

Planning and Environment Act 1987

Priority Projects Standing Advisory Committee Report

Moreland Planning Scheme

Referral No 5: 10 Dawson Street, Brunswick

21 October 2020

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Priority Projects Standing Advisory Committee Report pursuant to s151 of the Act

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



Sarah Carlisle, Chair



Sally Conway, Member

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Glossary and abbreviations

Act	<i>Planning and Environment Act 1987</i>
BVRT	Building Victoria's Recovery Taskforce
C1Z	Commercial 1 Zone
Committee	Priority Projects Standing Advisory Committee
Council	Moreland City Council
DELWP	Department of Environment, Land, Water and Planning
DDO18	Design and Development Overlay Schedule 18
HO	Heritage Overlay
NOD	Notice of Decision to Grant a Planning Permit MPS/2019/130 issued by Council on 18 June 2020
PPF	Planning Policy Framework
VCAT	Victorian Civil and Administrative Tribunal

1 Overview

(i) Referral summary

Date of referral	22 September 2020
Members	Sarah Carlisle, Sally Conway
Description of referral	Draft Moreland Planning Scheme Amendment C201more
Common name	Referral No 5: 10 Dawson Street, Brunswick
Municipality	Moreland
Planning Authority	Minister for Planning
Site	10 Dawson Street, Brunswick
Site inspection	6 October 2020
Submissions	<ul style="list-style-type: none"> - Moreland City Council (supported with changes) - Applicant (Urbis for TBF Residential Dawson St Pty Ltd) (supported with changes) - Objectors (L McDonald and C Klettner) (opposed)
Consultation	Roundtable discussion through video conference on 8 October 2020
Parties	<ul style="list-style-type: none"> - Moreland City Council represented by Darren Camilleri (Planning Coordinator) assisted by Diahnn McIntosh (Council's Heritage Advisor), Hiren Bhatt (Council's Urban Design Unit) and Rachel Hornsby of Hornsby & Co (affordable housing expert) - Applicant represented by Jamie Govenlock of Urbis, assisted by Lauren Grusauskas (Urbis), James Wilton and Peter Hart (Barnett Foundation), Julie Edwards (Jesuit Social Services) and James Pearce and Johnson Hasanuddin (Fender Katsalidis Architects) - Lawrence McDonald and Christian Klettner (the Objectors)¹
Information relied upon	Refer to Appendix C
Date of this report	21 October 2020

(ii) Findings

The Committee finds:

- The draft Amendment is supported and should be progressed.
- The appropriate rate of affordable housing is a 20 percent contribution based on the Barnett model.
- The proposed height of the building should be reduced by one storey (to 8 storeys), taken from the middle section of the building (Levels 3 to 6). This is needed to reduce the impact of the building on adjacent and nearby heritage buildings and the heritage precinct more broadly.

¹ Mr McDonald and Mr Klettner were among the 18 objectors to the permit application, and were a party to the Committee process as applicants for VCAT Appeal P1117/2020.

- The clearance height over the carriageway easement should be no more than 4.1 metres. Council should be encouraged to explore options for reducing this further, for example by providing access for the specialist maintenance machinery needed for Brunswick Baths via the Council owned property to the rear of the site rather than via the carriageway easement.
- The vertical blades on the eastern elevation along the podium wall should be oriented so as to prevent direct overlooking from the office levels to the habitable room windows at 259 Sydney Road.
- The development should be required to commence within 15 months, with the ability for the Responsible Authority to extend the commencement date.

(iii) Recommendations

The Committee recommends:

- 1. The Minister should proceed with draft Amendment C201 to the Moreland Planning Scheme.**
- 2. The Incorporated Document should be amended as shown in Appendix D to:**
 - a. require an affordable housing contribution of 20 percent of the dwellings in the development, delivered in accordance with the Barnett model**
 - b. require a reduction in the building height of one storey, taken from Levels 3 to 6**
 - c. require the clearance height over the carriageway easement to be no more than 4.1 metres**
 - d. require the vertical blades on the eastern elevation of the podium wall to be oriented so as to prevent direct overlooking from the office levels to the habitable room windows of the building at 259 Sydney Road, Brunswick**
 - e. require development to commence within 15 months unless extended by the Responsible Authority**
 - f. include general drafting improvements.**

2 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.

This is Referral No. 5.

The Committee was provided with a letter of referral from the Minister for Planning dated 22 September 2020 (Appendix B) that tasked it to:

- consider the submissions received in relation to draft Moreland Planning Scheme Amendment C201more (the Amendment) and any relevant expert evidence
- make a recommendation on whether the Minister should proceed with the Amendment
- provide specific advice about:
 - the rate of provision of affordable housing
 - the proposed building height
 - the time for commencement of the development
 - the associated drafting of the incorporated document clauses.

(ii) Membership

Committee members dealing with Referral No. 5 are Sarah Carlisle and Sally Conway. The Committee was assisted by Georgia Thomas, Project Officer of Planning Panels Victoria.

(iii) Background to the proposal

The proposal involves the development of land at 10 Dawson Street, Brunswick (the site) for a nine-storey mixed use building for retail, office floorspace, 57 apartments, rooftop garden and a reduction in the standard car parking requirement. Figure 1 below shows an indicative image of the proposed development (Dawson Street frontage), with the Brunswick Baths located to the left.



Figure 1 Visual image of the proposed development

Source: Application Plans Plan TP421, contained in Document 1

A brief chronology is provided in Table 1.

Table 1 **Chronology of the proposal**

Date	Event
13 March 2019	<ul style="list-style-type: none"> - Applicant applied for a permit for the proposal with Council - Application plans showed 12 storey development
25 April 2019	<ul style="list-style-type: none"> - Council made a request for further information
22 October 2019	<ul style="list-style-type: none"> - Applicant lodged an application to amend the proposal and a response to the request for further information - Key changes included: <ul style="list-style-type: none"> - a reduction in height (from 12 storeys to 9 storeys) - a reduction in the number of apartments (from 69 to 57) - an increase in upper level setbacks - an increase in clearance height over carriageway easement to 4.6 metres - retraction of offer of affordable housing
Date unknown	<ul style="list-style-type: none"> - Amended application advertised - 18 objections received - Issues raised included building height, non-compliance with Design and Development Overlay Schedule 18, inappropriate response to nearby heritage buildings, insufficient car parking, traffic, pedestrian and bicycle safety, overlooking, overshadowing and other general amenity concerns
18 June 2020	<ul style="list-style-type: none"> - Council issued a Notice of Decision to Grant a Planning Permit MPS/2019/130 (NOD) - Conditions of NOD included a further reduction in height (from 9 storeys to 7 storeys)
15 July 2020	<ul style="list-style-type: none"> - Objectors lodged VCAT Application P1117/2020 seeking a review of Council's NOD
14 August 2020	<ul style="list-style-type: none"> - Applicant lodged VCAT Application P1352/2020 seeking a review of NOD conditions associated with building height and clearance height above carriageway easement
Date unknown	<ul style="list-style-type: none"> - Building Victoria's Recovery Taskforce (BVRT) referred the proposal to the Minister for Planning
Date unknown	<ul style="list-style-type: none"> - Minister prepared draft Amendment C201more to facilitate the proposed development through a site specific Incorporated Document - Incorporated Document included conditions that largely reflected the NOD, save for: <ul style="list-style-type: none"> - the condition requiring a reduction in height from 9 to 7 storeys - the time for commencement and completion of development (the NOD required development to commence within 3 years, whereas the Incorporated Document requires commencement within 12 months)

Date	Event
Date unknown	<ul style="list-style-type: none"> - DELWP (on the Minister's behalf) undertook targeted consultation in relation to the Amendment with Council, the Applicant and the Objectors - Submissions received from all three parties
22 September 2020	<ul style="list-style-type: none"> - Minister referred the proposal to the Priority Projects Standing Advisory Committee, together with: <ul style="list-style-type: none"> - draft Amendment documents - plans of the proposed development - submissions in response to targeted consultation

(iv) Consultation

The Committee wrote to the parties on 30 September 2020 advising them that the proposal had been referred to the Committee. It indicated that a Hearing may not be required and that it intended to consider Referral No. 5 by way of a roundtable discussion. Parties were invited to raise any procedural issues. All parties indicated that they intended to participate in the roundtable, and no procedural issues were raised.²

The Committee requested the following information from the parties in its 30 September 2020 letter:

- a copy of the NOD
- a copy of the officer report supporting the NOD
- any proposed updates to the plans for the proposed development (a plan to comply with Condition 1(d) of the NOD was submitted which internally reconfigured a number of apartments on Levels 2 to 6 to provide an outlook from the living area to Saxon Street)
- a copy of the two VCAT Applications and the accompanying Statements of Grounds
- any expert evidence prepared for the purpose of the two VCAT proceedings (there was none)
- any other relevant documents and correspondence in relation to the draft Amendment.

All of the requested information was provided in advance of the roundtable.

The Committee wrote to parties on 5 October 2020 outlining the roundtable process, inviting the parties to provide mark-ups of the draft Incorporated Document, and directing them to provide any further material they intended to rely on in the roundtable. In response, the Committee received:

- from Council:
 - a mark-up of the Incorporated Document
 - written advice from Rachel Hornsby of Hornsby & Co to Council in relation to an appropriate affordable housing contribution and conditions
- from the Applicant:

² The Objectors indicated in their response to the targeted consultation about the draft Amendment that *"it would be premature and an abuse of authority for the Minister to override due planning processes to facilitate the proposed development"*. They reiterated this concern at the roundtable discussion, and submitted that the permit application should have been left to follow the normal process at VCAT.

- a mark-up of the Incorporated Document
- a written position statement about the proposal
- a written statement prepared by the Barnett Foundation describing the Barnett model of affordable housing and its proposed contribution at 10 Dawson Street
- extracts from the application plans that included shadow diagrams.

The Committee structured the discussions at the roundtable around the three key issues on which the Committee had been asked to advise, namely:

- affordable housing
- building height
- time for commencement of development.

It also allowed time for discussion of other issues that parties wished to raise in relation to the Amendment.

Discussions included the three key issues, as well as the impacts of the proposed development on the Objectors including overlooking, overshadowing and a loss of privacy. The discussions were informative and productive, and helped the Committee to understand the issues and the parties' respective positions.

Parties were given the opportunity to provide further without prejudice mark-ups of the Incorporated Document following the roundtable, to address new information that arose in the roundtable. Mark-ups were provided by Council and the Applicant (who also provided a closing statement), and the Objectors provided written comments.

In reaching its findings the Committee considered all of the material received prior to, during, and after the roundtable.

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

3 Site and planning context

3.1 The site

The site is a single L-shaped allotment on the north side of Dawson Street. To its west are the Brunswick Baths and the railway line. To its east is Saxon Street, and the Objectors' building at 259 Sydney Road. To the north is a large Council property known as 'Siteworks'. To the south is a collection of mainly one and two storey brick buildings, with the larger Municipal Library and Brunswick Town Hall toward the corner of Sydney Road.



Figure 2 Aerial photograph of the site and surrounds

Source: Urbis Planning Report, October 2019, forming part of the permit application material

The site is within the Brunswick Activity Centre - Sydney Road and Upfield Corridor, which extends on the west side of Sydney Road to the railway line.

The site currently contains a one to two storey brick commercial building named 'The John Curtain Building' which houses the Brosnan Centre – a Jesuit Social Services program. An at grade carpark is on the west side of the site, adjacent to the Brunswick Baths. A carriageway easement exists over part of the carpark area in favour of the land on which the Brunswick Baths are located.



Figure 3 **The site – existing development**

Source: Urbis Planning Report, October 2019, forming part of the permit application material

The building at 259 Sydney Road is primarily residential at the Saxon Street frontage. The ground floor fronting Sydney Road is used for retail. A 'Vodafone' shop on the corner extends a short distance down Dawson Street. Behind that are the residential entrances.

The site is:

- in the Commercial 1 Zone (C1Z)
- subject to:
 - Design and Development Overlay Schedule 18 (DDO18)
 - Development Contributions Plan Overlay Schedule 1
 - Environmental Audit Overlay
 - Heritage Overlay (HO)
 - Parking Overlay.

3.2 Planning framework

(i) State policy

Key relevant State policies include:

- Clause 11 – Settlement
 - Clause 11.03-1S – Activity centres
 - Clause 11.03-1R – Activity centres – Metropolitan Melbourne
- Clause 15 – Built Environment and Heritage
 - Clause 15.01-2S – Building design
 - Clause 15.01-1S – Urban design
 - Clause 15.01-5S – Neighbourhood character
 - Clause 15.01-1R – Urban design – Metropolitan Melbourne

- Clause 16 – Housing
 - Clause 16.01-1R – Integrated housing – Metropolitan Melbourne
 - Clause 16.01-2S – Location of residential development
 - Clause 16.01-2R – Housing opportunity areas – Metropolitan Melbourne
 - Clause 16.01-3S – Housing diversity
 - Clause 16.01-3R – Housing diversity – Metropolitan Melbourne
- Clause 17 - Economic Development
 - Clause 17.01 – Employment.

Broadly, these policies seek to:

- encourage major retail, residential, commercial, administrative, entertainment and cultural developments to concentrate in activity centres which provide a variety of land uses and are highly accessible
- facilitate and support increased housing in activity centres and established areas to create a city of 20-minute neighbourhoods close to existing services, jobs and public transport
- encourage built form to integrate positively into the characteristics of the local area while ensuring minimal adverse impacts to abutting properties
- ensure all new developments respond appropriately to their environment, contributing to a sense of place and identity
- locate new housing in or close to activity centres and sites that offer good access to jobs, services and transport
- promote a housing market that meets community needs and provides a range of housing types.

(ii) Local policy

Key aspects of local policy that relate to the proposal are:

- Clause 21.02 (Vision)
 - identifies the Brunswick Major Activity Centre as a 'Larger Centre' where significant growth is encouraged
 - encourages apartment developments conducive to increased residential density in Larger Centres
 - facilitates urban renewal and consolidation along Sydney Road
 - encourages population and employment growth in these areas
 - seeks to make efficient use of existing commercial, community and public transport facilities in these areas and allow for convenient access.
- Clause 21.03 (Strategic Framework) seeks to:
 - direct the majority of Moreland's growth to established activity centres
 - support a network of activity centres across Moreland to provide residents with walkable access to their daily and weekly shopping and service needs
 - ensure the scale of development is appropriate to each centre's specific context
 - encourage Brunswick Major Activity Centre to provide a broad mix of retail uses, commercial and cultural activity, employment options, administrative and civic centre functions, government investment and regional facilities in accordance with the approved Structure Plan
- Clause 22.01 (Neighbourhood Character)
 - identifies the site as within a Substantial Change Area

- supports substantial change and creating a new character of increased density and scale of built form, as defined in the relevant zone, overlay or Structure Plan
- Clause 22.06 (Heritage) encourages new development that:
 - is respectful of the significance of Moreland's heritage places and does not dominate the heritage place or precinct
 - enhances the significance of heritage places, while contributing to Moreland's varied streetscape character
- Clause 22.07 (Apartment Development of Five or More Storeys):
 - seeks to ensure liveability, equitable development rights and external amenity are not compromised in higher density development
 - incorporates appropriate setbacks from side and rear boundaries.

(iii) Zones and overlays

All zones and overlays have the purpose of implementing the Municipal Strategic Statement and the Planning Policy Framework. The other purposes of the applicable zone and overlays are (as relevant) shown in Table 2.

Table 2 Purposes of applicable zone and overlays

Control	Purposes
C1Z	<ul style="list-style-type: none"> - To create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses. - To provide for residential uses at densities complementary to the role and scale of the commercial centre.
DDO	<p>Head clause:</p> <ul style="list-style-type: none"> - To identify areas which are affected by specific requirements relating to the design and built form of new development. <p>Schedule 18 Design Objectives:</p> <ul style="list-style-type: none"> - 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.
HO	<ul style="list-style-type: none"> - To conserve and enhance heritage places of natural or cultural significance.

Control	Purposes
	<ul style="list-style-type: none">- To conserve and enhance those elements which contribute to the significance of heritage places.- To ensure that development does not adversely affect the significance of heritage places.- To conserve specified heritage places by allowing a use that would otherwise be prohibited if this will demonstrably assist with the conservation of the significance of the heritage place.

4 The issues

This Chapter contains the Committee's advice in relation to the three key issues on which the Minister has requested advice, as well as the issue of overlooking and loss of privacy raised by the Objectors.

4.1 Affordable housing contribution

(i) Context

The draft Incorporated Document does not include an affordable housing contribution. The original permit application (at 12 storeys) proposed a 100 percent contribution, which was retracted when Council required the reduction of the building to 9 storeys. In response to targeted consultation on the draft Amendment, the Applicant offered a 20 percent contribution based on 9 storeys.

While all parties supported an affordable housing contribution at the roundtable, the Objectors submitted that promoting affordable housing and subsidising office costs of social services are not objectives of the *Planning and Environment Act 1987* (the Act) and should not be used to justify breaching planning controls.

(ii) The issue

The issue is:

- an appropriate rate and model for an affordable housing contribution.

(iii) The Barnett model

The proposed development is a partnership between Jesuit Social Services (who owns the land and intends to occupy the proposed office space at ground and first floor levels), and the Barnett Foundation. The Barnett Foundation is a not for profit organisation that uses the build-to-sell, shared equity model to deliver affordable housing. It also develops crisis and transitional housing (among other things).

The Barnett affordable housing model creates vacancies in social housing by:

- developing residential apartments for sale to current social housing tenants
- enabling tenants, especially families, to purchase the apartments by providing them with an interest free loan conditional on the surrender of their social housing lease
- reinvesting the funds generated into additional apartment projects.³

Its target demographic is social housing tenants who are paying full market rent as a result of no longer qualifying for social housing based on income and asset requirements, but who are struggling to raise all of the finance they need to purchase market housing. Purchasers of the Dawson Street affordable housing apartments will only be required to fund an average of \$539,000 (by a deposit and a bank loan) for an apartment with an average market value of \$829,000. The balance is funded by an interest free loan from the Barnett Foundation which is not repayable until the purchaser resells the apartment. The interest-free loan in effect:

- provides a 35 percent discount to the market value of the apartment

³ Barnett Foundation website <https://barnett.foundation/>

- prevents the purchaser from immediately selling the apartment at full market price to make a windfall gain.

(iv) The contribution

The original permit application (at 12 storeys) proposed that all of the apartments (69 in total) would be sold under the Barnett model. The amended permit application (at 9 storeys) retracted the affordable housing offer:⁴

Without any support or comfort provided to our client from Council in respect to built form outcomes that could be achieved (including the directive to significantly reduce the scale of the proposed building and address Council's carriageway easement position), our client is now unable to provide this commitment.

The Applicant's response to the targeted consultation about the draft Amendment offered a 20 percent contribution, which would equate to 12 apartments:⁵

We accept that a condition is required to provide comfort to the Minister that this development intends to deliver affordable housing. To ensure our client's intention to provide affordable housing as part of this development is realised, we propose that a suitably worded condition be inserted into the draft Incorporated Document requiring at least 20% of all dwellings to be provided as Affordable Housing Dwellings as defined under the Act. This proportion of dwellings is well beyond typical requirements, noting that recent policy in other local government areas requires a much smaller proportion (such as a minimum 6% requirement within Fisherman's Bend and the new controls proposed for Arden).

At the roundtable, Jesuit Social Services and Barnett Foundation representatives explained:

- they would need the option of selling a substantial portion of the apartments at full market value to subsidise the affordable housing apartments
- while they would endeavour to provide a higher proportion as affordable housing, they could not guarantee a more than 20 percent contribution given the reduced apartment yield under the 9 storey proposal (compared to the original 12 storeys)
- the office space also impacted on the viability of the development
- if the development was further reduced to 7 storeys as sought by Council, it may not be viable at all with an affordable housing component.

In relation to this last point, when asked by the Committee whether they were able to produce a viability analysis which demonstrated this, they were not able to do so.

Council's response to the targeted consultation on the draft Amendment suggested conditions that provided for an affordable housing contribution of 100 percent (57 apartments) sold at a 30 percent discount (at least) to market.

Council engaged Rachel Hornsby of Hornsby & Co to provide affordable housing advice. Her statement (Document 8) included the following key points:

- there is no 'right' number for an affordable housing contribution
- requiring a high proportion of affordable housing will render the development unviable, but requiring a very low contribution does not deliver the value share or trade-off for the fast-track process, and does not result in meaningful affordable housing outcomes

⁴ Urbis response to Council's request for further information, 22 October 2019

⁵ Urbis response to targeted consultation, 19 August 2020

- given the benefit of a fast-track process and potentially of increased height, a much higher contribution than the 20 percent proposed by the Applicant should be sought. She suggested 50 percent or more
- alternatively, she suggested dwellings be sold to a registered housing association or provider at 75 percent discount from market value at the following rates:⁶
 - 6 percent for a 7-storey building
 - 8 percent for a 9-storey building
- if the dwellings are sold to a private organisation or individuals rather than a registered housing association, there needs to be a mechanism to ensure the value of the affordable housing contribution is not simply accrued to an individual or organisation and is instead recycled back into value to the community.

Council's final preferred version of the Incorporated Document provided for a minimum 20 percent contribution based on the Barnett model, with provision for an alternative mechanism provided it delivers the equivalent value.⁷

(v) Discussion

The Committee has been asked to provide specific advice on the appropriate rate of affordable housing. However as Ms Hornsby's evidence pointed out, the appropriate rate depends on several other factors, including the proposed model for delivery.

Does the housing qualify as affordable housing?

First, it is necessary to address whether the Barnett model constitutes affordable housing within the meaning of the Act. Affordable housing is defined in the Act as housing appropriate for the housing needs of very low, low and moderate income households. The income ranges are specified in a Ministerial Notice⁸ published under section 3AB. The suitability criteria are set out in a Ministerial Notice⁹ published under section 3AA(2).

The Barnett Foundation estimates that, based on a loan plus deposit of \$539,000, average interest rates, and the generally accepted principle that housing costs, to be affordable, should not exceed 30 percent of household income, a household income of around \$76,500 per annum would be required to service the commercial loan required to purchase one of its Dawson Street affordable housing apartments. This means the apartments are affordable for the 'low' and 'moderate' household income ranges (depending on household makeup) specified in the section 3AB notice.

The Committee is satisfied that the Dawson Street apartments meet the criteria in the section 3AA(2) notice. They:

- provide a long-term public benefit in freeing up social and public housing
- provide secure long-term tenure to the purchasers
- are appropriate in terms of form and quality (they are indistinguishable from the market apartments in the proposed development)

⁶ This was based on existing provisions in other planning schemes (such as the 6 percent in Fishermans Bend) and Ms Hornsby's experience with other similar applications.

⁷ The Committee understands Council prepared its final version in consultation with Ms Hornsby.

⁸ https://www.planning.vic.gov.au/__data/assets/pdf_file/0043/488995/Government-Gazette-Order-2.pdf

⁹ https://www.planning.vic.gov.au/__data/assets/pdf_file/0026/489014/Final_Specified-Matters-Under-Section-3AA2-Ministerial-Notice.pdf

- are in an appropriate location, close to the amenities, employment opportunities and transport offered by Brunswick Major Activity Centre and are in close proximity to the central city
- are entirely integrated with the market apartments in the development, and are appropriately integrated in the local community
- fulfil an important and demonstrated need for affordable housing in Moreland and in Melbourne more broadly.

The Committee is therefore satisfied that the Dawson Street apartments sold under the Barnett model would qualify as affordable housing for the purposes of the Act.

An appropriate contribution

The Committee agrees with Ms Hornsby that:

- there is no ‘right’ number for an affordable housing contribution
- the contribution must not render the project unviable for the developer, or it won’t happen and no affordable housing outcome will be delivered
- the contribution rate should reflect in some way the ‘value’ that the Applicant receives by virtue of exceeding preferred built form parameters and the fast-tracked planning process
- it is reasonable to expect a trade-off by way of a higher contribution if higher building height is approved (allowing greater yield).

While there is no ‘right’ number, other planning schemes encourage:

- a 6 percent contribution in Fishermans Bend, in the form of affordable housing as defined in the Act, with floor area uplift available for social housing gifted to a registered housing agency above the 6 percent affordable housing contribution¹⁰
- a 6 percent contribution in certain precincts in West Melbourne, encouraged in the form of social housing gifted to a registered housing agency¹¹
- a 5 percent affordable housing contribution in ‘Precinct 15’ in Hobson Bay, in the form of housing sold to Council or a housing agency at a minimum 25 percent discount to market¹².

It is difficult, however, to compare ‘apples with apples’. The contributions contemplated in these examples are in different forms, and represent different ‘value’ to the community and different ‘costs’ to the developer. In Fishermans Bend the affordable housing can be in any form that meets the definition of the Act, whereas in West Melbourne the contribution is sought in the form of social housing gifted at no cost to a registered housing agency. In Precinct 15 in Hobsons Bay it is housing sold to a registered housing agency at a 25 percent market discount.

At 10 Dawson Street, the Applicant is proposing housing sold to private individuals (rather than a housing agency) at a 35 percent market discount, but with the added benefit of freeing up social housing. The Applicant is proposing a 20 percent contribution – well above the 5 and 6 percent contributions typically negotiated in private developments. It is also well above

¹⁰ See Clause 22.27-4.3 of the Melbourne Planning Scheme

¹¹ Amendment C309 to the Melbourne Planning Scheme, as adopted by Council and awaiting approval. See more at <https://www.melbourne.vic.gov.au/about-council/committees-meetings/meeting-archive/MeetingAgendaItemAttachments/894/15926/Agenda%20Item%204.1.pdf>.

¹² See Clause 37.02 Schedule 2 of the Hobsons Bay Planning Scheme

the contributions in the examples referred to above, albeit that in some of those examples the contribution is gifted to a housing agency at no cost rather than sold to a private individual at a discount.

Another distinction here is the nature of the Applicant. While this is not typically a relevant planning consideration, both Jesuit Social Services and the Barnett Foundation are not for profit agencies. The Barnett Foundation has committed to selling more than 20 percent of the apartments under the Barnett model if it can afford to do so, consistent with its purposes. The Committee has further confidence that any profits the Barnett Foundation might make on the development would be directed to further affordable and/or crisis housing projects in accordance with its purposes.

On balance, the Committee considers that in this development, a minimum 20 percent contribution, based on the Barnett model, is appropriate.

(vi) Findings

The Committee finds:

- The appropriate rate of affordable housing is a 20 percent contribution based on the Barnett model.

4.2 Building height

(i) Context

The Incorporated Document proposes a 9 storey (31.5 metre) development, consistent with the advertised permit application. The original application sought 12 storeys, but the advertised application was for 9 storeys.

The DDO18 seeks to encourage a new mid-rise built form character with lower built form at the interfaces with adjoining low-rise residential areas (among other objectives). Relevant performance standards in the DDO18 are:

- building height should not exceed the preferred maximum building height of 25 metres (excluding architectural features, roof top plant, lift overruns, structures associated with green roof areas, etc subject to specified criteria)
- street wall height should be between 7 and 10 metres on Saxon Street and 8 and 11 metres on Dawson Street.

The site is included within HO61, which also includes the adjacent Brunswick Baths. It is surrounded by a number of individually significant heritage buildings which are afforded the highest levels of protection and are unlikely to be demolished or significantly altered.

Dawson Street is a key 'pedestrian priority street' in the Brunswick Major Activity Centre and provides important connections to the RMIT School of Fashion and Textiles and the Brunswick Secondary College. Council has recently invested substantially (\$1.7 million) to upgrade Dawson Street to strengthen the pedestrian link and improve public amenity.

(ii) The issues

The issues are:

- whether the proposed height and upper level setbacks meet the objectives and requirements of planning legislation and policy

- impacts of the proposed height on nearby heritage buildings and the civic heritage character of the precinct more generally
- impacts of the proposed height on the amenity of Dawson Street, a key pedestrian street
- whether the clearance height sought by Council over the carriageway easement (4.6 metres) is appropriate.

(iii) Overall positions of the parties

Council sought the deletion of two storeys, one from the uppermost level and one from the middle level, consistent with the NOD. This would have the effect of reducing the overall height of the development from 9 storeys to 7 storeys, or from 31.5 metres to 25.5 metres (excluding roof top plant, lift overrun and rooftop terrace).

Council submitted that the reduction in height would result in an acceptable (rather than a preferred) outcome, and would address concerns relating to built form, heritage and overshadowing of the public realm on the south side of Dawson Street. Council's Heritage Advisor (Ms McIntosh) and Principal Urban Designer (Mr Bhatt) attended the roundtable to support this position.

The Applicant submitted that 9 storeys is acceptable for the following reasons:

- the site is within the C1Z, in the heart of the Brunswick Major Activity Centre, supported by policy which designates the area for more intensive and mixed use development and recognises the need for residential accommodation in well serviced areas
- the site is generally devoid of direct sensitive interfaces, directly abutting Council owned land only
- the DDO18 does not stipulate a mandatory height limit and given the constraints of the site (shape and carriageway easement) strict adherence to the preferred standards would largely sterilise the site for future development
- the proposal at 9 storeys responds directly to the objective of the DDO18 which encourages mid-rise built form ranging from 4-10 storeys
- the site is nominated for the highest level of built form in the activity centre.

The Objectors supported their position at the roundtable as outlined in their proposed VCAT submission (21 August 2020).¹³ They submitted that while they were "*reasonably happy*" with the street wall to Saxon Street at 11 metres even though the DDO18 seeks a maximum of 10 metres, the overall height of the development would not respect the existing scale and character of the adjacent civic buildings and heritage places. Other height and built form concerns raised included:

- what they described as "*gross failure*" to meet the upper level setback requirements in the DDO18 and other planning scheme requirements
- overlooking and overshadowing of habitable rooms and private open space (rooftop decks) at 259 Sydney Road
- a lack of initial support by a number of Council's internal units, with continuing lack of support for the proposed height from Council's Heritage Advisor.

The Objectors submitted that 3 storeys would be an acceptable height for the site.

¹³ Part of Document 3

(iv) Heritage considerations

At the roundtable Ms McIntosh reiterated her written position of 24 May 2020 (part of Document 5), noting the following key points:

- under Council's local heritage policy, new development within the precinct must respect the existing scale of the area and not dominate the precinct
- the overall height of the proposed building (at 9 storeys) will not respect the existing scale of nearby significant buildings and will dominate the adjacent heritage buildings and the heritage precinct as a whole
- views from heritage buildings to other heritage properties may be obstructed
- the height must be substantially reduced to ensure the scale of the immediate area is respected which consists mainly of two and three storey heritage buildings
- even at 7 storeys, the proposed development will dominate the heritage precinct, but this reduction is better than none at all
- the scale of the podium should remain unchanged.

The Applicant submitted:

- the proposal is site responsive and strikes a balance between the heritage significance of the Brunswick Baths, the civic character of the area and policy support for more intensive built form outcomes in this location
- the proposal was informed by heritage advisors and directly responds to its heritage interface. It has achieved this by presenting an active frontage to this façade, by way of upper levels enjoying a western orientation, a street wall that responds to the prevailing height of the Baths, and an articulated façade. The building has therefore been designed 'in the round' and will not present a blank interface to the Baths.
- its heritage advice noted that the proposed building is considerably taller than other buildings in the area but that the height is ameliorated by the building's composition, massing and other techniques noted above.

(v) Impacts on the Dawson Street pedestrian realm

Written design advice from Council's Urban Design Unit (27 December 2019)¹⁴ described the proposal as presenting a good overall architectural approach. This advice supported both a 9 and 10 storey height for the proposed building. Subsequent written advice from Mr Bhatt (14 May 2020)¹⁵ however did not support the application in its current form (at 9 storeys) on the basis of potential negative impacts caused by overshadowing of Dawson Street.

Mr Bhatt supported this position at the roundtable and made the following key points:

- overshadowing from the proposed development would impact adversely on the amenity of the public realm of Dawson Street, which is exacerbated by the east-west orientation and extensive frontage of the built form along Dawson Street, with breaks in building massing absent. This is a concern even if the overshadowing is only for a few hours a day
- it is probable that overshadowing in future would likely be only from this proposal as adjacent properties have limited development potential due primarily to their heritage status

¹⁴ Part of Document 5

¹⁵ Part of Document 5

- the Urban Design Unit would support the proposed development at a reduced height of 7 storeys.

The Applicant submitted:

- the building would provide good street activation along Dawson Street, and overshadowing would only occur over part of the southern Dawson Street footpath between 10am and 11am at the September equinox, and only at a very low level due to the angles of the shadows
- Dawson Street is an area for 'moving through' rather than sitting and congregating.

(vi) Carriageway easement clearance height

Council, in both the NOD and the draft Incorporated Document, sought conditions requiring a clearance height of 4.6 metres over the carriageway easement running north-south on the western edge of the site. This results in a substantial (higher than usual) floor to floor height of the ground floor, and adds to the overall height of the building.

At the roundtable, Council offered to reduce the clearance height by 0.5 metres. The Applicant confirmed that this would allow for a 0.5 metre reduction in the overall maximum building height. Council submitted that a 4.1 metre clearance height would be required for access by a crane containing maintenance equipment to allow cleaning of the pool at the adjacent Brunswick Baths. Council's preferred version of the Incorporated Document submitted after the roundtable¹⁶ however did not contain this change.

The Applicant's preferred version of the Incorporated Document following the roundtable¹⁷ sought to amend the relevant conditions by reducing the minimum clearance height from 4.6 metres to 3 metres. Previously they had sought to amend the condition in line with Council's offer of 4.1 metres. No explanation was provided for the late change.

(vii) Discussion

In considering an acceptable overall height for the proposed development, the Committee has reviewed relevant legislation and policy, all of the documents presented by parties through the course of the proceedings, the report of the Moreland C134 Panel and the *Sydney Road and Upfield Corridor Strategic Framework Plan 2014* which informed the introduction of the DDO18, and a number of the more recent VCAT decisions relating to development over seven stories on land also affected by the DDO18.¹⁸

The Committee focuses on the four main issues of contention.

Planning legislation and policy

As noted in Chapter 4.1, although the Objectors supported an affordable housing contribution, they submitted that inclusion of an affordable housing component and occupation of the office space by Jesuit Social Services are not planning objectives under the Act and should

¹⁶ Document 14

¹⁷ Document 16

¹⁸ *1-7 Wilson Avenue Developer Pty Ltd v Moreland CC* [2018] VCAT 917 (16 July 2018); *8 Ballarat Street Pty Ltd v Moreland CC (Corrected)* [2018] VCAT 748 (17 May 2018); *ID Barkly Apartments Pty Ltd v Moreland CC* [2019] VCAT 419 (25 March 2019); *JW Land Development Pty Ltd v Moreland CC* [2019] VCAT 617 (30 April 2019); *Mazza v Moreland CC* [2020] VCAT 111 (5 February 2020)

therefore not be used to justify allowing development that would contravene planning policy and regulations.

The Committee agrees that the identity of a prospective future tenant or owner of office space is not a relevant planning consideration. The Committee notes however that the provision of affordable housing is very much a planning consideration and is specified through the objectives of the Act under section 4(1)(fa):

To facilitate the provision of affordable housing in Victoria.

Planning must always seek to strike a balance between sometimes competing objectives but in a manner that allows for the fair, orderly, economic and sustainable use and development of land. It is not as simple as deciding to trade one off for the other.

The site forms part of the Brunswick Major Activity Centre. The Planning Scheme contains strong strategic support in both state and local policy for facilitating transition to a higher density mixed use environment incorporating commercial, retail and housing growth. The Brunswick Major Activity Centre is identified as one of three centres that will accommodate the most significant change in the municipality and that neighbourhood character is expected to change over time.

The Committee finds that the strategic intent of the proposal to more intensively develop the site with a mixed-use office and residential development, with a substantial affordable housing component, has strong support through the Act and state and local policy.

In determining an appropriate height for the proposal, Clause 21.02-3, Strategic Direction 1 directs that *“change and intensification should be consistent with the directions set out in the relevant zones and overlays”*. The C1Z applies to the site and the relevant built form overlays include the DDO18 and the HO. Heritage is considered in more detail below, so the following discussion focuses on provisions within the C1Z and DDO18.

The C1Z seeks to create vibrant mixed use centres that provide for residential uses at densities complementary to the role and scale of the commercial centre. It does not include specific performance standards for building heights but directs apartment development to comply with Clause 58 of the Planning Scheme.

Council submitted that the proposal generally meets or exceeds the requirements of Clause 58. The Committee notes that Clause 58 does not contain specific performance standards for maximum building height but does contain setback objectives and standards.

The proposed maximum building height as reflected in the draft Incorporated Document is 31.5 metres, excluding roof top plant, lift overrun and rooftop terrace. The DDO18 height limit is 25 metres. The Committee notes that the DDO18 height limits are not mandatory and that discretion is available to approve developments that exceed the applicable standards, provided the proposal meets the overall objectives of the Overlay including encouraging a new mid-rise built form character.

There is no definition of mid-rise built form in the Planning Scheme. References to mid-rise heights for development is varied across planning schemes in metropolitan Melbourne, for example 7-15 storeys in Fishermans Bend. The DDO18 sets out preferred maximum heights but this does not in itself provide a definition of what constitutes a mid-rise building height. The Committee is of the view that the proposed building height at 31.5 metres would fit within the definition of mid-rise and therefore meets this objective of DDO18.

Heritage considerations aside, the Committee considers that the proposed height of 9 storeys (31.5 metres) is generally consistent with the policy context applicable to the site and the Brunswick Major Activity Centre, and the objectives of the DDO18.

Heritage context

The HO seeks to ensure that new development does not adversely affect the significance of heritage places. It does not include any performance standards but does include decision guidelines which require consideration of state and local heritage policies, the applicable statement of significance, and whether the location, bulk, form and appearance of the proposed building is in keeping with the character and appearance of adjacent buildings.

The Statement of Significance for the site does not make reference to the existing building on the site or provide guidance on development of this site. Nonetheless the application of the HO to the site points to the importance of ensuring future design is respectful of its heritage setting.

Local heritage policy at Clause 22.06 of the Planning Scheme requires specific consideration of the Statement of Significance and requires new buildings to:

- respect the existing scale, massing, form and siting of contributory or significant elements and do not dominate the heritage place or precinct
- adopt innovative and contemporary design that makes a positive contribution to the heritage place
- not closely replicate historic styles and detailing
- not obscure important view lines to contributory or significant heritage buildings or their features.

The DDO18 contains the following design objective relevant to heritage considerations (Committee's emphasis):

- 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.

It also includes decision guidelines specific to heritage and requires consideration of whether maximum building and street wall heights are achievable having regard to the heritage significance of adjoining properties.

The Committee supports the Applicant's position that the proposed building generally responds to its heritage context through built form design. The design and height of the podium wall are proportionate to the adjoining Brunswick Baths, and the building is a contemporary design which is complementary to, but does not seek to replicate, historical style. It contains a number of elements such as proportions, materials and colour palette that reference adjoining heritage buildings.

All parties were generally agreed that the proposed height of the podium wall at approximately 11.1 metres would be appropriate. The Committee agrees that the proposed street wall design would present a desirable active frontage to Dawson Street and respects the height and form of the Brunswick Baths with an articulated façade designed 'in the round'. The Committee considers the elevation fronting Saxon Street in more detail in Chapter 4.4.

That said, the Committee is persuaded by Council's position that the overall maximum height would dominate the adjacent Brunswick Baths and the heritage character of the wider

precinct. All parties agreed that the proposed building would be quite noticeable and visible and considerably taller than other buildings in the area including the Brunswick Baths. The Committee accepts Council's view that many nearby buildings are either individually significant heritage buildings or limited in development potential through contributory status (such as 259 Sydney Road) and therefore unlikely to be significantly altered or increased in height. This context distinguishes the site from other sites where substantial change in the surrounding lower scale built form is also expected to occur.¹⁹

The site is included within Precinct B in the *Sydney Road and Upfield Corridor Strategic Framework Plan 2014* (Framework Plan), which identifies the precinct as accommodating "most of Brunswick's major public buildings" mentioning the Brunswick Baths, Brunswick Town Hall and library – all of which are in the immediate site vicinity. The description goes on to state that the "strong civic focus influences the built form character with the presence of a number of heritage places".

The Committee recognises that the proposed building exceeds both the preferred maximum building height and 1:1 ratio for upper levels. The Committee has considered the likely effect of reducing the building height by removing two storeys as suggested by Council and had regard to the advice from Ms McIntosh that neither 9 nor 7 stories would result in an outcome that was not dominant but that any reduction would be positive.

The Committee considers that the upper levels (Levels 8 and 9) are well setback, utilise lightweight materials, and provide a definable 'cap' to the built form which complements the proportions of the adjacent Brunswick Baths. The Committee considers the impact of these uppermost levels on the massing and dominance of the building are limited. Removing one of these levels would have little impact in terms of reducing the visual dominance of the building and could possibly interfere with the contextual design response.

It is the middle section of the building that the Committee believes contributes most to its dominating appearance. The Committee considers that one of the storeys from Levels 3 to 6 should be removed. Levels 5 and 6 would have eight apartments and Levels 3 and 4 would have ten apartments, which would likely factor into the decision as to which level should be removed. That is for the Applicant to decide.

The reduction in the minimum clearance height of the carriageway easement will also contribute to reducing the overall building height. Council sought a minimum 4.1 metre clearance, while the Applicant sought 3 metres. The Committee understands that the greater height is to allow for maintenance machinery to access the adjacent Brunswick Baths. It considers this a somewhat unusual requirement, noting nothing in the title documents specifies this as a purpose of the carriageway easement.

The Committee makes no finding on the appropriate clearance height beyond the agreed position that it should be no more than 4.1 metres. Further reduction may be possible, and the Committee considers that Council should be encouraged to explore this further. For example, it may be that access for the specialist maintenance machinery could be via the Council owned property to the rear of the site, rather than via the carriageway easement. The wording of the Incorporated Document should provide flexibility to reduce the clearance height below 4.1 metres if an alternative solution can be negotiated.

¹⁹ *ID Barkly Apartments Pty Ltd v Moreland CC* [2019] VCAT 419 (25 March 2019)

The Committee finds that the reduction in height of the proposed building by one storey (from Levels 3 to 6) coupled with some reduction from a lesser carriageway easement clearance height (which would allow for a reduction in the ground floor height) would result in a proposal that meets the objectives of both the DDO18 and the HO. The overall building height would be reduced from 31.5 metres to 28 metres, or more depending on the final agreed clearance height for the easement.

Pedestrian amenity of Dawson Street

The DDO18 contains two objectives in relation to the amenity of the public realm:

- 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.

Performance standards relating to these objectives include requirements for street walls of a certain height, upper level setbacks, building design and activation, and for overshadowing. Setback requirements include a 1:1 ratio of height to width from the opposite street boundary. Street walls have been discussed above.

The proposal would not meet all of the upper level setbacks, albeit it would meet some including the required setback above the podium of 5 metres from a street boundary.

The Objectors submitted that the inability to meet the 1:1 ratio on Saxon Street was fatal to the proposal. With the reduction in height recommended above (one storey plus a reduced ground floor height), the proposal would comply with the 1:1 ratio from Dawson Street. While the setbacks to Saxon Street would not comply, the Committee considers that the overall sense of openness would be maintained as per the DDO18 objective, given the shorter length of building fronting Saxon Street, upper level setbacks and design features of the building.

The Committee recognises the designation of Dawson Street as a key pedestrian street and acknowledges its importance as a pedestrian link between a number of major destinations. The Committee agrees with the Applicant that the street functions more as a through route and not as a place to 'sit and pause'. The Committee was not persuaded that the overshadowing would render the proposal non-compliant with the objectives of the DDO18.

(viii) Findings

The Committee finds:

- The proposed height and upper level setbacks generally comply with the objectives of planning legislation and policy.
- The proposed building generally responds to its heritage context through built form design.
- The proposed height of the building will, however, cause the building to dominate the heritage context of the precinct.
- A reduction in height of one storey, taken from the middle section of the building (Levels 3 to 6) will have the effect of reducing the massing and overall impact of the building on the surround area. This will be further improved by the reduction of the ground floor height from reducing the minimum clearance height over the easement.

- The proposed building will provide good activation and respect the amenity of Dawson Street, which is key pedestrian street.
- There is no issue with overshadowing the pedestrian realm from the proposed development.

4.3 Commencement time

(i) Context

The draft Incorporated Document provides for commencement within one year, with the ability for the Responsible Authority (Council) to extend the commencement date.

Clause 6 of the Committee's ToR states:

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.

(ii) The issue

The issue is:

- what is the appropriate time for commencement of the development?

(iii) Discussion

The Applicant sought a commencement date of 2 years with extensions. Council submitted that 15 months without extensions would be appropriate. The Objectors submitted that if the project needs 2 years to commence, there was no justification for overriding the normal VCAT process and fast tracking the proposal, and it should remain with VCAT for determination. They suggested a strict 6 to 12 month deadline to commence meaningful construction, with no option for an extension.

Council explained at the roundtable that if this were a normal permit application, the Applicant would be given 3 years to commence, as identified in the NOD. Council submitted that 2 years with extensions is little different to a normal permit, and does not reflect the intervention and fast track process that has been adopted. Council submitted that if the Applicant needs extensions, the project cannot be described as shovel ready.

The Applicant submitted that it needed 2 years, with the ability to extend, because of the uncertainties of COVID, including the potential for further lockdowns. Barnett Foundation explained that it can take them a little longer to get finance than private developers because of the not-for-profit nature of its developments. The Applicant also noted that the Incorporated Document requires a number of plans to be approved under secondary consents, which can take a long time. Council responded that it did not want the project to fall over, and would be extremely cognisant of the need to issue secondary consents in a timely manner.

The Committee considers that the commencement time should reflect the shovel ready nature of the project. While the Committee had no evidence presented to it about the project being shovel ready, it assumes the BVRT made this assessment in deciding to recommend that the Minister proceed with the draft Amendment. It agrees that a 2 year commencement date would cast some doubt on the justification for the BVRT intervening in the VCAT process.

On balance, and recognising the Objectors' position, the Committee considers that 15 months (as proposed by Council) represents a reasonable deadline for commencement given the not-for-profit nature of the development, the extended timeframes that might be involved in obtaining finance, and the uncertainties associated with COVID. The Committee considers that there needs to be some flexibility to extend the commencement date. These are uncertain times, and it is difficult to predict the impacts COVID may have on the ability to obtain finance and commence works promptly.

(iv) Finding

The Committee finds:

- The Incorporated Document should require the project to commence within 15 months, with the ability for the Responsible Authority to extend the commencement date.

4.4 Overlooking and overshadowing impacts on the Objectors

(i) Context

The fifth objective of the DDO18 is:

- 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.

(ii) The issue

The issue is:

- whether the proposed height and Saxon Street elevation allows for reasonable amenity for residents at 259 Sydney Road.

(iii) Discussion

The Objectors were concerned about potential overlooking and overshadowing of their habitable rooms that face onto Saxon Street, loss of views to the west, and overlooking and overshadowing of their private open space (rooftop decks). They submitted that this would result from the proposed height of the building, the upper level setbacks that do not comply with the 1:1 ratio in the DDO18, and the requirement by Council to reconfigure some apartments on the eastern side of the development to re-orient living rooms to face Saxon Street.

Council submitted that the separation distance between the residential building at 259 Sydney Road and the eastern boundary of the subject site was greater than 10 metres and that as such the proposal would result in a reasonable amenity outcome. Council submitted that the requirement to re-orient the north eastern apartment of Levels 3 to 6 was to allow adequate daylight to these apartments in accordance with Clause 22.07 of the Planning Scheme.

The Applicant submitted that the proposal would not have any unreasonable amenity impacts on nearby or neighbouring properties by way of visual bulk and massing, equitable development, overshadowing and overlooking.

The site is in the C1Z, in a major activity centre that is identified for substantial growth and change. The Committee agrees with Council that residential amenity expectations cannot be

as high in a major activity centre as for a residentially zoned area. That said, residential amenity of the surrounding area remains an important consideration.

While the objectives of the DDO18 recognise the need to provide for reasonable amenity for residential properties within the activity centre, it does not include performance standards or decision guidelines that specifically address impacts of development on residential properties (unless within a residential zone). Neither the DDO18 nor the *Sydney Road and Upfield Corridor Strategic Framework Plan 2014* provide guidance on what constitutes 'reasonable amenity'. Decision guidelines in the C1Z are also geared to amenity considerations for adjoining land in a residential zone. Clause 22.07 includes a policy to ensure potential amenity impacts of adjoining sites is considered, but does not contain any relevant performance standards or guidelines.

Clause 58.04 contains a building setback objective to limit views into habitable room windows and private open space of existing dwellings. It follows up with a performance standard to avoid direct views into habitable room windows and private open space of new and existing dwellings and to avoid relying on screening to reduce views, but does not have a prescriptive measure.

Therefore, a qualitative (rather than quantitative) assessment is required.

The podium wall of the proposed development and height of the building at 259 Sydney Road are similar. Views into the habitable room windows at 259 Sydney Road are more likely from these lower podium levels.

At the roundtable the Committee discussed the potential to orient the vertical blades shown on the ground and first floors on the east elevation to reduce the potential for overlooking from the office space to the habitable room windows at 259 Sydney Road. Mr Pearce of Fender Katsalidis (architects for the Applicant) agreed that this would be possible and could be considered.

Above the podium wall the residential apartments are set back at least 5 metres from the boundary. Given the height and angle of views from these upper levels, overlooking would be much less apparent. Application of external awnings on the west facing habitable room windows would likely prevent most of these views from upper levels.

The Committee notes the distance of more than 10 metres between the habitable room windows at 259 Sydney Road and the proposed building. Overlooking of the rooftop deck is possible, but in the Committee's view the distance between buildings is sufficient for this to be an acceptable outcome, particularly in a major activity centre context.

Council's requirement for a number of apartments to be reconfigured to re-orient living rooms to Saxon Street applies to the north eastern apartments which are not directly opposite the building at 259 Sydney Road is supported. The windows of these living rooms are oriented to the northeast and southeast, not toward 259 Sydney Road. The changes will improve the daylight outcome for these apartments, and not significantly impact on overlooking of 259 Sydney Road.

The Committee notes that shadow diagrams supplied by the Applicant show that there will not be overshadowing of the residential building at 259 Sydney Road between 10am and 2pm at the September equinox. This is considered an acceptable outcome in terms of residential amenity.

(iv) Findings

The Committee finds:

- The proposed development maintains reasonable amenity for the residential property at 259 Sydney Road.
- The vertical blades on the eastern elevation along the podium wall should be oriented so as to prevent direct overlooking of from the office levels to the habitable room windows at 259 Sydney Road.

5 Reasons and recommendations

Planning must always seek to strike a balance between sometimes competing objectives but in a manner that allows for the fair, orderly, economic and sustainable use and development of land. It is not as simple as deciding to trade one off one objective (affordable housing) for others (appropriate built form outcomes).

The strategic intent of the proposal to more intensively develop the site with a mixed-use office and residential development, with a substantial affordable housing component, has strong support through the Act and state and local policy. The site forms part of the Brunswick Major Activity Centre. There is strong strategic support in both state and local policy for facilitating transition to a higher density mixed use environment incorporating commercial, retail and housing growth in this location. The Brunswick Major Activity Centre is identified as one of three centres that will accommodate the most significant change in the municipality and that neighbourhood character is expected to change over time.

While there is strong policy support for an affordable housing contribution, there is no 'right' number for an affordable housing contribution rate. The appropriateness of the contribution rate depends on multiple factors, including the affordable housing model proposed, the 'value' the contribution represents for the community, the impact of the contribution on the viability of the development and the 'value' the developer may gain by reason of exceeding preferred built form requirements and a fast-tracked planning process.

The Applicant is proposing a 20 percent contribution, and has committed to selling more than 20 percent of the apartments as affordable housing if it can afford to do so. The Committee regards this as appropriate. The contribution rate is well above the 5 and 6 percent contributions typically provided in private developments. Further, any profits the Barnett Foundation might make on the development would be directed to further affordable and/or crisis housing projects in accordance with the Barnett Foundation's purposes. The Committee is also mindful that a higher contribution may render the project unviable.

The draft Incorporated Document contemplates a building of 31.5 metres, excluding roof top plant, lift overrun and rooftop terrace. The DDO18 preferred height limit is 25 metres. Heritage considerations aside, the Committee considers that the proposed height is generally consistent with the policy context applicable to the site and the Brunswick Major Activity Centre, and the objectives of the DDO18. The Committee was not concerned about the impacts of the proposed height on the pedestrian realm in Dawson Street, including the small amount of overshadowing that would result on the September equinox.

That said, the Committee considers that a 9 storey development would inappropriately dominate the adjacent Brunswick Baths and the wider heritage precinct. Many nearby buildings are either individually significant heritage buildings or limited in development potential through contributory status and therefore unlikely to be significantly altered or increased in height. This context distinguishes the site from other sites in the activity centre where more widespread substantial change in the surrounding lower scale built form is expected.

One of the storeys from the middle section of the building (Levels 3 to 6) should be removed in order to reduce the impacts of the proposed development on adjacent and nearby heritage buildings and the precinct. In the Committee's view, the middle section of the building

contributes most to its dominating appearance. Little would be gained by requiring the removal of one of the two upper levels, which form a recessed 'cap' on the building.

The minimum clearance height of the carriageway easement should be reduced, which will also contribute to reducing the overall building height. The minimum clearance height sought by Council is 4.1 metres, to allow specialist machinery used to maintain the adjacent Brunswick Baths to use the easement. This is somewhat unusual, and nothing in the title documents specifies this as a purpose of the carriageway easement. The Committee encourages Council to explore ways of further reducing the required clearance height, including options for specialist machinery to access the Baths via the Council owned property to the rear of the site. Any further reduction in the clearance height will result in further reductions to the overall building height, and in turn reduce the impact of the building on the surrounding heritage fabric and character.

The Committee finds:

- The appropriate rate of affordable housing is a 20 percent contribution based on the Barnett model.
- The proposed height of the building should be reduced by one storey (to 8 storeys), taken from the middle section of the building (Levels 3 to 6). This is needed to reduce the impact of the building on adjacent and nearby heritage buildings and the heritage precinct more broadly.
- The clearance height over the carriageway easement should be no more than 4.1 metres. Council should be encouraged to explore options for reducing this further, for example by providing access for the specialist maintenance machinery needed for Brunswick Baths via the Council owned property to the rear of the site rather than via the carriageway easement.
- The vertical blades on the eastern elevation along the podium wall should be oriented so as to prevent direct overlooking from the office levels to the habitable room windows at 259 Sydney Road.
- The development should be required to commence within 15 months, with the ability for the Responsible Authority to extend the commencement date.

(i) Recommendations

The Committee recommends:

- 1. The Minister should proceed with draft Amendment C201 to the Moreland Planning Scheme.**
- 2. The Incorporated Document should be amended as shown in Appendix D to:**
 - a. require an affordable housing contribution of 20 percent of the dwellings in the development, delivered in accordance with the Barnett model**
 - b. require a reduction in the building height of one storey, taken from Levels 3 to 6**
 - c. require the clearance height over the carriageway easement to be no more than 4.1 metres**

- d. require the vertical blades on the eastern elevation of the podium wall to be oriented so as to prevent direct overlooking from the office levels to the habitable room windows of the building at 259 Sydney Road, Brunswick**
- e. require development to commence within 15 months unless extended by the Responsible Authority**
- f. include general drafting improvements.**

Appendix A Priority Projects SAC 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.

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: MBR043474


Dear Ms Mitchell

**BUILDING VICTORIA'S RECOVERY TASKFORCE INTERVENTION RECOMMENDATION –
10 DAWSON STREET, BRUNSWICK**

I refer to Victorian Civil and Administrative Tribunal (VCAT) proceedings P1117/2020 and P1352/2020 relating to the proposed development of land for a nine-storey mixed use building for retail, office floorspace, 57 apartments, rooftop garden and a reductions in the standard car parking requirement at 10 Dawson Street, Brunswick. A permit is required under Clauses 34.01 'Commercial 1 Zone', 43.01 'Heritage Overlay', 43.2 'Design and Development Overlay Schedule 18 (DDO18)' and 52.06 'Car Parking' of the Moreland Planning Scheme. The project was referred to me by the Building Victoria's Recovery Taskforce (BVRT).

Moreland City Council issued a notice of decision to grant a permit MPS/2019/130 on 18 June 2020, in line with the recommendation of the council officer. The council received 18 objections to the permit application during the advertising period. The issues raised in the submissions included building height, non-compliance with DDO18, inappropriate response to nearby heritage buildings, insufficient car parking, traffic, pedestrian and bicycle safety, overlooking, overshadowing and other general amenity concerns.

The applicant and objector have both initiated VCAT proceedings under sections 80 and 82 of the *Planning and Environment Act 1987*, for the review of the conditions (P1352/2020) and of the council's decision to issue a notice of decision to grant a permit (P1117/2020). The parties to the proceedings are the council, the applicant and an objector. The hearing for both matters is scheduled for 30 April 2021. A practice day was held on 4 September 2020 and a compulsory conference is scheduled for 11 November 2020.

Before deciding to prepare, approve and adopt a site-specific planning scheme amendment (Amendment C210more) to facilitate the development, I undertook consultation under section 20(5) of the Act with the parties to the VCAT proceeding, being the council, the applicant and an objector to the application. The submissions received will be provided to you, along with the plans and draft amendment documents.

The development proposal originally submitted to the council included affordable housing. This component was withdrawn prior to the giving of notice of the application. The submission to the BVRT by the applicant reintroduced a commitment to provide affordable housing. On this basis, the council and the applicant were asked to provide draft conditions to guarantee the provision of affordable housing in the development, as part of the consultation under section 20(5) of the Act.

I advise that I have decided to refer the matter to the Priority Projects Standing Advisory Committee to consider the submissions and any relevant expert evidence and make a recommendation on whether I should proceed with Amendment C210more to the Moreland Planning Scheme under section 20(4) of the Act to facilitate the approval of this development and the drafting of the amendment. I request your specific advice about the rate of provision of affordable housing, the proposed building height, the time for commencement of the development and the associated drafting of the incorporated document clauses.

The cost of the advisory committee will be met by the applicant, TBF Residential Dawson St Pty Ltd.

If you would like more information, please contact Jane Homewood, Executive Director, Statutory Planning Services, Department of Environment, Land, Water and Planning, on (03) 8683 0975 or email jane.homewood@delwp.vic.gov.au.

Yours sincerely



HON RICHARD WYNNE MP
Minister for Planning

22 / 09 / 2020

Appendix C Document list

No.	Date	Description	Presented by
1	30/09/20	Referral Documents including: <ul style="list-style-type: none"> - Submissions - Explanatory Report - Instructions sheet - Draft Incorporated document - Maps and plans 	Building Victoria's Recovery Taskforce (BVRT)
2	"	Notification letter, and: <ul style="list-style-type: none"> - Letter of Referral - Terms of Reference - Privacy Collection Notice 	Committee
3	01/10/20	Email confirming attendance, and: <ul style="list-style-type: none"> - VCAT application - VCAT objection - VCAT statement of grounds - Planning Application report 	Objectors
4	02/10/20	Email confirming attendance, and: <ul style="list-style-type: none"> - VCAT Application P1352/2020 - Statement of Grounds - VCAT order P1352/2020 - Application plans and assessments - Index sheet of documents provided 	Applicant
5	"	Email confirming attendance, and: <ul style="list-style-type: none"> - NOD - Officer report supporting the NOD - Various correspondence and documentation in relation to the permit application and draft Amendment 	Council
6	06/10/20	Email notifying parties of intent to call evidence on Affordable Housing	"
7	07/10/20	Preferred version of the Incorporated Document	"
8	"	Evidence of Rachel Hornsby on Affordable Housing	"
9	08/10/20	Written submission	Applicant
10	"	Shadow study	"
11	"	Affordable Housing model overview	"
12	"	Preferred version of the Incorporated Document	"
13	09/10/20	Letter to the SAC	Objectors
14	12/10/20	Preferred draft Incorporated Document	Council
15	14/10/20	Closing statement	Applicant
16	"	Preferred draft Incorporated Document	"

Appendix D SAC preferred version of the Incorporated Document

Tracked Added

~~Tracked Deleted~~

MORELAND CITY COUNCIL PLANNING SCHEME

Incorporated Document

10 Dawson Street, Brunswick – ~~July~~ XX 2020

This document is an incorporated document in the Moreland Planning Scheme pursuant to the Section 6(2)(j) of the *Planning and Environment Act 1987*

1.0 INTRODUCTION

The document is an Incorporated Document in the schedule to Clause 45.12 of the Moreland Scheme (planning scheme).

The land identified in Clause 3.0 of this document may be used and developed in accordance with the specific controls and sub-clauses contained in Clause 6.0 of this document.

The controls in this document prevails over any contrary or inconsistent provision in the planning scheme.

2.0 PURPOSE

The purpose of this incorporated document is to permit and facilitate the demolition of existing buildings and development of ~~a nine-an eight~~ storey mixed-use building comprising retail, office floorspace, ~~57~~ dwellings, rooftop garden and a reduction in the standard car parking requirement generally in accordance with the plans approved consistent with Clause 6.0 of this incorporated document.

3.0 ADDRESS OF THE LAND

This document applies to the land at 10 Dawson Street, Brunswick (Lot 2 on Title Plan PS421306) that is affected by the SCO5 and as identified in Figure 1 below.



Figure 1 – Land subject to this incorporated document highlighted in red

4.0 WHAT THIS DOCUMENT ALLOWS

~~The proposal for~~ This document allows the demolition of existing buildings and development of ~~a nine-an eight~~ storey mixed-use building comprising retail, office floorspace, ~~57~~ dwellings, rooftop garden and a reduction in the standard car parking requirement, generally in accordance with the

following ~~"Incorporated Plans"~~ plans prepared by Fender Katsalidis, dated 22 October 2019 but modified to include changes required by the clauses of this Incorporated Document:

TP001 A – Site Plan

TP098 A – Basement 2 Floor Plan

TP099 A – Basement 1 Floor Plan

TP100 A – Ground Floor Plan

TP101 A – Level 1 Floor Plan

TP102 A – Level 2 Floor Plan

TP103 A – Level 3 Floor Plan

TP104 A – Level 4 Floor Plan

TP105 A – Level 5 Floor Plan

TP106 A – Level 6 Floor Plan

TP107 A – Level 7 Floor Plan

TP108 A – Level 8 Floor Plan

TP109 A – Roof Plan

TP200 A – South Elevation

TP201 A – East Elevation

TP202 A – North Elevation

TP203 A – West Elevation

TP250 A – Section AA

TP251 A – Section BB

TP252 A – Section CC

TP300 A – Apartment Types

TP301 A – Apartment Types

TP302 A – Apartment Types

TP303 A – Apartment Types

TP304 A – Apartment Types

TP400 A – Shadow Diagrams

TP401 A – Shadow Plan & Section

TP420 A – Perspective View

TP421 A – Perspective View

TP422 A – Perspective View

TP423 A – Perspective View

TP424 A – Perspective View

TP425 A – Perspective View

TP500 A – Development Summary

and including any amendment of the plans that may be approved from time to time under the clauses of this document. Once approved, these plans will be the Incorporated Plans.

5.0 EXEMPTION FROM PLANNING SCHEME REQUIREMENTS

Despite any provision to the contrary or any inconsistent provision in the planning scheme, no planning permit is required for, and no planning provision in the planning scheme operates to prohibit, restrict or regulate the use and development of the land for the purposes ~~of the~~

~~development allowed in Clause 4.0~~ with the exception of the provisions of Clause 52.05 Signs which continue to apply.

6.0 THE FOLLOWING SUB CLAUSES APPLY TO THIS DOCUMENT

1. Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to, and approved by, the Responsible Authority. When approved, the plans will be endorsed and will then form part of this incorporated document. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must generally accord with the plans ~~advertised~~ dated 22 October 2019 but modified to show:
 - a) Deletion of one of Levels 3, 4, 5 or 6 with the commensurate reduction in building height in response to built form and heritage concerns.
 - b) The blades on the eastern (Saxon Street) podium elevation angled to prevent overlooking directly into habitable room windows at the rear of the building at 259 Sydney Road Brunswick.
 - c) A direct pedestrian entry to the residential lobby from Dawson Street, or a pedestrian zone from Dawson Street to the residential lobby clearly identified with a different surface treatment, signage, lighting including lighting and material treatment to the underside of the cantilever.
 - d) A ~~minimum~~ maximum clearance height of ~~4.6~~ 4.1 metres provided along the length of the carriageway easement in accordance with sub-clause ~~2.4~~ of this ~~incorporated~~ Document, with an associated reduction in the floor to ceiling height of the ground floor level.
 - e) On Levels 2 to 6 inclusive, the three-bedroom apartments at the north-eastern corner of the building (adjacent Saxon Street) internally reconfigured to provide an outlook from the living area to Saxon Street generally in accordance with the plan titled Level 3-6 North East Apartments Study, prepared by Fender Katsalidis, dated 6 February 2020 and received by Moreland City Council on 7 February 2020.
 - f) One car parking space allocated to the shop and 37 car parking spaces allocated to the office.
 - g) Bicycle parking devices, including both horizontal and vertical bicycle parking devices installed in accordance with AS2890.3.
 - h) Bicycle signage at least 300mm wide and 450mm high showing a white bicycle on a blue background, directing cyclists to the location of the bicycle parking.
 - i) Any substation required by the power company for this development. Any substation must be incorporated within the building (i.e. not free standing or pole mounted in the street) to ensure minimal impact on the visual amenity of the public realm.
 - j) Any changes to the plans arising from the amended:
 - i. Sustainability Management Plan in accordance with sub-clause ~~9.5~~ of this Incorporated Document.
 - ii. Landscape Plan in accordance with sub-clause ~~13.12~~ of this ~~incorporated~~ Incorporated Document.
 - iii. Waste Management Plan in accordance with sub-clause ~~17.16~~ of this Incorporated Document.
 - iv. Accessibility Report in accordance with sub-clause ~~19.18~~ of this Incorporated Document.
 - v. Acoustic Report in accordance with sub-clause ~~21.29~~ of this Incorporated Document.
 - vi. Wind impact assessment in accordance with sub-clause 24 of this Incorporated Document.

- k) A schedule of all proposed exterior decorations, materials, finishes and colours, including colour samples.
 - l) Further details of the awning to Dawson Street including an extension of the length of the awning along Dawson Street to the extent possible without impacting on the street tree on the corner of Dawson Street and Saxon Street. The awning must be setback a minimum of 750mm from the kerb and at a height of not less than 3 metres above the level of the footpath and 2.7 metres from any proposed signage below the awning.
 - m) A sign erected on the building facing either or both of Dawson Street and Saxon Street identifying the building as the 'John Curtin building'.
2. The development and use as shown on the ~~incorporated~~ ~~Plans~~ must not be altered without the written consent of the Responsible Authority. This does not apply to any exemption specified in Clauses 62.02-1 and 62.02-2 of the Moreland Planning Scheme unless specifically noted ~~as a clause~~ in this Incorporated Document.

Affordable Housing Contribution

3. Prior to the issue of a Statement of Compliance or an occupancy permit for any part of the development, whichever occurs first, the Owner of the land must enter into an agreement with the Responsible Authority under Section 173 of the Planning and Environment Act 1987 that provides for the following:
- a) The Owner to make available at least 20% of all dwellings within the development for the purpose of affordable or social housing.
 - b) The mechanism by which the dwellings will be provided is to be accordance with the document titled "Affordable Housing at 10 Dawson St, Brunswick" prepared by Jesuit Social Services and The Barnett Foundation dated ~~XX~~.
 - c) Provision for an alternative mechanism to be used to deliver affordable or social housing provided that the alternative mechanism delivers the equivalent value (subsidy) as that proposed under sub-clauses 3(a) and (b).
 - d) Evidence be provided to the Responsible Authority that the requirements of this sub-clause have been complied with. The evidence can be de-identified to protect the privacy of affordable housing purchasers but will set out how the transactions meet the requirements of sub-clauses 3(b) or (c).
 - e) The Owner must do all things necessary to enable the Responsible Authority to register the agreement with the Registrar of Titles in accordance with section 181 of the Act.
 - f) The Owner must pay to the Responsible Authority, or its legal representative, all costs and disbursements incurred in relation to the negotiation, preparation, execution and registration of the agreement on the certificate of title to the land.

Commented [A1]: This document was submitted to the Committee on 8 October 2020. The document should be dated to enable its identification in the Incorporated Document.

Easement to be created

4. Prior to the commencement of the development, excluding demolition and bulk excavation, a Creation of Easement Plan must be prepared by a suitably qualified land surveyor detailing a new carriageway Easement E-2 partially along the site's north-western boundary but within the extent of the existing Easement E-1₁ created in favour of the Brunswick Baths (No.16 Dawson Street, Brunswick), to allow right of carriage to No.33 Saxon Street, Brunswick. A height limitation of ~~4-6~~ 4.1 metres (maximum) above natural ground level must be applied. The plan must be prepared to the satisfaction of the Responsible Authority in consultation with relevant parties with all costs to be shared equally between the developer and the landowner of No.33 Saxon Street, Brunswick.

5. Prior to the issue of a Statement of Compliance or an occupancy permit for any part of the development, whichever occurs first, application must be made to the Registrar of Titles to register the proposed Easement E-2 on the title of the development in favour of No.33 Saxon Street, Brunswick. All costs associated with the preparation and registration of the future easement must be shared equally between the developer and the landowner of No.33 Saxon Street, Brunswick.
6. Prior to the issue of Statement of Compliance or an occupancy permit for any part of the development, whichever occurs first, the proposed Easement E-2 must be fully constructed to the satisfaction of the Responsible Authority at the cost of the developer.

Commented [A2]: Clarify whether the easement E-2 is being created in favour of 16 Dawson St (as indicated in sub-clause 3) or 33 Saxon St (as indicated in sub-clause 4)

Construction over easement

7. Prior to the issue of a Statement of Compliance or an occupancy permit for any part of the development, whichever occurs first, the Owner of the land must enter into an agreement with the Responsible Authority pursuant to section 173 of the *Planning and Environment Act 1987* (the Act) in a form satisfactory to the Responsible Authority in which requires the Owner to do ~~provides for~~ the following:
 - a) Construct ~~The development to be constructed~~ in accordance with the ~~incorporated~~ Plans and to a standard satisfactory to the Responsible Authority.
 - b) Maintain ~~The building to be maintained~~ to a standard satisfactory to the Responsible Authority.
 - c) Maintain ~~Appropriate insurance be maintained~~ to the satisfaction of the Responsible Authority.
 - d) Indemnify Moreland City ~~Indemnification of~~ Council for any loss suffered if the terms of the s173 agreement are breached by the landowner ~~and~~.
 - e) Releases Council from any claims the landowner may have against Council associated with the parts of the building within the easement.
 - f) Do all things necessary to enable the Responsible Authority to register the agreement with the Registrar of Titles in accordance with section 181 of the Act ~~and~~.
 - g) Pay to the Responsible Authority, or its legal representative, all costs and disbursements incurred in relation to the negotiation, preparation, execution and registration of the agreement on the certificate of title to the land.

Heritage record

8. Prior to the commencement of any demolition, a professionally prepared archival record of the substation on the land must be carried out and submitted to the satisfaction of the Responsible Authority. This record must be carried out in accordance with Heritage Victoria's technical note 'Specification for the submission of Archival', undated, which can be found at <https://www.heritage.vic.gov.au/research-and-publications/technical-guidance>

Sustainability Management Plan

9. ~~Prior to the endorsement of plans,~~ The Sustainability Management Plan (SMP) by GIW, Reference GIW18075 Revision B dated 30/01/2019 must be amended by a suitably qualified environmental engineer or equivalent to the satisfaction of the Responsible Authority prior to endorsement. When amended to the satisfaction of the Responsible Authority, the ~~report~~ SMP will be endorsed and will form part of this Incorporated Document. The amended ~~report~~ SMP must include the following:
 - a) Provide first rate energy models and individual modelling reports for all apartment types, except where the dwellings are thermally equivalent.

- b) Provide a daylight modelling report, ensuring that the VLT of the glazing modelled match the glazing specifications used in all energy modelling reports.
 - c) Where spandrel panels are being specified to reduce glazed areas to west facing apartments (i.e. to meet thermal and daylight requirements of BESS and Clause 22.08), show the size and extent of the spandrel panel on plans with a section detail included.
 - d) Provide preliminary energy performance modelling for the ground and first floor office spaces confirming that they will meet Moreland City Council's building envelope performance expectations of a 10% NCC improvement, and that this will be achieved via the building glazing, insulation (or other fabric), services and lighting being improved (not offset by the solar PV).
 - e) Provide details of the stormwater treatment proposed for the balcony areas and demonstrate that adequate plant room space is provided for water treatment and pumps.
 - f) Add the stormwater treatment system and pumps to the 'Maintenance Program' on page 37 of the SMP.
 - g) Electric car charging points rather than the 'future provision of car charge points'.
 - h) Secure bicycle parking spaces i.e. a caged section without public access.
 - i) An improved response to the Clause 22.08-2 of the Moreland Planning Scheme, including:
 - i. Adequate space within the combined commercial and residential bin store room for 3 bin types: organics, commingled recycling and garbage (as per the Sustainability Victoria 'Better Practice Guide for Waste Management and Recycling in Multi-Unit Developments').
 - ii. Waste storage to accord with the recommendations of ~~the~~ Sustainability Victoria (as per the Sustainability Victoria 'Multi-unit and Commercial Development Waste and Recycling Generation Rates Calculator').
10. Where alternative ESD initiatives are proposed to those specified in ~~the above~~ sub-clause 9s, the Responsible Authority may vary the requirements of ~~this~~ sub-clause 9 at its discretion, subject to the development achieving equivalent (or greater) ESD outcomes in association with the development.
11. All works must be undertaken in accordance with the endorsed ~~Sustainability Management Plan (SMP)~~ to the satisfaction of the Responsible Authority. No alterations to the ~~Sustainability Management Plan (SMP)~~ may occur without the written consent of the Responsible Authority.
12. Prior to the issue of a Statement of Compliance or an occupancy permit for any part of the building approved under this Incorporated Document, whichever occurs first, a report (or reports) from the author of the ~~Sustainability Management Plan (SMP) report, approved pursuant to this Incorporated Document~~, or similarly qualified person or company, must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the SMP ~~report~~ have been implemented in accordance with the ~~approved~~ report.

Landscape Plan

13. Prior to the commencement of any development works, ~~an~~ amended landscape plan~~s~~ must be submitted to and approved by the Responsible Authority. When ~~amended~~ to the satisfaction of the Responsible Authority, the ~~report-plans~~ will be endorsed and will form part of this Incorporated Document. The landscape plan~~s~~ must be generally in accordance with the ~~advertised~~ landscape plan~~s~~ prepared by John Pritch Landscape Architect Pty Ltd submitted to Moreland City Council on 22 October 2019 but amended to show:

- a) The development layout updated to reflect the changes required by sub-clause 1 of this Incorporated Document.
 - b) Any changes to the tree protection notes and the extent of the Tree Protection Zone for the existing *Eucalyptus sideroxylon* street tree or any other street tree required to accord with the Tree Protection Plan required by sub-clause ~~15.44~~ of this Incorporated Document.
 - c) A schedule that identifies the size of the canopy cover of proposed trees, climbers, planters, green roofs or green facades to satisfy Standard D10 of Clause 58.03-5.
 - d) Automatic irrigation of any façade planting.
14. Prior to the issuing of a Statement of Compliance or occupancy permit for any part of the development, whichever occurs first, all landscaping works must be completed and maintained in accordance with the approved and endorsed landscape ~~drawing~~ plans to the satisfaction of the Responsible Authority.

Tree Protection Plan

15. Prior to the commencement of the development, including demolition and bulk excavation, A Tree Protection Plan (TPP) prepared by a suitably qualified professional must be submitted to and approved by to the satisfaction of the Responsible Authority. When the TPP is to the satisfaction of the Responsible Authority, the ~~report~~ TPP will be endorsed and will form part of this Incorporated Document. The ~~report~~ TPP must include an assessment of the mature *Eucalyptus sideroxylon* on the corner of Dawson Street and Saxon Street and any other public trees that may be affected by the development, and include:

- a) Details of w44 whether the development, irrespective of mitigation measures, will have impact on the long term viability of the public tree(s).
- b) Site specific details of the temporary tree protection fencing to be used to isolate publicly owned trees from the demolition and construction activities or details ~~of~~ any other tree protection measures considered necessary and appropriate ~~to the site~~.
- c) Specific details of any special construction methodologies to be used within the Tree Protection Zone of any publicly owned tree. These must be provided for any utility connections or civil engineering works.
- d) Full specifications of any pruning required to publicly owned trees.
- e) Any special arrangements required to allow ongoing maintenance of publicly owned trees for the duration of the development.
- f) Name and contact details of the project arborist who will monitor the implementation of the ~~Tree Protection Plan~~ TPP for the duration of the development (including demolition).

Commented [A3]: protect?

All works, including demolition and bulk excavation, within the Tree Protection Zones of public trees must be undertaken in accordance with the endorsed ~~Tree Protection Plan~~ TPP and supervised by a suitably qualified Arborist where identified in the ~~report~~ TPP, except with the further written consent of the Responsible Authority.

Removal of street tree(s)

16. In the event that public tree(s) are proposed for removal at any stage of the development, or Moreland City Council determines that impacts from the development will result in any of the public street trees ~~to be being~~ no longer viable, the applicant must:
- a) Pay Moreland City Council the reasonable amenity value for the tree(s) in accordance with Moreland City Council's Urban Forest Strategy 2017-2027 Supporting Reference Documents, 4 – Amenity Value Formula (City of Melbourne Method) and the costs for

removing the tree(s) prior to the issue of a Statement of Compliance or occupancy permit for any part of the building, whichever occurs first.

- b) Submit plans for the approval of Moreland City Council that shows:
 - i. Replacement tree(s) and other landscaping in the street frontages adjacent to or near the development.
 - ii. Passively irrigated engineered tree-pits

Waste Management Plan

17. ~~Prior to the endorsement of plans, a~~ amended Waste Management Plan (WMP) must be submitted to and approved by ~~to the satisfaction of~~ the Responsible Authority. When amended to the satisfaction of the Responsible Authority, the ~~report~~ WMP will be endorsed and will form part of this Incorporated Document. The ~~plan~~ WMP must be generally in accordance with the ~~advertised~~ WMP prepared by XX and submitted to Moreland City Council on XX but ~~it must be~~ amended to show the development layout updated to reflect the changes required by sub-clause 1 of this Incorporated Document and the requirements of sub-clause 7(h) of this Incorporated Document related to the Sustainability Management Plan.

Commented [A4]: Note, the Committee was not provided with a Waste Management Plan as part of the application materials

Commented [A5]: Check cross reference

18. The endorsed WMP ~~Waste Management Plan approved under this Incorporated Document~~ must be implemented and complied with at all times to the satisfaction of the Responsible Authority unless with the further written approval of the Responsible Authority.

Accessibility Report

19. ~~Prior to the endorsement of plans, a~~ amended accessibility report must be submitted to and approved to the satisfaction of ~~by~~ the Responsible Authority. When amended to the satisfaction of the Responsible Authority, the accessibility report will be endorsed and will form part of this Incorporated Document. The accessibility report ~~plan~~ must be generally in accordance with the ~~advertised~~ accessibility report prepared by Before Compliance dated 22 July 2019 but it must be amended to show the development layout updated to reflect the changes required by sub-clause 1 of this Incorporated Document.
20. Prior to the issue of a Statement of Compliance or an occupancy permit for any part of the building approved under this Incorporated Document, whichever occurs first, a report from the author of the endorsed accessibility report ~~approved pursuant to this Incorporated Document~~, or similarly qualified person or company, must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the accessibility report have been implemented in accordance with the ~~approved~~ endorsed report.

Acoustic Report

21. ~~Prior to the endorsement of plans, a~~ amended ~~A~~ acoustic Rreport must be submitted to and approved to the satisfaction of ~~by~~ the Responsible Authority. When amended to the satisfaction of the Responsible Authority, the Acoustic Rreport will be endorsed and will form part of this Incorporated Document. The Acoustic Report ~~plan~~ must be generally in accordance with the ~~advertised~~ acoustic report prepared by Cundall dated 1 August 2019 but amended to include:
 - a) The development layout updated to reflect the changes required by sub-clause 1 of this Incorporated Document.
 - b) Measures to ensure the design of dwellings comply with Standard D16 of Clause 58.04-3 (Noise impacts objective) of the Moreland Planning Scheme.
 - c) Measures to ensure the design and construction of the dwellings within 50 metres of the function centre use at 33 Saxon Street, Brunswick comply with Clause 53.06-3 (Live Music

and Entertainment Noise) of the Moreland Planning Scheme. The dwellings must be designed and constructed to include acoustic attenuation measures that will reduce noise levels from the:

- i. Indoor live music entertainment venue to below the noise limits specified in State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2 (SEPP N2).
- ii. Outdoor live music entertainment venue to below 45dB(A), assessed as an Leq over 15 minutes.

For the purpose of assessing whether the above noise standards are met, the noise measurement point may be located inside a habitable room of a noise sensitive residential use with windows and doors closed (Schedule B1 of SEPP N2 does not apply).

22. Prior to the issue of a Statement of Compliance or an occupancy permit for any part of the building approved under this Incorporated Document, whichever occurs first, a report (or reports) from a qualified acoustic expert 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 endorsed Acoustic Report have been implemented in accordance with the approved endorsed Acoustic Report.
23. The building must be constructed and maintained in accordance with the recommendations contained within the approved endorsed Acoustic Report to the satisfaction of the Responsible Authority. The endorsed Acoustic Report ~~endorsed under this Incorporated Document~~ must be implemented and complied with at all times to the satisfaction of the Responsible Authority unless with the further written approval of the Responsible Authority.

~~24. Prior to the issue of a Statement of Compliance or occupancy permit for any part of the building approved under this Incorporated Document, whichever occurs first, a report from the author of the Acoustic Report approved pursuant to this Incorporated Document or similarly qualified person or company must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the Acoustic Report have been implemented in accordance with the approved Acoustic Report.~~

Commented [A6]: Repeats sub-clause 21

Wind impact assessment

25. ~~Prior to the endorsement of plans, a~~ An amended wind impact assessment must be submitted to and approved ~~to the satisfaction of~~ by the Responsible Authority. When amended to the satisfaction of the Responsible Authority, the wind impact assessment report will be endorsed and will form part of this Incorporated Document. The wind impact assessment plan must be generally in accordance with the advertised pedestrian wind impact report environment statement prepared by Windtech dated 18 July 2019 but it must be amended as required, to show the development layout updated to reflect the changes required by sub-clause 1 of this Incorporated Document.
26. The endorsed wind impact assessment ~~approved under this Incorporated Document~~ must be implemented and complied with at all times to the satisfaction of the Responsible Authority unless with the further written approval of the Responsible Authority.

Transport for Victoria condition

27. The developer must avoid disruption to bus operation along Dawson Street during the construction of the development. Foreseen disruptions to bus operations during construction and mitigation measures must be communicated to and approved by Public Transport Victoria and the Bus Operator a minimum of eight (8) weeks prior by telephoning 1800 800 007 or emailing customerservice@ptv.vic.gov.au.

Development Contributions

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

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

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

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

Environmental Audit

29. Prior to the commencement of construction or carrying out works pursuant to this Incorporated Document, or any works associated with a sensitive use, other than works for the purpose of obtaining a Certificate of Environmental Audit or Statement of Environmental Audit, ~~or where no works are proposed, prior to the commencement of the permitted use~~, either:

- a) A Certificate of Environmental Audit for the land must be issued in accordance with Section 53Y of the *Environment Protection Act 1970* and provided to the Responsible Authority; or,
- b) An Environmental Auditor appointed under Section 53S of the *Environment Protection Act 1970* must make a Statement in accordance with Section 53Z of that Act that the environmental conditions of the land are suitable for the use and development that are the subject of this Incorporated Document and that statement must be provided to the Responsible Authority.

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 Incorporated Document must comply with all directions and conditions contained within the Statement.

Where a Statement of Environmental Audit is issued for the land, prior to the commencement of the use, and prior to the issue of a Statement of Compliance under the *Subdivision Act 1988*, and prior to the issue of an Occupancy Permit under the *Building Act 1993*, a letter prepared by an Environmental Auditor appointed under Section 53S of the *Environment Protection Act 1970* must be submitted to the Responsible Authority to verify that the directions and conditions contained within the Statement have been satisfied.

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 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 the plan of subdivision under the *Subdivision Act 1988*. All expenses involved in the drafting, negotiating, lodging, registering and execution of the Agreement, including those incurred by the Responsible Authority, must be met by the ~~Owner(s)~~landowner.

30. Prior to any remediation works (if required) being undertaken in association with the Environmental Audit, a 'remediation works' plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The plan must detail all excavation works as well as any proposed structures such as retaining walls required to facilitate the remediation works. Only those works detailed in the approved remediation works plan are permitted to be carried out prior to the issue of a Certificate or Statement of Environmental Audit.

Public Works Plan

31. Prior to the commencement of development, a Public Works Plan and associated construction drawing specifications detailing the works to the land must be submitted ~~to~~ and approved ~~by to~~ the satisfaction of the Responsible Authority. When the Public Works Plan is to the satisfaction of the Responsible Authority, the Public Works Plan will be endorsed and will form part of this Incorporated Document. The Plan must be in accordance the *Moreland City Council Technical Notes July 2019* or any updated version and detail works in front of the approved building along Dawson Street and Saxon Street including:

- a) The upgrade of the public realm adjacent to the site including new or reconstructed footpaths, street trees, water sensitive urban design treatments, seating, bicycle hoops, nature strips and other associated street furniture/infrastructure.
- b) The footpaths are to be reinstated with the standard crossfall slope of 1 in 40 from the top of roadside kerb to the property boundary, with any level difference made up within the site.
- c) A detailed level and feature survey of the footpaths and roads.
- d) Any crossovers not required removed and the kerb and channel, footpath and nature strip reinstated to Council's standards using construction plans approved by Moreland City Council, City Infrastructure Department.
- e) The location, method and number of bicycle parking to be accommodated within the road reserve.
- f) Tree(s) and other landscaping in the street frontages adjacent to or near the development and passively irrigated engineered tree-pits in the event that any street tree is required to be removed as per sub-clause ~~16.15~~ of this Incorporated Document.

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

Naming of Building as 'John Curtin Building'

32. To ensure the development does not breach sub-clause 3 a of the section 173 agreement titled 'The John Curtin Building 10 Dawson Street, Brunswick' dated 24 February 2000 (W660930P), prior to the commencement of development the applicant must obtain written consent from Moreland City Council for the removal of any existing signage identifying the building as the John Curtin Building.
33. Prior to the issue of a Statement of Compliance or occupancy permit for any part of the building, whichever occurs first, a sign identifying the building as the 'John Curtin Building' must be erected on the building on either or both of Dawson Street or Saxon Street to the satisfaction of the Responsible Authority.

General

34. Prior to the issue of an occupancy permit for any part of the building, the tilt-up carpark entry door must be automatic and remote controlled.
35. Prior to the issue of an occupancy permit for any part of the building, all parking spaces are to be marked with the associated apartment or shop number to facilitate management of the car park to the satisfaction of the Responsible Authority.
36. The area set aside for the parking of vehicles and access lanes shown on the endorsed Incorporated Plans must to the satisfaction of the Responsible Authority:
 - a) Be completed prior to the issue of an occupancy permit for any part of the building
 - b) Be maintained.
 - c) Be properly formed to such levels that it can be used according to the endorsed Incorporated Plans.
 - d) Be drained and surfaced.
 - e) Have the boundaries of all vehicle parking spaces clearly marked on the ground to accord with the endorsed Incorporated Plans.
 - f) Not be used for any other purpose other than the parking of vehicles.
37. Prior to the issue of an occupancy permit for the development, all telecommunications and power connections (whereby means of a cable) and associated infrastructure to the land must be underground to the satisfaction of the Responsible Authority.
38. All stormwater from the land, where it is not collected in rainwater tanks for re-use, must be collected by an underground pipe drain approved by and to the satisfaction of the Responsible Authority (Note: Please contact Moreland City Council, City Infrastructure Department).
39. The stormwater run-off from the accessway must not flow out of the property over the public footpath to the satisfaction of the Responsible Authority.
40. Prior to the commencement of the development, a legal point of discharge is to be obtained, and where required, a stormwater drainage plan showing how the site will be drained from the property boundary to the stated point of discharge, must be submitted to and approved by the Responsible Authority.
41. The surface of all balconies and terraces are to be sloped to collect the stormwater run-off into stormwater drainage pipes that connect into the underground drainage system of the development to the satisfaction of the Responsible Authority.
- ~~42. One car parking space must be allocated to the shop use and 37 car parking spaces allocated to the office use.~~

Commented [A7]: Repeat of sub-clauses 1(f) and 2

~~43. Bicycle signage at least 300mm wide and 450mm high showing a white bicycle on a blue background, directing cyclists to the location of the bicycle parking.~~

Commented [A8]: Repeat of sub-clauses 1(h) and 2

7.0 DEVELOPMENT TIME LIMIT

Notwithstanding other provisions of these clauses, ~~the development permitted by~~ this Incorporated Document will expire if one of the following circumstances applies:

- The development is not ~~started~~ commenced within ~~one year~~ 15 months of the date of the gazettal of amendment C210more.

The Responsible Authority may extend the periods referred to if a request is made in writing before these controls expire or within 6 months afterwards.

End of Document