
 - ~~iii. that the annual cost of the rent, until the point of sale, does not exceed 30% of the gross household income for the mid-point of the moderate income household types as gazetted pursuant to Section 3AB of the Planning and Environment Act 1987 at time of occupation;~~
 - ~~iv. that the cost of the mortgage repayments (principal and interest) does not exceed 35% of the gross household income for the mid-point of the moderate income household types as gazetted pursuant to Section 3AB of the Planning and Environment Act 1987 at the time of occupation.~~

S173 AGREEMENT FOR ALTERNATIVE HOUSING MODEL

6. ~~Within 12 months from the grant of this permit~~ Prior to occupation of the development, the owner of the land must enter into an agreement pursuant to Section 173 of the *Planning and Environment Act 1987* with the Minister for Planning, Moreland City Council and the housing provider (Assemble) and register the agreement on the title for the land in accordance with Section 181 of the *Planning and Environment Act 1987* to provide for the following:
 - a. At least 70% of the dwellings must comply with the meaning of 'affordable housing' at Section 3AA of the *Planning and Environment Act* 1987 and must be affordable provided to households with a ~~household income that does not exceed the~~ 'moderate income range', consistent with Section 3AB of the *Planning and Environment Act* 1987;

~~Or~~

~~An affordable housing contribution be made, comprising fewer dwellings at a greater discount for rent and purchase. The option of an alternative affordable housing contribution must be set at a point to allow eligibility for low income households to rent and / or purchase dwellings~~

- b. All dwellings on site must be delivered, managed, leased and sold in accordance with the approved 'management plan for alternative housing model' required by Condition 56 of the permit; and
- c. This restriction, as it applies to each individual dwelling, will expire at the point of sale of each individual dwelling.

~~d. That a Registered Housing Agency be engaged to validate the allocation and ongoing eligibility requirements for the lease and purchase arrangements of affordable housing.~~

~~At the point of sale each dwelling, the contract of sale discloses as a special condition that a minimum of 0.1% of the sale price will be donated to Homes for Homes as part of the disbursement process.~~ The agreement must be in a form to the satisfaction of the Minister for Planning and the Moreland City Council. The owner of the land must pay all of the Minister for Planning's and Moreland City Council's reasonable legal costs and expenses of this agreement ~~(including those that are legal in nature), including~~ concerning the preparation, execution, and registration on title.

CONSTRUCTION MANAGEMENT PLAN

- 7. Prior to the commencement of the development, excluding works to remediate contaminated land, a detailed Construction Management Plan must be submitted to, approved, and endorsed by the responsible authority, in consultation with the Moreland City Council. When endorsed, the plan will form part of this permit. This plan must consider the following:
 - a. Staging of construction and works timetable.
 - b. Management of public access and linkages around the site during construction.
 - c. Site access and traffic management including:
 - i. Any disruptions to adjoining roads, vehicular and pedestrian accessways;
 - ii. Parking and traffic management of all workers' vehicles and construction vehicles;
 - iii. Access routes for construction vehicles; and
 - iv. Proposed parking and standing locations for construction vehicles.
 - d. Any works within the adjoining street network road reserves, including any temporary fencing works.
 - e. Hours of demolition and construction.
 - f. Control of noise, dust, litter and soiling of roadways.
 - g. Discharge of polluted waters.
 - h. Collection and disposal of building and construction waste.
 - i. Reasonable measures to ensure that disruption to any public transport services are kept to a minimum.
 - j. The name, title and contact details of a liaison officer for contact by residents and the responsible authority and the owners and occupiers of surrounding properties in respect of key stages/events (including their timing and duration) in the construction program of the development.
 - k. A requirement for all excavation, haulage and concrete vehicles to access and exit the site via Hope Street and Ovens Street and exit the site via Ballarat Street and Sydney Road.

The development must be undertaken in accordance with the approved Construction Management Plan to the satisfaction of the responsible authority and Moreland City Council.

CIVIL DESIGN

8. Prior to the commencement of the development, including demolition and bulk excavation, a legal point of discharge is to be obtained, with an on-site detention system to be designed with plans and calculations in accordance with *Moreland City Council Drainage Design Criteria for Developments March 2009*, where required, and a stormwater drainage plan showing how the site will be drained from the property boundary to the stated point of discharge. This must be submitted to, approved, and endorsed by the responsible authority, in consultation with Moreland City Council.
9. Prior to the commencement of the use/occupation of the development, all necessary vehicle crossings must be constructed and all unnecessary vehicle crossings must be demolished and the footpath, kerb and channel and/or services reconstructed to the satisfaction of Moreland City Council and at the cost of the applicant/owner of the land.
10. Existing street levels must not be altered for the purpose of constructing new vehicle crossings or pedestrian entrances without first obtaining the written approval of the Moreland City Council.
11. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance for subdivision whichever comes first, any Moreland City Council or service authority pole or pit within 1 metre of a proposed vehicle crossing, including the 1 metre splays on the crossing, must be relocated or modified at the expense of the permit holder to the satisfaction of Moreland City Council and/or the relevant service authority.
12. All public street lighting or other asset temporarily removed or altered to facilitate construction works shall be reinstated once the need for removal or alteration has ceased. Existing public street lighting must not be altered without first obtaining the written approval of Moreland City Council.
13. Unless otherwise approved, the development must provide an area within the site for an accessible boundary trap.

ENVIRONMENTALLY SUSTAINABLE DEVELOPMENT ~~SIGN~~

14. Prior to the endorsement of plans, an amended Environmentally Sustainable Development (ESD) Report and plans must be submitted to and approved by the ~~the satisfaction of the~~ responsible authority and endorsed to form part of the permit, in consultation with the Moreland City Council. The ESD Report must demonstrate a best practice standard of environmentally sustainable design and be generally in accordance with the ESD report prepared by Atelier Ten, Job Number 1342, dated 01.05.2020 (Rev. 06), but modified to:
 - a) Amend the BESS report (and any other corresponding documents) to:
 - i. Reflect the latest version of BESS and consider equitable development built form:
 - ii. Correctly identify the size of the non-residential spaces;
 - iii. Either remove the claim for the Transport credit 2.1 'Electric Vehicle Infrastructure' or amend the development plans to provide a designated electric vehicle parking bay with charging infrastructure; and
 - iv. Amend the Urban Ecology credit 2.1 'vegetation' and 2.3 'Green Walls and Facades' to be consistent with the percentage of the site to be landscaped as show on the architectural and landscape plans.
 - b) Provide preliminary NatHERS ratings assessments for all dwellings (or all dwellings to be thermally represented) demonstrating the 7.5 star NatHERS average committed to throughout the ESD and BESS report and copies of the modelling (i.e. FirstRate) certificates.

- c) Provide a preliminary section J glazing modelling detailing the NCC 2019 improvements as per the BESS report.
- d) A stormwater catchment plan that is consistent with the STORM report / MUSIC model, illustrating:
 - i. The site area, pervious area and area of untreated roofs;
 - ii. Stormwater catchment areas and total size and method of connection to treatment measures;
 - iii. Details of the Water Sensitive Urban Design treatment measures including their location, cross sections and connection and how treatment type can be realistically achieved;
 - iv. That the trafficable terrace runoff will not be directed into the proposed rainwater tanks or alternatively provide detail of water treatment systems;
 - v. If used, proposed planter box raingarden sizes, locations and setbacks from proposed or existing buildings and boundaries;
 - vi. The size of rainwater tanks in accordance with the stormwater report and include a clear annotation stating that tanks will be collecting rainwater from all roofed areas and will be servicing all the toilets and other nominated uses (i.e. washing machines) within each dwelling; and
 - vii. If raingardens form part of the stormwater management response, a section detail as per the Moreland City Council Raingarden Guidelines demonstrating the raingarden feasibility and functionality including but not limited to stormwater overland flow path, runoff collection, surface level (RL) at the top of the raingarden, the invert level of the outlet which connects to the stormwater system, the level of the overflow pipe, detention depth, infiltration layers and depth of the raingarden. The raingardens will also require confirmation that the underdrain in the raingarden will connect into the relevant Council legal point of discharge via gravity and without the need for a pumping system demonstrated by providing a pit schedule.

Where alternative ESD initiatives are proposed to those specified in the conditions above, the responsible authority, in consultation with the Moreland City Council may vary the requirements of this condition at its discretion, subject to the development achieving equivalent (or greater) ESD outcomes in association with the development.

~~When submitted and approved to the satisfaction of the responsible authority, in consultation with the Moreland City Council, the amended ESD Report 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~~

- 15. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance for subdivision, whichever comes first, all works must be undertaken in accordance with the endorsed Environmentally Sustainable Development (ESD) Report to the satisfaction of the Responsible Authority
- 16. Prior to the issue of an Occupancy Permit for any dwelling approved under this permit, a report from the author of the Environmentally Sustainable Development (ESD) 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 ESD Report have been implemented in accordance with the approved report.

17. 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 Moreland City Council.

WASTE MANAGEMENT

- ~~17~~18. Prior to the commencement of the development, an amended Waste Management Plan (WMP) must be submitted to, approved, and endorsed by the responsible authority, in consultation with the Moreland City Council. When endorsed, the plan will form part of this permit. The amended WMP must be generally in accordance with the WMP by Leigh Design, dated 7 May 2020, but amended to:

- a. Include a separate collection of organics (including all food waste) and glass collection. ~~and~~
- b. Include a 5 square metre area for the temporary storage of Hard Waste whilst the Building Manager organises its disposal.
- c. State that residents are not eligible for the Council hard rubbish collection because the property owners are not charged the Council waste service fee for waste collection.

- ~~18~~19. No garbage bin or waste materials generated by the development may be deposited or stored outside the site and bins must be returned to the garbage storage area as soon as practical after garbage collection, to the satisfaction of Moreland City Council.

LANDSCAPING

- ~~19~~20. Prior to the endorsement of plans, an amended Landscaping Plan for must be submitted to, approved, and endorsed by the responsible authority, in consultation with the Moreland City Council. When endorsed, the plan will form part of this permit. The amended plan must be generally in accordance with the Landscape Concept Package by Rush/Wright Associates, dated 26.02.2021, but amended to:

- a. Correctly correspond with the endorsed plans; and
- b. Include a detailed schedule of planting including any climbers, the species and number of plantings to show the extent of planting required to meet the credits claimed in BESS for the Urban Ecology credit 2.1 'vegetation' and 2.3 'Green Walls and Facades'.

The landscaping works and irrigation systems must be carried out and completed in accordance with the endorsed plan(s) to the satisfaction of the responsible authority prior to the occupation of the development. Once the landscaping is carried out, it must thereafter be maintained in good health, including the replacement of any dead or diseased plants to the satisfaction of Moreland City Council.

ACOUSTICS

- ~~20~~21. The acoustical outcomes specified in the Acoustic Specification by Acoustic Logic, project ID 20201371.1, dated 11/12/2020 (Revision 0) must be achieved in the completed development, to the satisfaction of the responsible authority. This includes outcomes that relate to glazing, external walls, roofs, mechanical plant and equipment (fixed domestic plant and recommended treatment) as well as rooftop communal areas.

3D MODEL

- ~~21~~22. Prior to the commencement of the development, a 3D digital model of the approved development must be submitted to, approved and endorsed by the responsible authority, in consultation with the Moreland City Council. 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 are made to the approved development (particularly the building envelope), an amended 3D digital model must be submitted to the satisfaction of the responsible authority.

Digital models provided may be shared with other government organisations for planning purposes.

BUILDING APPURTENANCES AND SERVICES

- ~~22~~23. All building plant and equipment on the roofs, balcony areas and common areas are to be concealed to the satisfaction of the responsible authority.. The construction of any additional plant machinery equipment, including but not limited to air-conditioning equipment, ducts, flues, all exhausts including car parking and communications equipment to be located away from the heritage façade so that is highly concealed and shall be to the satisfaction of the responsible authority.
- ~~23~~24. Any satellite dishes, antennae or similar structures associated with the development must be designed and located at a single point in the development away from the heritage façade to the satisfaction of the responsible authority, unless otherwise approved in writing by the responsible authority.
- ~~24~~25. All service pipes, and ducting apart from roof downpipes, must be concealed from the view of a person at ground level within common areas, public thoroughfares, and adjoining properties.
- ~~25~~26. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance for subdivision, whichever comes first, all boundary walls must be constructed, cleaned and finished to the satisfaction of the responsible authority.
- ~~26~~27. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance for subdivision, whichever comes first, all telecommunications and power connections (where by means of a cable) and associated infrastructure to the land (including all existing and new buildings) must be underground to the satisfaction of the responsible authority.

PUBLIC TREES

~~27 — Prior to development commencing (including any demolition, excavations, tree removal, delivery of building/construction materials and/or temporary buildings), all council street trees on Ballarat Street 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 Plan~~

~~Protection works informed by a Tree Protection Plan (TPP) to scale that show all Tree Protection Zones including canopies and tree protection fencing~~

~~b) — 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 and maintained 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~~

~~c) 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.~~

~~d) 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.~~

~~e) 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.~~

~~When submitted and approved to the satisfaction of the Responsible Authority in consultation with the Moreland City Council, the TPP will be endorsed to form part of this permit. The recommendations of the endorsed TPP must be implemented to the satisfaction of the Responsible Authority and the Moreland City Council.~~

~~28 Following the endorsement of a TPP, a bank guarantee equivalent to the combined environmental and amenity values of the public trees that may be affected by the development will be held against the TPP for the duration of demolition and construction activities. The bond amount will be calculated by the Moreland City Council and provided to the applicant/owner of the land. Should any tree be adversely impacted, the Moreland City Council will be compensated for any loss of amenity, ecological services or amelioration works incurred.~~

~~29 In the event that a Construction Management Plan changes any of the tree protection methodologies or impacts on public trees in ways not identified in the endorsed TPP, an amended TPP must be submitted to, approved and endorsed by the responsible authority, in consultation with the Moreland City Council. When endorsed, the amended TPP will form part of this permit and will supersede any previously endorsed TPP.~~

~~30 In the event that public trees are proposed for removal at any stage of the development, plans must be submitted to, approved and endorsed by the responsible authority, in consultation with the Moreland City Council. When endorsed, the plans will form part of this permit. The plans must show replacement and or additional tree plots of a larger size and increased soil volume than currently exists in the street frontages adjacent to the development.~~

~~31 All works, including demolition and bulk excavation, within the Tree Protection Zones of public trees must be undertaken in accordance with the endorsed TPP and supervised by a suitably qualified arborist, where identified in the TPP, unless otherwise approved in writing by the responsible authority.~~

POTENTIALLY CONTAMINATED LAND AND REMEDIATION

~~32~~²⁸ Prior to the commencement of the development, including demolition and bulk excavation, the applicant/owner of the land must obtain either:

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

- b. A Statement of Environmental Audit under Section 53Z of the *Environment Protection Act 1970*. This Statement must specifically state that the site is suitable for the intended use(s) hereby permitted.

Where a Statement of Environmental Audit is issued for the land, and any condition of that Statement requires any maintenance or monitoring of an ongoing nature, the Owner(s) must enter into an Agreement with the Minister for Planning and Moreland City Council pursuant to Section 173 of the *Planning and Environment Act 1987*. Where a Section 173 Agreement is required, the Agreement must be executed prior to the commencement of the permitted use, and prior to the certification of any plan of subdivision under the *Subdivision Act 1988*. All expenses involved in the drafting, negotiating, lodging, registering and execution of the Agreement, including those incurred by the responsible authority and Moreland City Council, must be met by the Owner(s).

- ~~33~~29. Prior to any remediation works (if required) being undertaken in association with an 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 a Certificate or Statement of Environmental Audit.
- ~~34~~30. 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 34-28 and 35-39](#)~~28~~ 29 are satisfied.
- ~~35~~31. Where a Statement of Environmental Audit is issued for the land, the buildings and works and the use(s) of the land that are the subject of this permit must comply with all directions and conditions contained within the Statement.
- ~~36~~32. Where a Statement of Environmental Audit is issued for the land, prior to the commencement of the use, or prior to the issue of any Statement of Compliance under the *Subdivision Act 1988*, or prior to the issue of an Occupancy Permit under the *Building Act 1993*, whichever is earlier, a letter prepared by an Environmental Auditor appointed under the *Environment Protection Act 2021* must be submitted to the responsible authority to verify that the directions and conditions contained within the Statement have been satisfied.

CAR PARKING ALLOCATION

- ~~37~~33. Of the 75 car parking spaces permitted, 3 spaces must be allocated to the retail premises staff and 72 spaces must be allocated to owners/occupiers of the dwellings.
- ~~38~~34. Prior to the occupation of the development, a Car Park Management Plan must be submitted to, approved, and endorsed by the responsible authority, in consultation with the Moreland City Council. When endorsed, the plan will form part of this permit. The plan must detail the operation of the car parking and provide:
 - a) That leasing of car spaces is prioritised to occupants of the building and only offered for lease to the public if building occupants do not take up the lease;
 - b) Detail as to whether a car share is proposed to operate on-site;
 - c) How the fee will be determined, to ensure that the leasing of car spaces is a viable option for building occupants;
 - d) That no more than one car parking space will be leased to the occupants of each dwelling; and

- e) A statement confirming whether the car parking is to be retained within common ownership or be separately titled, if occupants elect to purchase dwellings;

No alterations to the plan may occur without the written consent of the responsible authority.

OPERATING HOURS

~~39~~³⁵. The food and drink premises use hereby permitted must only be operate between the hours of 7am to 11pm on any day.

TRANSPORT FOR VICTORIA

~~40~~³⁶. Prior to the occupation of the residential use, a Green Travel Plan must be submitted to and approved by the responsible authority in consultation with Moreland City Council and the Head, Transport for Victoria. The Green Travel Plan must include, (but is not limited to), the following:

- a. objectives for the Plan;
- b. the objectives must be linked to measurable targets, actions and performance indicators;
- c. a description of the existing active private and public transport context;
- d. initiatives that would encourage residents, employees and visitors to the development to utilise active private and public transport and other measures that would assist in reducing the amount of private vehicle traffic generated by the site including end of trip facilities;
- e. timescale and costs for each active;
- f. the funding and management responsibilities, including identifying a person(s) responsible for the implementation of actions;
- g. a monitoring and review plan requiring annual review for at least five years; and
- h. A dedicated bike maintenance bay (minimum 2.5m x 1.5m) clearly marked and signed adjacent to bike parking area for the residential building and include:
 - All-In-One bike service rack with tools
 - Air pump suitable for bicycle tyres
 - Water tap, wall mounted and positioned over a grated drain
 - General purpose power outlet
 - Suitable lighting, with timeclocks or sensors set to a minimum of 10 minutes

~~41~~³⁷. The Green Travel Plan when approved must be implemented and complied with to the satisfaction of the and no cost to the responsible authority.

DEVELOPMENT AND COMMUNITY INFRASTRUCTURE LEVY

~~42~~³⁸. Prior to the issue of a Building Permit in relation to the development approved by this permit, a Development Infrastructure Levy and Community Infrastructure Levy must be paid to Moreland City Council in accordance with the approved Development Contributions Plan.

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

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

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

PUBLIC WORKS PLAN

~~43~~³⁹. Prior to the commencement of the development, a Public Works Plan and associated construction drawing specifications detailing the works to Ovens Street and Ballarat Street must be submitted to the satisfaction of the responsible authority, in consultation with Moreland City Council. The Plan must include:

- a) All construction details in accordance with the *Moreland City Council Technical Notes July 2019* (or any updated version);
- b) A detailed level and feature survey of the footpaths and roads;
- c) The upgrade of the footpath adjacent to the site. Public footpaths are to be reinstated to the previous levels with a maximum cross fall slope of 1 in 40 (2.5%);-
- d) Any Council or service authority pole or pit within 1 metre of the proposed vehicle crossing, including the 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 street tree planting or landscaping along Ovens Street and Ballarat Street in appropriate locations in consultation with the Moreland City Council's Open Space Department; and
- i) Any other works to the public land adjacent to the development.

When ~~submitted~~ and approved ~~to~~ the satisfaction of the responsible authority in consultation with the Moreland City Council, 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 in consultation with Moreland City Council.

~~44~~⁴⁰. Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance for subdivision, whichever comes first, all public works shown on the endorsed Public Works Plan must be implemented to the satisfaction of the responsible authority in consultation with the Moreland City Council at the expense of the owner of the land, unless otherwise agreed with prior written consent of the responsible authority in consultation with the Moreland City Council.

ACCESSIBILITY REPORT

~~45~~⁴¹. 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, in consultation with the Moreland City Council. The report must be prepared by a suitably qualified person and must:

- a) Detail how the development will incorporate design features in accordance with Standard D17 (Accessibility) of Clause 58 of the Moreland Planning Scheme, including the detailed design of the adaptable bathrooms (e.g. confirmation of hobless showers and removable hinges to doors); and
- b) Detail how the development will provide housing that can be lived in by people with limited mobility, in accordance with the design features contained in the Liveable Housing Design Guidelines (Liveable Housing Australia, 2017).

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 in consultation with the Moreland City Council. The recommendations of the report must be implemented to the satisfaction of the responsible authority in consultation with the Moreland City Council prior to the occupation of the development.

~~46~~⁴². Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance for subdivision, whichever comes first, a report from the author of the Accessibility Report, approved pursuant to this permit, or similarly qualified person or company, must be submitted to the Responsible Authority. The report must be to the satisfaction of the responsible authority in consultation with the Moreland City Council and must confirm that all measures specified in the Accessibility Report have been implemented.

HERITAGE WORKS PLAN

- 43 Prior to the commencement of the development, excluding works to remediate contaminated land, a detailed heritage works plan prepared by a suitably qualified heritage consultant/architect must be submitted to, approved and endorsed by the responsible authority in consultation with Moreland City Council. The heritage works plan must include:
- a. A report prepared by a suitably qualified structural engineer assessing the structural condition of the shroud, and in particular whether or not it is capable of being repaired having regard to relevant safety and building standards and regulations;
 - b. If capable of being repaired, a detailed schedule of the heritage conservation works including a statement of methodology for carrying out the repairs; and
 - ~~a~~c. If not capable of being repaired, a detailed schedule including a statement of methodology and any necessary amended plans, elevations and detailed specifications, of the works to reconstruct the shroud on a 'like for like' basis.

DEVELOPMENT TIME LIMIT

~~47~~⁴⁴. This permit will expire if one of the following circumstances applies:

- a. The development is not commenced within two years of the date of this permit.
- b. The development is not completed within four years of the date of this permit.
- c. The use approved by this permit is not commenced within four years of the date of this permit

The responsible authority may extend the permit if a request is made in writing by the owner or the occupier of the land before the permit expires, or within six months afterwards.

The responsible authority may extend the time for completion of the development if a request is made in writing by the owner or the occupier of the land within 12 months after the permit expires and the development started lawfully before the permit expired.

Date issued:

Date permit comes into operation: *(or if no date is specified, the permit comes into operation on the same day as the amendment to which the permit applies comes into operation)*

Signature for the responsible authority:

NOTES

1. This permit does not authorise the commencement of any demolition or construction on the land. Before these activities may commence, the applicant/owner of the land must apply for and obtain appropriate building approval from a Registered Building Surveyor.
2. The applicant/owner of the land will provide a copy of this permit and endorsed plans to any appointed Building Surveyor. It is the responsibility of the applicant/owner of the land and the Building Surveyor to ensure that all works approved by any building permit are consistent with this permit.
3. This permit does not represent the approval of other departments of the Moreland City Council or other statutory authorities. Such approvals may be required and may be assessed on different criteria from that adopted for the approval of this permit. All necessary approvals and permits are to be first obtained from those authorities and the works performed to their satisfaction.
4. Should Council impose car parking restrictions in this street, the owners and/or occupiers of the dwellings would not be eligible for resident parking permits to park on the street. See Council's website for more information: <https://www.moreland.vic.gov.au/parking-roads/parking-permits/residential-parking-permits/>
5. A copy of the Certificate or Statement of Environmental Audit, including the complete Environmental Audit Report must be submitted to the Responsible Authority within 7 days of issue, in accordance with the *Environment Protection Act 2017*.
6. Where a Statement of Environmental Audit is issued for the land a copy of that Statement must be provided to any person who proposes to become an occupier of the land, pursuant to the *Environment Protection Act 2017*.
7. The land-owner and all its successors in title or transferees must, upon release for private sale of any part of the land, include in the Vendor's Statement pursuant to Section 32 of the *Sale of Land Act 1962*, a copy of the Certificate or Statement of Environmental Audit including a copy of any cover letter.

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.