

**Melbourne Planning Scheme
Referral 20: Assemble Kensington**

Priority Projects Standing Advisory Committee Report

Planning and Environment Act 1987

3 November 2021

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

Melbourne Planning Scheme

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



David Merrett, Chair



Debra Butcher, Member

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Glossary and abbreviations

<i>Acme</i>	VCAT Ref P1458/2020 Acme Co No 4 Pty Ltd v Port Phillip Council
the Amendment	draft Melbourne Planning Scheme Amendment C408melb
the Applicant	Assemble Communities Pty Ltd
BESS	Built Environment Sustainability Scorecard
the Committee	Priority Projects Standing Advisory Committee Referral 20
Council	Melbourne City Council
DCPO2	Schedule 2 to the Development Contributions Plan Overlay
DDO26	Schedule 26 to the Design and Development Overlay
DDO63	Schedule 63 to the Design and Development Overlay
DELWP	Department of Environment, Land, Water and Planning
EAO	Environmental Audit Overlay
ESD	Environmentally Sustainable Design
the Minister	Minister for Planning
PE Act	<i>Planning and Environment Act 1987</i>
VCAT	Victorian Civil and Administrative Tribunal

Overview

(i) Referral summary

Referral summary	
Date of referral	27 August 2021
Members	David Merrett (Chair) and Debra Butcher
Description of referral	Proposed use and development of land for an eight-storey building comprising dwellings, office, food and drink premises, and a reduction in car parking requirements
Common name	Assemble Kensington
Municipality	City of Melbourne
Planning Authority	Minister for Planning
Applicant	Assemble Communities Pty Ltd
Subject land	86-96 Stubbs Street, Kensington
Site inspection	David Merrett (unaccompanied) 30 September 2021
Submissions	4 (including one withdrawn)
Parties	<p>Melbourne City Council represented by Michelle Fernado and Gavin Ashley (consultant).</p> <p>Assemble Communities Pty Ltd represented by Jeremy Gobbo QC and Carly Robertson of Counsel, instructed by Mark Naughton of Planning Property Partners, calling the following evidence:</p> <ul style="list-style-type: none"> • Kris Daff on affordable housing from Assemble Communities • Joseph Oppedisano on environmentally sustainable design from Frater Consulting
Information relied upon	All referred material including submissions, draft Planning Permit PA2101202, draft planning permit application documents, draft Planning Scheme Amendment C408melb, as well as additional submissions made during the roundtable process and all tabled documents
Date of this report	3 November 2021

(ii) Findings

The Committee finds the proposal is well supported by State and local policy, it responds well to its locality in the Arden-Macaulay Urban Renewal Area and it will provide a pathway to home ownership for middle income households. In relation to the key issues addressed at the roundtable, the Committee finds that:

- Amendment C408melb is appropriately drafted.
- The Minister for Planning should be the Responsible Authority for the land at 86-96 Stubbs Street, Kensington.

- Appropriate daylight will be provided to habitable rooms, consistent with the relevant requirements of Clause 22.19 (Energy, Water and Waste Efficiency), Clause 58.07-2 (Room Depth Objective) and 58.07-3 (Windows Objective) of the Melbourne Planning Scheme.
- The proposed affordable housing model is appropriate and there is no need to incorporate a low-income household component.

(iii) Recommendation

The Priority Projects Standing Advisory Committee recommends:

- 1. That the Minister for Planning support this proposal and recommend to the Governor in Council that Melbourne Planning Scheme Amendment C408melb be approved and that permit application PA2101202 be issued, subject to the amended conditions in Appendix D.**

1 Introduction

1.1 Background

(i) Terms of Reference and letter of referral

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

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

The Committee was provided with a letter of referral from the Minister for Planning dated 27 August 2021 (Appendix B) that tasked it to provide specific advice about:

- the drafting of Amendment C408melb
- whether draft planning permit PA2101202 should be issued and, if so, the appropriate conditions.

This is Referral 20.

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

(ii) Membership

Due to the issues to be resolved, the members of the Committee dealing with Referral 20 include:

- David Merrett, Chair
- Debra Butcher, Member.

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

Two declarations were made by the Committee at the Directions Hearing. Mr Merrett declared he had no conflict of interest but has used the services of Traffix Group in his private consulting role on client projects. Ms Butcher declared she had no conflict of interest but also had used Traffix Group and Senversa in her private consulting role on client projects.

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

(iii) Background to the proposal

In May 2021, the Applicant lodged an application with the State Government's Development Facilitation Program to enable the redevelopment of the site for an 8 storey mixed-use building using the Special Controls Overlay with an accompanying Incorporated Document (refer Document 3, Town Planning Submission by Planning and Property Partners May 2021).

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

The application was lodged following pre-application discussion with Melbourne City Council (Council) in 2018 and 2019.

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

By the time notice was given to Council the approach to the approval ‘mechanism’ had changed to that of a combined amendment and planning permit application, in place of the application of the Specific Controls Overlay with an Incorporated Document. The proposed amendment, C408melb, sought to amend Schedule to Clause 72.01 of the Melbourne Planning Scheme to make the Minister for Planning the Responsible Authority for administering proposed planning permit PA2101202 for land at 86-96 Stubbs Street, Kensington and any matters required by planning permit PA2101202 to be endorsed, approved, or done to the satisfaction of the responsible authority.

The proposed Amendment was subsequently modified further to propose changes to the Schedule to Clause 72.01 to make the Minister for Planning the Responsible Authority more broadly for the land at 86-96 Stubbs Street, Kensington rather than only in association with planning permit PA2101202. It is this version of the Amendment the Committee has been asked to provide advice on.

Planning permit PA2101202 seeks to allow:

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

The Revision G plans (Document 16) relied upon at the roundtable, proposed:

- A total of 199 apartments, comprising: 32 studio apartments, 25 one bedroom, 123 two bedroom and 19 three bedrooms
- Commercial floor area of 1440 square metres
- Retail floor area of 113 square metres
- 96 car spaces
- 366 bicycle spaces
- 661 square metres of publicly accessible communal open space at ground floor level
- 794 square metres communal open space at roof top level.

The Committee was advised that the Applicant in this matter is a housing developer and community management business that seeks to make *‘thoughtfully designed, sustainable homes more accessible to more people’*¹.

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

¹ Section 2, paragraph 1, Document 20

(iv) Consultation

The Committee conducted a Directions Hearing on 17 September 2021 by video conference and subsequently a roundtable session on 6 October 2021. All correspondence was conducted through the Project Officer, Ms Thomas.

1.2 Process

The Committee was provided with a letter of referral from the Minister for Planning dated 27 August 2021. The Committee had already been provided with the relevant Department of Environment, Land, Water and Planning (DELWP) files in anticipation of the referral and wrote to the submitters, Council and the Applicant to the proceeding on 10 September 2021 advising of its referral and inviting those parties to a Directions Hearing on 17 September 2021.

The Committee was advised four submissions were made in relation to the matter, one of which was subsequently withdrawn following discussions with the Applicant. The remaining three submitters were Council, Environment Protection Authority and Ms Courtney Mills. All submitters were notified of the Directions Hearing and Ms Mills subsequently advised that she didn't wish to participate any further in the roundtable process but requested the Committee to still consider her submission.

At the Directions Hearing, the option of undertaking a roundtable discussion rather than a 'typical' hearing was discussed and was agreed to by all parties. In addition, the Applicant advised that it was preparing amended plans which it intended to rely upon at the roundtable, to address the concerns about daylight to habitable rooms, as well as some of the urban design related matters raised by Council.

Given this, the Committee confirmed the roundtable arrangements, as well as dates for the distribution of amended plans and an associated schedule of changes and provided an outline of how the roundtable would proceed by letter on 17 July 2021 (Document 7). The letter advised that the Committee would hear each of the four issue themes that had been identified at the Directions Hearing, in the order of the Applicant and then Melbourne City Council. The letter also confirmed that the Applicant intended to call evidence on daylight issues and the affordable housing model, and that the Committee intended to limit evidence in chief to 10 minutes with cross examination limited as far as practical to matters of clarification.

The Applicant subsequently circulated the Revision G amended plans, as well as a statement of evidence addressing daylight and Environmentally Sustainable Design (ESD) matters from Mr Oppedisano of Frater Consulting and the affordable housing model from Mr Kris Daff of Assemble Communities.

The Committee provided Directions on reviewing and responding to conditions and consequently a set of draft conditions containing tracked changes was provided to the Committee (Document 38) at the roundtable which represented the agreed position of the Applicant and Council, as well as those matters where agreement had not been reached that were tracked. It is this document that has been used by the Committee as the basis for the preferred conditions at Appendix D.

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

2 Site and planning context

2.1 The subject site

The subject site is located at 86-96 Stubbs Street, Kensington and comprises of all land within Plan of Consolidation 353167F. It is not affected by any restrictive covenants or easements.

The subject site is an ‘island’ site which is rectangular in shape and is bound by Stubbs Street to the east, Thompson Street to the west and unnamed Council owned laneways to the north and south. The site has a total area of approximately 3,985 square metres and a frontage of approximately 79 metres to Thompson Street and Stubbs Street, and a depth of approximately 50 metres.

Demolition of the buildings previously located on the site has been completed and the site is currently vacant.

The Council Officer’s Delegate Report describes the site’s surrounds as follows²:

The site is located within the Arden-Macaulay Urban Renewal Area. The surrounding area includes a mix of industrial, commercial and residential land uses. The industrial and commercial sites range in size but are predominately developed with one and two storey buildings with high site coverage. The residential properties include a mix of single dwellings, double storey townhouses and apartment buildings.

Figure 1 contains an aerial photo that shows all buildings on the land have been demolished.

Figure 1 Subject site



2.2 Planning framework

(i) State policy

Relevant State policies identified in the Council Officer’s Delegate Report (Document 3) are as follows:

- Clause 11 – Settlement
- Clause 13 – Environmental Risks and Amenity
- Clause 15 – Built Environment and Heritage
- Clause 16 – Housing

² Page 2, Officer’s Delegate Report, Referred Material Document 3

- Clause 17 – Economic Development
- Clause 18 – Transport
- Clause 19 – Infrastructure.

The Committee highlights that of relevance to the key issues considered at the roundtable, are Clause 15.01-2S (Building Design), Clause 15.02-1S (Energy and Resource Efficiency), Clause 16.01-2S (Housing Affordability) and Clause 18.02-1S (Sustainable Transport).

The Committee finds that the proposal responds appropriately to the relevant policies of the Planning Policy Framework because it:

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

(ii) Municipal Strategic Statement and Local policies

Relevant clauses of the Municipal Strategic Statement (MSS) and Local policies include the following.

- Clause 21.02 – Municipal Profile
- Clause 21.03 – Vision
- Clause 21.04 – Settlement
- Clause 21.06 – Built Environment and Heritage
- Clause 21.07 – Housing
- Clause 21.08 – Economic Development
- Clause 21.09 – Transport
- Clause 21.10 – Infrastructure
- Clause 21.16 – Proposed Urban Renewal Areas (Arden-Macaulay)
- Clause 22.17 – Urban Design outside the Capital City Zone
- Clause 22.19 – Energy, Water and Waste Efficiency
- Clause 22.23 – Stormwater Management.

Of relevance in the context of the key issues addressed at the roundtable are Clause 21.06 (Built Environment and Heritage); Clause 21.07 (Housing); Clause 21.09 (Transport) and Clause 22.19 (Energy, Water and Waste Efficiency).

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

(iii) Zones and overlays

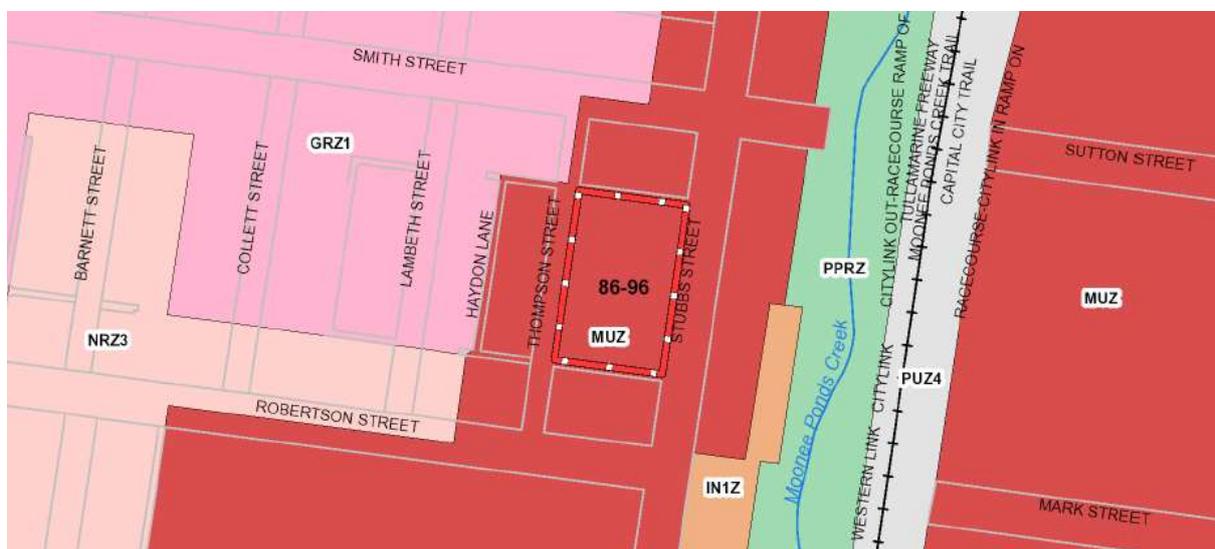
The site is located within the Mixed Use Zone (Figure 2) and is also affected by Schedule 26 to the Design and Development Overlay (DDO26), Schedule 63 to the Design and Development Overlay

(DDO63), Schedule 2 to the Development Contributions Plan Overlay (DCPO2) and the Environmental Audit Overlay (EAO) of the Melbourne Planning Scheme.

The purpose of the Mixed Use Zone as contained at Clause 32.04 of the Melbourne Planning Scheme is:

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

Figure 2 Zone map



The schedule to the Mixed Use Zone does not contain any change to Clauses 54 or 55 requirements or nominate a maximum building height. The zone does not require a permit to use the land for a dwelling. However, a permit is required for the construction of two or more dwellings on a lot and due to the building being more than five storeys it must also meet the requirements of Clause 58. In addition, a permit is required for the use and development of the retail component of the proposal, as well as ground floor office space, due to it exceeding 250 square metres of leasable floor area.

DDO26 applies to the 'North Melbourne, West Melbourne and Arden-Macaulay Noise Attenuation Area' and includes the following design objectives:

- To ensure that new, refurbished or converted developments for new residential and other noise sensitive uses constructed in the vicinity of the Laurens Street, North Melbourne Industrial Area and in the vicinity of industrial operations in Arden-Macaulay include appropriate acoustical measures to attenuate noise levels within the building.
- To ensure that land use and development in the vicinity of the Laurens Street, North Melbourne Industrial Area and in the vicinity of industrial operations in Arden-Macaulay does not adversely affect the viability of industry within these areas.

DDO26 requires a permit for buildings and works and an application must address the requirements of the schedule which specifies noise attenuation measures and noise measurement and noise testing requirements. An Acoustic Report prepared by Acoustic Logic was lodged as part

of the permit application addressing these requirements and is proposed to be implemented through a planning permit condition. The Acoustic Report addresses the requirements of DDO26 ensuring that the apartments will be appropriately acoustically treated to attenuate external noise.

DDO63 applies to the ‘Macaulay Urban Renewal Area, Kensington and North Melbourne’ and includes the following design objectives:

- To create a compact, high density, predominantly mid-rise, 6 – 12 storey walkable neighbourhood that steps down at the interface with the low scale surrounding established residential neighbourhoods.
- To provide for higher development that delivers identified demonstrable benefits on large sites that do not interface with the low scale surrounding established residential neighbourhoods.
- To create urban streetscapes that are defined by a generally consistent plane of building facades that enclose streets but allow daylight and sunlight to penetrate to the streets and to lower building levels.
- To ensure that built form elements above the street wall are visually recessive and do not contribute to visual bulk.
- To encourage the ground floor of buildings to be designed so that they can be used for a variety of uses over time.

DDO63 designates the subject site in ‘Area 4’ and applies four area-specific built form outcomes relating to street definition and a pedestrian friendly scale, access to sunlight and daylight, ensuring appropriate interfaces to surrounding low scale residential development and maintaining solar access to ground floors on the western side of Thompson Street and southern side of Scarborough Place.

DDO63 specifies a ‘preferred’ maximum height of six storeys and a mandatory maximum height of eight storeys for Area 4. The height can only be exceeded if the following can be demonstrated:

A demonstrable benefit to the broader community that include among others:

- Exceptional quality of design.
- A positive contribution to the quality of the public realm.
- High quality pedestrian links where needed.
- Good solar access to the public realm.

DDO63 also includes mandatory street wall heights and preferred street setbacks. The Council Officer’s Delegate report confirmed compliance with the various mandatory requirements.

DCPO2 applies to the ‘Arden-Macaulay Urban Renewal Area’ and requires development contributions be provided to fund new and upgraded infrastructure to the precinct. This requirement is addressed via a condition on the draft planning permit.

The EAO requires prior to a sensitive use commencing or construction occurring for a sensitive use, that the environmental conditions of the land be suitable for such uses. The requirements of the EAO are also addressed through a planning permit condition.

(iv) Particular provisions, general requirements and performance standards

Provisions relevant to this permit application include:

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

Clause 52.06 deals with car parking requirements for various land uses including dwellings, office floorspace and retail floorspace (refer Table 1 at Clause 52.06-5). A breakdown of the car parking requirements was provided as part of the Council Officer’s Delegate report (Document 3), based on the Revision F plans considered by Council in June 2021 (Document 3). Based on those plans a total of 237 car spaces were required for the apartments, three spaces for the retail area and 42 spaces for the office floorspace thus a total of 282 spaces. The total number of spaces to be provided was 96 spaces so a reduction of 186 car spaces was required.

Mr Gobbo advised in submission during the roundtable that due to some of the changes proposed as part of the Revision G plans (Document 16) *“there was a minor change to the overall area of commercial floor space (slight increase) and to the mix of dwellings (considerably fewer three-bedroom dwellings)”*³ and that as a result of this *“the waiver being sought for the office component of the proposal is slightly higher (additional four spaces) but the overall statutory waiver being sought is lower because of the reduced number of three bedroom dwellings”*⁴.

Clause 52.34 requires the provision of bicycle parking for a range of uses including for dwellings and office floorspace, noting that the retail floorspace does not generate a requirement due to it being less than 300 square metres in area. The Committee was advised in Council’s submission (Document 33) that a requirement for 66 bicycle spaces was generated and that a total of 434 bicycle spaces was proposed. In terms of associated facilities, Clause 52.34 requires the provision of one shower and either one change room or direct access to a communal change room. The proposal provides for two showers, therefore also exceeding the statutory requirement for end of trip facilities.

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

Clause 58 relates to apartment developments of five or more storeys and outlines a series of objectives, standards and decision guidelines. The clause requires that a development must meet all the objectives and should meet all the standards. The objectives and standards that were the focus of discussion at the roundtable were:

Clause 58.07-2 Room Depth Objective:

To allow adequate daylight into single aspect habitable rooms.

Standard D25

Single aspect habitable rooms should not exceed a room depth of 2.5 times the ceiling height.

The depth of a single aspect, open plan, habitable room may be increased to 9 metres if all the following requirements are met:

- The room combines the living area, dining area and kitchen.
- The kitchen is located furthest from the window.
- The ceiling height is at least 2.7 metres measured from finished floor level to finished ceiling level. This excludes where services are provided above the kitchen.

The room depth should be measured from the external surface of the habitable room window to the rear wall of the room.

Clause 58.07-3 Windows objective

³ Paragraph 14, Document 29

⁴ Paragraph 15, Document 29

To allow adequate daylight into new habitable room windows.

Standard D26

Habitable rooms should have a window in an external wall of the building.

A window may provide daylight to a bedroom from a smaller secondary area within the bedroom where the window is clear to the sky. The secondary area should be:

- A minimum width of 1.2 metres.
- A maximum depth of 1.5 times the width, measured from the external surface of the window.

(v) General and operational provisions

Clause 65.01 includes Decision Guidelines for approval of an application or a plan. Relevant matters to be considered include:

- The Municipal Planning Strategy and the Planning Policy Framework
- The purpose of the zone, overlay or other provision
- Any matter required to be considered in the zone, overlay or other provision
- The orderly planning of the area
- The effect on the amenity of the area
- The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.

Clause 66 details relevant referral authorities for permit applications.

Clause 71.02 refers to the operation of the Planning Policy Framework. Clause 71.02-3 relates to Integrated Decision Making and identifies that society has various needs and expectations such as land for settlement, protection of the environment, economic wellbeing, various social needs, proper management of resources and infrastructure, and that planning aims to meet these needs and expectations.

It highlights the need for responsible authorities to endeavour to integrate the range of planning policies relevant to the issues to be determined and *“balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations”*.

3 The issues

The issues to be resolved are:

- Amendment C408melb - whether it is appropriately drafted.
- Car parking - whether the proposed reduction in on-site car parking is appropriate including the allocation of car spaces to the office floorspace.
- Daylight access – whether the proposed building layout provides appropriate access to daylight to habitable rooms, consistent with the requirements of Clause 22.19 (Energy, Water and Waste Efficiency), Clause 58.07-2 (Room Depth Objective) and 58.07-3 (Windows Objective) of the Planning Scheme.
- Housing affordability – whether the Applicant’s proposed affordable housing model is appropriate or should be amended to address low-income households.
- Permit conditions – drafting of the Planning Permit and its conditions.

3.1 Amendment C408melb

The issue is whether Amendment C408melb is appropriately drafted.

(i) Submissions

As outlined in the letter of referral from the Minister, the version of Amendment C408melb that was the subject of targeted consultation, proposed to make the Minister the Responsible Authority for the Planning Permit PA2101202. The Amendment was then changed to make the Minister the Responsible Authority for the land at 86-96 Stubbs Street.

At the Directions Hearing, the Committee sought the position of Council on this issue. Ms Fernando for Council advised that she needed to take that question on notice and respond at the roundtable.

At the roundtable, Ms Fernando advised as follows⁵.

111. Council respectfully advises that it is not supportive of this change and contends that Melbourne City Council should remain the responsible authority for the land. Council contends that Melbourne City Council is the appropriate responsible authority for the future and ongoing administration of the site and that removing Council as this authority is not conducive to orderly planning. The appointment of the Minister as the responsible authority for the land is considered to further complicate the operation of the land for future occupants.

Mr Gobbo advised that the change was a matter advanced by the Minister and not the Applicant and that the Minister becoming the Responsible Authority as proposed was the “*exception and not the rule*”. He noted that it was assumed the change was to enable the Minister to keep an ongoing ‘hand’ on the development of the site. Thus, there was no objection raised by the Applicant to the change.

(ii) Discussion and findings

DELWP did not explain to the Committee the reason for the change in approach to Amendment C408melb. However, the Committee understands that this approach has also been proposed for several other Assemble projects, in other municipalities.

⁵ Paragraph 111, Document 33

The Committee can see benefits with the Minister being the ongoing responsible authority for the subject site, and not just the current permit application, as it would mean that any future permit applications would also be considered by the Minister. Future applications are unlikely because the current application seeks to maximise development on the site. Nonetheless, if future approvals are required, there would be benefit in having the Minister determine the application, providing for continuity on this site and other Assemble sites.

Having the Minister as the ongoing responsible authority is unlikely to complicate matters for future occupants, noting that any future planning permit applications once the site has been developed would likely be required to be managed by an owner's corporation, rather than individual apartment owners and ministerial approval would still be required.

The Committee finds:

- Amendment C408melb is appropriately drafted.
- it is appropriate that the Minister is the Responsible Authority for the land at 86-96 Stubbs Street, Kensington.

3.2 Car and bicycle parking

The issues are whether:

- the proposed reduction in on-site car parking is appropriate
- there should be an allocation of 15 car spaces to the office floorspace instead of the proposed nine spaces.

(i) Submissions

Ms Mills expressed concern about:

- the extent of car parking that is proposed to be provided and requested the provision of at least one car park per apartment
- the possibility of existing all-day parking on Thompson Street being changed because of the proposal.

Council submitted that its traffic engineers had not raised concerns about parking for the residential or retail component however considered that a minimum of 15 car spaces should be allocated to the office component (the proposal was to allocate nine spaces).

Council advised that whilst it supported the additional bicycle parking proposed, which assists in addressing the shortfall in car parking, that it considered additional end of trip facilities should be provided, stating that⁶ *“the provision of end of trip facilities which complement the number of bicycle spaces is required to ensure viability of uptake, which in part supports the acceptability of the car parking waiver.”* Council advised that the provision of only two showers/change rooms for potentially 48 employee bicycle spaces associated with the office floor space was insufficient to justify the car parking waiver and requested the inclusion of an amended condition requiring bicycle facilities commensurate with the number of bicycle spaces associated with the office use.

Council considered the site can accommodate a waiver for the residential and retail component of the development given⁷:

⁶ Paragraph 28, Document 33

⁷ Paragraph 42, Document 33

- ‘The site’s proximity to public and active transport infrastructure, including multiple train stations, bus and cycling routes;
- The site’s proximity to activity centres, community infrastructure and public open space;
- ABS Census data that demonstrates lower levels of car ownership in the area;
- Residents of the development will not be eligible for parking permits and will not be exempt from on-street parking restrictions;
- The availability of on-street parking spaces for visitors;
- Provision of more than six times the minimum number of bicycle parking spaces required under Clause 52.34;
- A permit condition is recommended to provide parking space for the commercial tenancies, in accordance with Engineering Services’ referral comments’.

In relation to the issue of car parking associated with the office use, Mr Gobbo advised that the Applicant continued to rely upon the findings of the Traffix Group report which accompanied the application, and which supported the car parking proposal and waiver for the site. Mr Gobbo highlighted that the Traffix Group report observed that⁸:

- a) ‘The Proposal has very good accessibility to public and alternative transport modes;
- b) The Proposal includes a generous provision of bicycle parking for employees;
- c) Not providing onsite car parking forces the use of alternative transport modes; and
- d) It is expected that as the area develops, on-street car parking conditions will change and long-term parking will likely be managed by a permit system, for which employees will not be eligible’.

As discussed in Chapter 3, Mr Gobbo noted that due to the change in apartment numbers and commercial floor space shown on the Revision G plans, there was a slight decrease in the overall waiver sought. Mr Gobbo noted that the existing Assemble offices do not provide car parking and that works well for the staff (which are intended to relocate to this site).

Mr Gobbo tabled a VCAT decision, VCAT Ref P1458/2020 *Acme Co No 4 Pty Ltd v Port Phillip Council (Acme)*, (Document 35) relating to an office proposal on St Kilda Road, where a rate of 0.34 car spaces per 100 square metres was supported by VCAT taking into account a range of matters including public transport accessibility, changes in office car use with the introduction of ride share and car share services, as well as the of bicycle spaces and the end of trip facilities.

Mr Gobbo highlighted that the car parking rate proposed for the Assemble project of 0.6 per 100 square metres, exceeded that of the *Acme* decision and current requirements in Fishermans Bend where the statutory required rate has been reduced to 0.5 car spaces per 100 square metres leasable floor area. He also noted that the best outcome for the site was to ensure flexibility in the way the car spaces are made available, to ensure the allocation of spaces for the residential component of the building could be undertaken according to merit and need.

In relation to the issue raised by Council about end of trip facilities, in later discussions associated with the draft conditions the Applicant accepted Council’s request to provide bicycle facilities associated with the office floor space, commensurate with the number of bicycle spaces allocated to the use.

(ii) Discussion and findings

The Committee accepts that the proposed provision of parking for the development is appropriate and will assist in the need for a modal transport shift in an area rich in public transport options.

⁸ Paragraph 13, Document 29

While it acknowledges the concerns of Ms Mills, it considers that the justification provided in the Traffic Group report for a reduced provision of car parking associated with the apartments, and which was also supported by the Council’s traffic engineers, is sound. The Committee acknowledges that there may be some impacts to residents in relation to on-street parking because of the proposal however considers that for the reasons outlined by both Council and the Applicant that these impacts will be manageable.

For similar reasons, the Committee also finds that the proposed allocation of nine spaces to the office floor area is appropriate, subject to the provision of additional end of trip bicycle facilities associated as agreed between the Applicant and Council. The Committee considers that the locational attributes of the site in terms of public transport, combined with the provision of ample bicycle parking and the changing approach to office car use as outlined by Mr Gobbo, provides adequate justification for the waiver that has been sought by the Applicant for the office floorspace component.

The Committee finds the:

- proposed reduction in on-site car parking is appropriate
- allocation of nine car spaces to the office floorspace is supported
- need for additional trip end facilities is supported.

3.3 Daylight access

The issue is whether the proposed building layout provides appropriate access to daylight to habitable rooms, consistent with the requirements of Clause 22.19 (Energy, Water and Waste Efficiency), Clause 58.07-2 (Room Depth Objective) and Clause 58.07-3 (Windows Objective) of the Melbourne Planning Scheme.

(i) Submission and evidence

The issue of daylight access was raised by Council in correspondence to DELWP dated 21 June 2021⁹ with the primary concern being in relation to daylight access to habitable rooms, particularly those which rely upon internal circulation areas as the primary light source. The correspondence specified that a specialist day light study using Built Environment Sustainability Scorecard (BESS) parameters should be undertaken to justify the approach taken to daylight in the proposal.

In response to this concern, the Committee raised this issue at the Direction Hearing. The Applicant advised that it was in the process of preparing amended plans to resolve the daylight issue and it is these plans (Revision G) that were subsequently circulated to Council and the Committee and relied upon the roundtable.

Council advised in its submission that prior to the roundtable there has been several meetings with the Applicant to discuss daylight issues and that the Revision G plans had resulted in some improvements including¹⁰:

- deletion of north and south wing stair replaced with central stair and larger light court
- amendments to light well sizes
- reconfiguration of internal dwelling layouts.

⁹ Referred Material, Document 3

¹⁰ Paragraph 47, Document 33

Council acknowledged Frater Consulting’s revised ESD review (discussed further below) and noted that it “*contends*” that the revised layout achieves the BESS minimum requirements in relation to daylight access (which is where 80 per cent of bedrooms are deemed to comply).

However, Council advised that it remained of the view that its concerns associated with daylight had still not been adequately addressed and that the proposal in its amended form will still result in a “*poor, and ultimately unacceptable outcome*”¹¹.

Council noted that Clause 58.07-3 requires habitable rooms to have a window on an external wall of a building to allow adequate daylight into new habitable room windows and highlighted the apartments where this doesn’t occur (on the basis that windows to an internal, but open, corridor does not constitute an external wall).

Council identified several examples where it considered the use of light wells did not meet the required BESS standards in terms of minimum dimensions and area, and which, if calculated correctly, would mean that 80 per cent compliance would not be achieved, only 79 per cent. Council also questioned the approach that had been taken to the daylight assessments for the 31 studio apartments.

Council concluded that the proposal “*relies heavily on compliant upper level apartments, to balance the scales of underperforming lower level apartments*”¹².

Mr Gobbo highlighted that there are two policies relevant to ESD in the Melbourne Planning Scheme: Clause 22.19 (Energy, Water and Waste Efficiency) and Clause 22.23 (Stormwater Management (Water Sensitive Urban Design)) and that neither clause explicitly calls for a daylight assessment, or a BESS assessment, although one clause does reference the Green Star rating tool used by the Green Building Council of Australia. Therefore, the only other way in which to manage daylight requirements through the planning scheme is by Clauses 58.07-2 (room depth objective) and 58.07-3 (windows objective).

Mr Gobbo highlighted the process that the Applicant had followed in terms of addressing ESD and daylight requirements, which can be summarised as follows:

- Preparation of an initial ESD Report by Atelier Ten¹³ which utilised the Green Star requirements. Mr Gobbo advised that in a Green Star assessment rather than isolating the issue of daylight the overall ESD performance of the proposal needs to be considered. The outcome of this review was that it exceeded 4 star best practice requirements and the review concluded that the proposal would achieve a 5 star outcome equivalent to an ‘Australian Excellence’ outcome in ratings.
- Preparation of an ESD peer review by Frater Consulting (Document 19) that concluded the Atelier Ten report meets the objectives of Clauses 22.19 and 22.23 and made several recommendations on matters that should be further detailed in a final ESD report to accompany subsequent endorsements required under any future planning permit.
- In response to a request by Council, an assessment was also undertaken by Frater Consulting of the Revision G plans (as part of the peer review) that utilised the BESS assessment tool, (although the report noted that there is no requirement within the Melbourne Planning Scheme to undertake such an assessment). The assessment demonstrated that the project could achieve an 80 per cent ‘pass score’ for bedrooms when assessed against the BESS tool.

¹¹ Paragraph 49, Document 33

¹² Paragraph 72, Document 33

¹³ Referred material, Document 3

In addition to the above, the Committee notes that the application documents lodged with Council included as part of the planning report, an assessment of the application plans against the requirements of the Clauses 58.07-2 and 58.07-3, which concluded that the objective and standard of both clauses were met. In comparison, the Council Officer’s Delegate Report for the application stated that the proposal didn’t respond to the clauses appropriately due to some bedroom windows relying on circulation areas for daylight and recommended a condition to address the non-compliance.

In relation to Clause 58 matters, Mr Gobbo highlighted the ‘must’ requirement associated with the objectives of these clause and the ‘should’ component in relation to the standards of the clauses and noted the design response that has been made is adequate in this context. He also addressed the issue raised by Council in relation to windows facing what Council described as internal walls, advising that:

- the Melbourne Planning Scheme doesn’t provide a definition of ‘external walls’
- the walls in question are open to the sky at the end of the corridor
- the walls in question are treated as external walls from a fire rating perspective for building construction purposes (with confirmation of this provided via correspondence from McKenzie Group – Document 36).

Accordingly, he contended that the walls in question can indeed be considered as external walls.

As previously noted, Mr Oppedisano of Frater Consulting was made available as an expert witness to answer any questions the Committee or Council had about the peer review he had undertaken. Under cross examination from Council and questioning from the Committee, some of the matters Mr Oppedisano addressed included:

- the approach that had been taken to the assessment of the studio apartments, which he considered was appropriate
- the lack of reference to BESS in the Melbourne Planning Scheme although he confirmed that it is included as a requirement in some other municipalities
- highlighting that the Green Star assessment referred to in Council policy doesn’t emphasise daylight as much as it once did
- observing that based on the 80 per cent BESS ‘pass score’ for daylight, if there is a variation of to 1 to 3 per cent (as suggested by Council) that this isn’t pivotal given the broader compliance across the whole development
- confirming that in his opinion the amended proposal (Revision G plans) ‘ticks the boxes’ for both a Green Star assessment and BESS.

Mr Gobbo submitted that any decision made in relation to daylight needs to be made in the proper context, and not in isolation of the range of other issues that also need to be considered as part of the proposal. He highlighted the constraints of the site, in terms of it being too deep for apartments either side of one corridor, and thus the need to divide it into two halves – with some of the daylight challenges stemming from this design issue. Mr Gobbo noted that for any development of this scale, there will be a ‘gradation’ of performance between the various apartments in relation to a range of matters depending upon their location within the development.

(ii) Discussion and findings

The Committee highlights the following key daylight matters presented to it at the roundtable:

- There was general agreement between Council and the Applicant that the Revision G plans resulted in improvements in addressing Council’s concerns associated with daylight, although Council considered the changes did not go far enough.
- The Melbourne Planning Scheme consideration of daylight issues is only required via the Green Star assessment tool and the relevant Clause 58 mandatory objectives and non-mandatory standards.
- There is no requirement for a proposal to be considered against the BESS requirements in the Melbourne Planning Scheme, and no amendment ‘on foot’ to include it as a requirement.
- Notwithstanding the above, the Frater Consulting peer review undertook a BESS assessment and confirmed the amended plans meet the 80 per cent ‘pass’ requirement for bedrooms.
- The ESD Report by Atelier Ten confirmed compliance with the Green Star assessment tool and the peer review undertaken by Frater Consulting confirmed this.
- The objective and standard of Clause 58.07-2 can be met.
- The objective of Clause 58.07-3 can be met and the standard is also potentially met depending upon how the term ‘external wall’ is defined.

The Committee considers that the Applicant’s response to daylight issues via the Revision G plans is appropriate and should be supported.

The Committee notes the observations made by both Mr Gobbo and Mr Oppedisano that the ESD assessment tools address a range of matters, not just daylight issues, and agrees that daylight issues should be considered as part of the whole project, not just as an isolated issue. In this regard the Committee acknowledges that there will be some apartments on higher levels that will have better amenity than others due to their access to daylight. However, there will also be a range of other matters resulting in varying levels of amenity between the 199 apartments.

The Committee finds appropriate daylight will be provided to habitable rooms, consistent with the relevant requirements of Clause 22.19 (Energy, Water and Waste Efficiency), Clause 58.07-2 (Room Depth Objective) and 58.07-3 (Windows Objective) of the Melbourne Planning Scheme.

3.4 Affordable housing model

The issue is whether the Applicant’s proposed affordable housing model is appropriate or should be amended to address low-income households.

(i) Submissions and evidence

Council submitted that the affordable housing model proposed by the Applicant should be amended to include low-income households.

Council submitted that¹⁴:

- The development originally proposed that 70% of apartments to be provided as ‘affordable’ housing, for low and moderate income consistent with the definitions at Section 3AA of the Planning and Environment Act 1987.
- The inclusion of low income households is detailed within Planning Report prepared by Planning and Property Partners dated May 2021.
- The ‘Draft Conditions’ provided in the notification documents by the Department of Environment, Land, Water and Planning (DELWP) refer only to ‘moderate’ income households.

¹⁴ Paragraphs 81-84, Document 33

- There is no explanation as to why ‘low’ income households were omitted from the proposed condition circulated by DELWP despite being included in the Planning Report dated May 2021.

Council referred to DDO63 and noted that to exceed the preferred maximum height of six storeys, as is proposed, it requires a demonstrable benefit to the broader community that include among others:

- Exceptional quality of design.
- A positive contribution to the quality of the public realm.
- High quality pedestrian links where needed.
- Good solar access to the public realm.

Council stated that it does not consider the proposal has demonstrated exceptional quality of design due to the need for improvements to the internal amenity of dwellings and streetscape presentation to elevate it to an ‘exceptional’ standard¹⁵.

Council submitted that *“the provision of affordable housing for ‘low’ income households is required to achieve the envisioned demonstrable benefit to the broader community to justify the additional height”*¹⁶.

To address this concern, Council proposed some alternative wording for Condition 5 (Management Plan for Alternative Housing Model) which required at least half of all the new affordable housing to be for low-income households.

Mr Daff, of Assemble Communities, provided affordable housing evidence that explained the nature of Assemble, its origins, and discussed some of its other projects, including one that is under construction in Macaulay Road, Kensington, also in the City of Melbourne. He highlighted Assemble’s good working relationship with Council on other projects and acknowledged the support that Melbourne City Council offers in the social and affordable housing space.

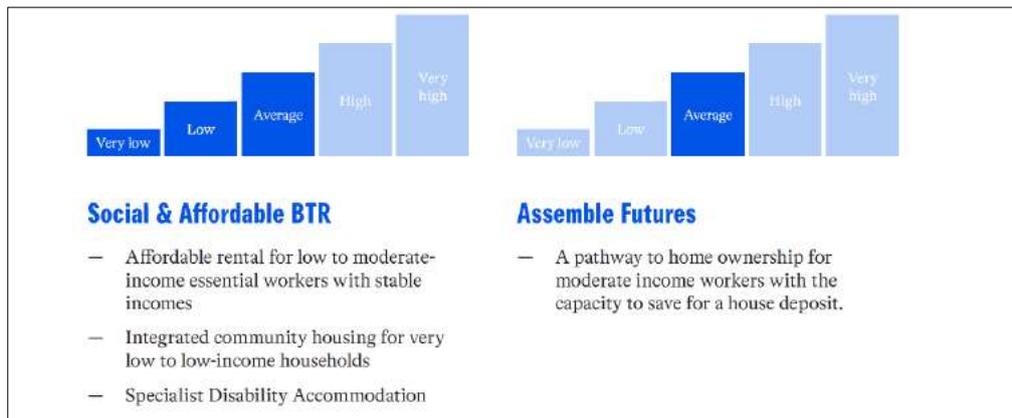
Mr Daff explained that Assemble Communities operates two housing model options, as shown in Figure 3. One model is for social and affordable build to rent housing, and the other, which is called Assemble Futures, seeks to provide a pathway to home ownership for moderate income workers with the capacity to save for a house deposit.

Mr Daff advised that the proposed development had always been intended to be the second model – build to rent to buy – which is directly targeted at moderate income workers. In comparison, he noted that the Assemble project in Macaulay Road is based on the first model.

When questioned about whether there was opportunity to amend the proposal as required by Council, to also address low-income households, Mr Daff advised that it just wouldn’t work. He noted that unfortunately, most low-income households in Victoria have limited ability to move into home ownership and that it is for this reason that Assemble has the two models, to accommodate the different financial circumstances of households taking into account the current property market, and the mismatch between wage growth and property prices.

¹⁵ Paragraph 88, Document 33

¹⁶ Paragraph 91, Document 33

Figure 3 Assemble housing models¹⁷

Source: Evidence statement of Kris Daff

Mr Daff provided a useful case example of how the Assemble Futures model works in assisting those on a moderate income into home ownership, where otherwise they might not be able to. He advised of the multiple projects that Assemble is looking to develop across Melbourne, noting that of the ten projects that are proposed, seven are the Social and Affordable Build to Rent model and three (including this current matter) are the Assemble Futures model.

Mr Daff confirmed that it isn't possible to 'mix and match' the models and confirmed that the project won't proceed if it is a requirement to provide 35 per cent of apartments to be for low-income households.

(ii) Discussion and findings

The Committee acknowledges the importance that Melbourne City Council places on the provision of social and affordable housing in the city and the broad support given to this project by Council, subject to the addition of housing for low-income households.

Nonetheless, the Committee found the explanation presented by Mr Daff of the two Assemble models, and why this current project is aimed at the second model focussed on moderate income households, compelling and supportable.

It is perhaps unfortunate that the original permit application referred to low-income households, in error it would seem, as it set an expectation for Council as to the nature of the housing model. However, it is clear to the Committee that the proposal before it, to assist moderate income households to eventually be able to purchase an apartment, is appropriate in terms of responding to relevant policy directions for affordable housing.

Providing at least 139 dwellings (70 per cent) for moderate income households will be of significant community benefit, particularly when considered in the wider context of the multiple projects that the Applicant is looking to develop across Melbourne utilising its two models.

The Committee does not agree with Council that by not providing housing for low-income households, the proposal fails the 'tests' presented in DDO63 for greater height. The Committee considers the current proposal will be of demonstrable benefit to the broader community. It also considers that the design and layout of the proposal, subject to amendments as

¹⁷ Figure 1, page 5, Document 20

recommended in this report, will ensure the proposal results in a development of ‘exceptional’ quality of design, that responds appropriately to the DDO63 requirements.

The Committee finds the proposed affordable housing model is appropriate and there is no need to incorporate a low-income household component.

3.5 Permit conditions

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

(i) Submissions

Before the roundtable, the Committee was provided with several different sets of draft permit conditions (Council used draft conditions from its Officer’s Delegate Report whilst the Applicant used a draft permit from DELWP).

The Committee requested the preparation of a draft permit that consolidated these various versions using a consistent base document and clearly demonstrated any remaining areas of disagreement between Council and the Applicant for use at the roundtable. The Applicant undertook this task, and a set of conditions was provided by Mr Gobbo (Document 38) which was referred to as the ‘hearing version’ and which has been used as the basis for the Committee’s preferred version of the planning permit at Appendix D of this Report.

The key matters that remained in contention as part of the discussion about permit conditions (aside from the conditions associated with car parking, daylight issues and the affordable housing model as already discussed) were:

- Condition 1: matters associated with brick work at the ground level of the building facing the southern laneway, the use of soffit materiality to the Stubbs Street arcade entry.
- The various conditions associated with landscaping, street trees and street furniture (Conditions 12, 21 – 23 and 29 – 32).

The Condition 1 matters relate to:

- Condition 1(d) and the use of ‘hit and miss’ brickwork to the lower ground level section of the southern façade along the southern laneway. The Applicant explained, through the submission of updated renders (Document 37), that the datum line of the hit and miss brickwork was dictated by the Melbourne Water flood levels and that this required the use of corbelled brick detail below the ‘hit and miss’ brickwork. It was discussed that it might also be possible to maintain the ‘hit and miss’ brickwork externally but have solid masonry behind. There appeared to be general agreement that the design outcome proposed in Document 37 was acceptable, with Council suggesting Condition 1(d) could refer specifically to that design outcome.
- Condition 1(f) which related to soffit details. It was confirmed by Council that this was only intended to relate to Thompson Street and could also reference Document 37.

The discussion in relation to the conditions associated with landscaping, street trees and street furniture primarily related to the ‘doubling up’ of requirements across multiple conditions, in addition to the need for street trees to be appropriately protected and for Council to be consulted in relation to the on-site landscaping.

(ii) Discussion and findings

The Committee has included at Appendix D its preferred permit conditions. These address the Condition 1 matters discussed above, and also propose some minor changes to the conditions associated with the landscaping, street trees and street furniture to address the ‘doubling up’ issue. Agreed condition changes between Council and the Applicant are incorporated in the preferred permit conditions.

The preferred conditions also address the matters previously discussed in relation to car parking, daylight and affordable housing as follows:

- inclusion at Condition 1(k) for a minimum of nine spaces associated with the office component of the proposal
- inclusion at Condition 1(n) requiring bicycle facilities commensurate with the number of bicycle spaces allocated to the office component
- retention of Condition 5 (Alternative Housing Model) with no requirement for low-income housing.

The Committee finds the draft conditions and changes made to those conditions by agreement and incorporating suggested changes by the Committee, impose typical and appropriate conditions on the use and development.

4 Reasons and recommendation

4.1 Reasons

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

- Amendment C408melb is appropriately drafted
- draft Planning Permit PA2101202, as amended and included at Appendix D, should be issued.

The Committee considers the Applicant has put forward a well-considered affordable housing solution that will clearly be of benefit to the community. Providing at least 70 per cent of the dwellings for affordable housing is almost unprecedented. The policy support to develop affordable housing is strong. The Assemble Housing model to facilitate moderate income households to be able to purchase housing presents an appropriate affordable housing offering in this location, noting the Applicant's alternative model that is also being implemented in other locations throughout Melbourne provides for low-income households.

The Committee considers that the proposal has been carefully considered from a design perspective. It effectively utilises the 'island' nature of the site and appropriately addresses the DDO63 requirements for providing a demonstrable community benefit.

Melbourne City Council is a strong supporter of affordable housing and the Committee acknowledges its broad support for the proposal subject to the matters discussed in this report associated with car park and bicycle facility provision, daylight access, low-income households and detailed matters of design being addressed. The Committee considers that because of the matters raised by Council, the revisions made to the architectural plans as via Revision G, represent significant improvements in relation to internal amenity (including daylight issues) and urban design outcomes, and make a significant contribution to the Committee finding that the proposal is appropriate.

The Committee acknowledges the concerns raised by an objector in relation to car parking, as well as Council's concerns about parking associated with the office floorspace. However, it is satisfied that car parking matters are appropriately addressed, noting that the site is within the Principle Public Transport Network, has excellent access to public transport and will have a significant provision of bicycle facilities well more than standard Melbourne Planning Scheme requirements. The proposal will assist in a modal shift to public transport and more sustainable forms of transport.

The Committee also acknowledges the concerns raised by Council in relation to daylight issues. However, as outlined in this report the Committee considers the Applicant has responded appropriately in the context of the relevant daylight requirements of the Melbourne Planning Scheme and notes the significant ESD outcomes demonstrated by both the Green Star and BESS assessments that have been undertaken for the proposal, by appropriate experts.

4.2 Recommendation

The Committee recommends:

- 1. That the Minister for Planning support this proposal and recommend to the Governor in Council that Melbourne Planning Scheme Amendment C408melb be approved and that permit application PA2101202 be issued, subject to the amended conditions in Appendix D.**

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

Purpose

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

Background

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

Method

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

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Land, Water
and Planning

Terms of Reference | Priority Projects Standing Advisory Committee

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

Submissions are public documents

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

Outcomes

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

Terms of Reference | Priority Projects Standing Advisory Committee

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

Timing

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

Fee

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

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



Richard Wynne MP
Minister for Planning

Date: 14 / 06 / 2020

Appendix B Letter of Referral



Hon Richard Wynne MP

Minister for Planning
Minister for Housing
Acting Minister for Water

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: MBR045434



Dear Ms Mitchell

DEVELOPMENT FACILITATION PROGRAM – ‘ASSEMBLE KENSINGTON’ 86-96 STUBBS STREET, KENSINGTON

I refer to the proposed use and development of an eight-storey building comprising dwellings, office, food and drink premises, and a reduction in car parking requirements at 86-96 Stubbs Street, Kensington. The project has been recommended for accelerated assessment and determination by the Development Facilitation Program (DFP).

I am considering preparing Amendment C408melb to the Melbourne Planning Scheme, including exempting it from the normal exhibition and notice requirements under section 20(4) of the *Planning and Environment Act 1987*. The amendment would make me the responsible authority for the site, allowing me to determine planning permit PA2101202. I am considering these matters under Part 4, Division 5 of the Act, which allows for a combined permit and amendment process.

To inform my decision about whether to prepare, exempt, adopt, and approve Amendment C408melb and grant planning permit PA2101202, I undertook consultation with a range of parties to seek their views about the draft amendment, the draft planning permit and consultation under section 20(5) of the Act about the proposed exemption under section 20(4) of the Act. The parties consulted included the Melbourne City Council, Assemble Communities Pty Ltd (the proponent), the Environment Protection Authority (EPA), Transport for Victoria, and the owners and occupiers of surrounding land. As a result, submissions have been received from four parties. Matters raised in the submissions include concerns about the affordable housing model, urban design, internal amenity, car parking and impacts of construction.

I also advise that a change has been made to draft Amendment C408melb since consultation was undertaken. The change affects the Schedule to Clause 72.01 and provides clarity about responsibility for decision making for this site. Originally, the amendment proposed to make me the responsible authority for planning permit PA2101202. The amendment now proposes to make me the responsible authority for the land at 86-96 Stubbs Street, Kensington. Extracts of the relevant sections of both the original and the altered Schedule to Clause 72.01 of the draft amendment are attached to this letter.

I have decided to refer the matter to the Priority Projects Standing Advisory Committee for advice and recommendations about whether planning approval should be given for the project. I request your specific advice about the drafting of draft Amendment C408melb and whether draft planning permit PA2101202 should be issued and if so, the appropriate conditions. The submissions received will be provided to the advisory committee, along with the draft amendment, draft planning permit and the planning permit application documents that were made available during the consultation period.

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



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

Yours sincerely



HON RICHARD WYNNE MP
Minister for Planning

27/8/21

Encl.

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

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

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

...

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

- Planning permit PA2101202 for land at 86-96 Stubbs Street, Kensington; and
- Any matters required by planning permit PA2101202 to be endorsed, approved, or done to the satisfaction of the responsible authority.

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

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

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

...

The Minister for Planning is the responsible authority for matters under Divisions 1, 1A, 2, 3 and 5 of Part 4 and Division 2 of Part 9 of the *Planning and Environment Act 1987* and matters required by a permit or the scheme to be endorsed, approved or done to the satisfaction of the responsible authority, in relation to the land at 86-96 Stubbs Street, Kensington.

Appendix C Document list

No.	Date	Description	Presented by
1	14 June 2021	Terms of Reference	Minister for Planning
2	27 Aug 2021	Letter of Referral	“
3	6 Sep 2021	Referred material including: <ul style="list-style-type: none"> - Submissions - Draft Planning Scheme Amendment - Permit application documents - Council Officer’s Delegate Report - Town Planning Submission by Planning and Property Partners May 2021 	Development Facilitation Program (DELWP)
4	10 Sep 2021	- Notification letter	Mr Merrett, Committee Chair
5	15 Sep 2021	Email confirming representation and evidence	Ms Wilson, Planning & Property Partners for the Applicant
6	16 Sep 2021	Email confirming length of time requested	Ms Fernando for Council
7	17 Sep 2021	Directions and Timetable (version 1)	Mr Merrett
8	20 Sep 2021	Email filing floor plans and statement of changes	Ms Wilson
9	“	Statement of Changes	“
10	“	Updated architectural drawings – Revision G	“
11	“	Daylight analysis	“
12	21 Sep 2021	Email filing document 13	“
13	“	15 Thompson Street 3D image	“
14	“	Email regarding amended plans and compliant bedroom designs	Ms Fernando
15	23 Sep 2021	Email filing document 16	Mr Wilson, Planning & Property Partners for the Applicant
16	“	Amended architectural plans	“
17	28 Sep 2021	Email to all parties regarding additional advocate for Council	Mr Merrett
18	30 Sep 2021	Email filing evidence reports	Ms Wilson
19	“	Environmentally Sustainable Design Peer Review by Frater Consulting	“
20	“	Evidence statement of Kris Daff	“
21	“	Revision G development summary	“

No.	Date	Description	Presented by
22	1 Oct 2021	Position on Amended Plans	Ms Fernando
23	4 Oct 2021	Email filing preferred Draft Permit Conditions	“
24	“	Email advising the Applicant will rely on Traffix report	Mr Naughton, Planning & Property Partners for the Applicant
25	“	Preferred Draft Permit Conditions (marked up)	Ms Fernando
26	“	Preferred Draft Permit Conditions (clean)	“
27	“	Draft Planning Permit (marked up)	Ms Wilson
28	5 Oct 2021	Email filing outline of submissions	“
29	“	Outline of submissions	“
30	“	BTRTO Financial Hardship Policy	“
31	“	Assemble Car Parking Allocation Strategy	“
32	“	Signed and dated Section 173 Agreement – 383-399 Macaulay Road, Kensington	“
33	“	Council submission	Ms Fernando
34	“	Appendix 1 to submission	“
35	6 Oct 2021	VCAT Acme decision (P1458/2020)	Mr Naughton
36	“	McKenzie Group letter on external walls	“
37	“	Applicant response to Council comments	“
38	“	Hearing version of Planning Permit	“

Appendix D Committee preferred version of the Planning Permit

THE PERMIT ALLOWS:

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

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

AMENDED PLANS

1. Prior to the commencement of the development, excluding demolition, bulk excavation and works to remediate contaminated land, amended development plans and an updated development summary must be submitted to, approved, and endorsed by the responsible authority, in consultation with the Melbourne City Council. When endorsed, the plans will form part of this permit. The plans must be fully dimensioned and drawn to scale. The plans must be generally in accordance with the plans by Hayball, project no. 2329, drawing no's ~~TP00.00(G), TP00.01(G),~~ TP01.00(G), TP01.01(G), TP01.02(G), TP01.03(G), TP01.04(G), TP01.05(G), TP01.06(G), TP01.07(G), TP01.07B(G) TP01.08(G), TP01.09(G), TP01.10(G), TP01.11(G), TP02.01(G), TP02.02(F), TP02.03(F), TP03.01(F), TP03.02(F), TP03.03(F), TP04.01(F), TP04.02(F), TP04.03(F), TP04.04(G), TP05.01(G), TP05.02(G), TP05.03(G), TP05.04(G), TP05.05(G), TP05.06(G) and TP05.07(G) but amended to show:
 - ~~a.~~ ~~Apartment layouts amended to provide all habitable rooms at least one window to an external wall of the building (the internal circulation spaces are not considered external walls) or specialist daylight studies demonstrating that all habitable rooms achieve sufficient daylight in accordance with Standard D26;~~
 - ~~b.~~a. Details of windows facing circulation areas including any screening treatments;
 - ~~e.~~b. Details of aluminium balustrades to light courts including spacing of balustrade fins and any additional safety measures required for roof level uses;
 - ~~d.~~c. ~~Continuation of hit and miss brickwork ('BRO2') to the lower ground level section southern laneway interface shown as 'BRO1' or further detail to ensure a fine grained, respectful, visually interesting and permeable approach;~~ Provision of corbelled brickwork to the lower ground level section of the southern laneway interface, below the hit and miss brickwork, as shown on Hayball Architects Response to Melbourne City Council comments, 4th October 2021, Project 2329;
 - ~~e.~~d. Design ~~renders and~~ elevations updated to correctly show adjacent heritage buildings to the south;
 - ~~f.~~e. Further design detail to 1:50 elevations to enhance human scale and design quality, including: provision of ~~awnings~~ soffit detail to define ground floor tenancies on Thompson Street, and service cabinet detailing to improve visual interest;

- ~~g.f.~~ [Specification of soffit materiality to the Stubbs Street arcade entry to ensure a robust, textured, exterior grade finish as shown on Hayball Architects Response to ~~CO~~Melbourne City Council comments, 4th October 2021, Project 2329;](#)
- ~~h.g.~~ Further detail of stair culminating at the central courtyard, including proposed design and finishes to the stair, and wall surface ('MT07') facing courtyard to ensure a high level of visual permeability;
- ~~i.h.~~ Incorrect reference to Haydon Lane removed from plans and corrected to [CL156 Corporation Lane No 156](#);
- ~~j.i.~~ Section diagrams illustrating extent of reduced clearance to car parking spaces P5 and P6;
- ~~k.j.~~ Minimum of ~~15~~ [9](#) car parking spaces to be allocated [to the office](#) component;
- ~~k.k.~~ Minimum of 1 car parking space to be allocated to retail component;
- ~~m~~ ~~Visitor bicycle spaces to be safe, secure and publically accessible:~~
- ~~n.l.~~ Bicycle facilities (showers and change rooms) commensurate with number of bicycle parking spaces allocated for office component being at least 1 shower for the first 5 employee spaces provided, plus 1 to each 10 employee bicycle spaces thereafter and at least 1 change room or direct access to a communal change room to each shower provided;
- ~~o.m.~~ Proposed rainwater tanks dimensioned;
- ~~p.n.~~ At least 50% of apartments shown to comply with Standard D17 including all relevant dimensions and notations;
- ~~q.o.~~ Room depth of all single aspect habitable rooms dimensioned in accordance with Standard D25;
- ~~r.p.~~ Secondary areas for new apartment types 2P & 2Q dimensioned in accordance with Standard D26;
- ~~s.~~ ~~Any changes as required by updated Traffic Report;~~
- ~~t.q.~~ Any changes as required by [the](#) updated Waste Management Plan [report \(refer to Condition 19\)](#); and
- ~~u.r.~~ Any changes as required by [the](#) updated [Environmentally Sustainable Design report \(refer to Conditions 16-18\)](#).

ENDORSED PLANS

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

MATERIALS AND FINISHES

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

NON-REFLECTIVE GLAZING

4. Glazing materials used on all external walls must be of a type that do not reflect more than 15% of visible light when measured at an angle of 90 degrees to the glass surface, to the satisfaction of the responsible authority.

MANAGEMENT PLAN FOR ALTERNATIVE HOUSING MODEL

5. Prior to the occupation of the development, a Management Plan ~~for the~~ requiring 70% of the dwellings to be in the form of the Assemble Futures ~~within the~~ alternative housing model must be submitted to, approved, and endorsed by the responsible authority, in consultation with the Melbourne City Council. When endorsed, the plan will form part of this permit. This plan must:
 - a. Provide for regular reporting to the responsible authority for the relevant 70% of dwellings at (for example) years 1, 3 and 5.
 - b. Detail the parameters of rental rate and purchase price (including any associated annual increases in either) during a 5-year lease and purchase arrangement, to be agreed between the prospective tenant/owner and the housing provider (Assemble) at the point of sale, including:
 - i. Ensuring the annual cost of the rent, until the point of sale, does not exceed 30% of the gross household income for ~~low and~~ moderate income households at time of occupation. ~~(at least half to be low income)~~
 - ii. Ensuring the cost of ~~the future~~ mortgage repayments (principal and interest) does not exceed 35% of the gross household income for low and moderate income households at the time of sale. ~~(at least half to be low income)~~

S173 AGREEMENT FOR ALTERNATIVE HOUSING MODEL

6. Prior to the occupation of the development, the owner of the land must enter into an agreement pursuant to Section 173 of the *Planning and Environment Act 1987*, with the Minister for Planning, Melbourne City Council and the housing provider (Assemble) and register the agreement on the title for the land in accordance with Section 181 of the *Planning and Environment Act 1987*, to provide for the following:
 - a. At least 70% of the dwellings must comply with the meaning of 'affordable housing' at Section 3AA of the *Planning and Environment Act 1987* and must be affordable to households with a ~~'low' and~~ 'moderate income range', consistent with Section 3AB of the *Planning and Environment Act 1987*; ~~(at least half to be low income, that is 35% of the total)~~

- b. All dwellings on site must be delivered, managed, leased and sold in accordance with the approved 'management plan for alternative housing model' required by condition 5 of the permit; and
- c. This restriction, as it applies to each individual dwelling, will expire at the point of sale of each individual dwelling.

The agreement must be in a form to the satisfaction of the Minister for Planning and the Melbourne City Council. The owner of the land must pay all of the Minister for Planning's and Melbourne City Council's reasonable legal costs and expenses of this agreement (~~including those that are legal in nature~~), including concerning the preparation, execution and registration on title.

CONSTRUCTION MANAGEMENT PLAN

7. Prior to the commencement of the development, including demolition, bulk excavation and works to remediate contaminated land, a detailed Construction Management Plan must be submitted to, approved, and endorsed by Melbourne City Council. When endorsed, the plan will form part of this permit. This plan must be prepared in accordance with the *City of Melbourne – Construction Management Plan Guidelines* and must consider the following:
 - a. Staging of construction.
 - b. Management of public access and linkages around the site during construction.
 - c. Site access and traffic management (including any disruptions to adjoining vehicular and pedestrian accessways).
 - d. Any works within the adjoining street network road reserves.
 - e. Sediment control and site drainage.
 - f. Hours of construction.
 - g. Control of noise, dust and soiling of roadways.
 - h. Discharge of polluted waters.
 - i. Collection and disposal of building and construction waste.
 - j. Reasonable measures to ensure that disruption to any public transport services are kept to a minimum.

CIVIL DESIGN

8. Prior to the commencement of the development, ~~including~~ excluding demolition and bulk excavation, a stormwater drainage system incorporating integrated water management design principles must be submitted to, approved, and endorsed by the responsible authority, in consultation with the Melbourne City Council. When endorsed, the system will form part of this permit. This system must be constructed prior to the occupation of the development and provision made to connect this system to the City of Melbourne's underground stormwater drainage system. Where necessary, the City of Melbourne's drainage network must be upgraded to accept the discharge from the site in accordance with plans and specifications approved by the responsible authority.

All groundwater and water that seeps from the ground adjoining the building basement (seepage water) and any overflow from a reuse system which collects groundwater or seepage water must not be discharged to the Council's drainage network. All contaminated water must be treated via a suitable treatment system and fully reused on site or discharged into a sewerage network under a relevant trade waste agreement with the responsible service authority.

9. Prior to the commencement of the use/occupation of the development, all necessary vehicle crossings must be constructed, and all unnecessary vehicle crossings must be demolished and the footpath, kerb and channel and/or services reconstructed to the satisfaction of the responsible authority and at the cost of the applicant/owner of the land.
10. All portions of roads affected by the building related activities of the subject land must be reconstructed together with associated works including the reconstruction or relocation of services as necessary at the cost of the developer, in accordance with plans and specifications first approved by the Melbourne City Council.
11. The roads adjoining the site along the northern and southern boundaries of the subject land must be reconstructed in asphalt with central bluestone channel, together with associated works including the provision of drainage, street lighting and the modification of services as necessary at the cost of the developer, in accordance with plans and specifications first approved by the Melbourne City Council.
12. The footpaths adjoining the site along Stubbs Street and Thompson Street must be reconstructed in asphalt with sawn bluestone kerb and ~~a~~ one row of bluestone pitcher channel, together with associated works including the installation of street furniture, tree pits and modification of services as necessary, at the cost of the developer, in accordance with plans and specifications first approved by the Melbourne City Council.
13. Existing street levels must not be altered for the purpose of constructing new vehicle crossings or pedestrian entrances without first obtaining the written approval of the Melbourne City Council.
14. All public street lighting assets temporarily removed or altered to facilitate construction works shall be reinstated once the need for removal or alteration has been ceased. Existing public street lighting must not be altered without first obtaining the written approval of the Melbourne City Council.
15. Prior to the commencement of the development, excluding preliminary site works, demolition and any clean up works, or as may otherwise be agreed with the Melbourne City Council, a lighting plan must be prepared to the satisfaction of Council. The lighting plan should be generally consistent with Council's Lighting Strategy and include the provision of public lighting in the adjacent streets of the subject land. The lighting works must be undertaken prior to the commencement of the use/occupation of the development, in accordance with plans and specifications first approved by the Melbourne City Council.

ENVIRONMENTALLY SUSTAINABLE DESIGN

16. Prior to the commencement of the development, excluding bulk excavation and site remediation, an amended Environmentally Sustainable Design (ESD) Report to reflect the amended ~~endorsed~~ plans, must be submitted to and approved by the Responsible Authority in consultation with Melbourne City Council. The ESD Report must be generally in accordance with the ESD Report prepared by Atelier Ten, Job Number 1342, dated 01.05.2020 (Rev. 06) but modified to address the Revision G plans and changes in accordance with condition 1 and demonstrating suggested changes in the ESD Peer Review report prepared by Frater Consulting (dated 30 September 2021) including:
- (a) Quantified targets for each building material commitment and state how these initiatives will be documented, who is responsible for delivery and reporting on each item;
 - (b) Preliminary NatHERS ratings for a sample of different apartment types, to demonstrate whether that target would be achieved;
 - ~~(b)~~(c) Preliminary NatHERS results and confirmation that the development will not exceed the maximum NatHERS annual cooling load of 30MJ/M².
- The ESD Report must be to the satisfaction of the Responsible Authority, in consultation with Melbourne City Council, and once approved the ESD Report will be endorsed to form part of this permit.
17. Prior to the commencement of the development, any change that has occurred during detailed design that prevents or alters the attainment of the performance outcomes specified in the endorsed ESD report must be documented by the author of the endorsed report in an addendum, which must be provided to the satisfaction of the responsible authority.
18. Within six months of the occupation of the development, a report must be provided to the satisfaction of the responsible authority, in consultation with the Melbourne City Council, which details the designed initiatives implemented within the completed development that achieve the performance outcomes specified in the endorsed ESD report, including any addendum to the report.

WASTE MANAGEMENT

19. Prior to the commencement of the development, an amended Waste Management Plan (WMP) must be submitted to, approved, and endorsed by the responsible authority, in consultation with the Melbourne City Council. When endorsed, the plan will form part of this permit. The amended WMP must be generally in accordance with the WMP by Leigh Design, dated 7 May 2020, but amended to show:
- a. Waste generated from the communal space to be collected by private operator using specified dedicated bins;
 - b. Hard waste to be presented ~~to the~~ for Council vehicle collection; ~~by Building Management~~;
 - c. Hard waste storage area be increased;
 - d. Plans showing:

- i. Path of travel for commercial tenants to the bin storage area at ground level, noting that access from within the development is required;
 - ii. Revised scaled holding area adjacent to the loading bay with capacity to accommodate 12x1100L garbage bins;
 - iii. Commercial and residential bins stored separately;
 - iv. Enlarged diagrams of the bin storage areas at basement level, showing bin dimensions and the clearance between the bins; and
 - v. The loading bay length increased to show a minimum 2.0m clearance to the rear of the truck, and 1.0m to either side of the truck.
20. No garbage bin or waste materials generated by the development may be deposited or stored outside the site and bins must be returned to the garbage storage area as soon as practical after garbage collection, to the satisfaction of ~~the responsible authority~~ [Melbourne City Council](#).

LANDSCAPING

21. Prior to the commencement of the development, an amended Landscaping Plan for must be submitted to, approved, and endorsed by the responsible authority, in consultation with the Melbourne City Council. When endorsed, the plan will form part of this permit. The amended plan must be generally in accordance with the Landscape Report by Oculus, project number: M-1937, dated 24.04.2020 (Revision F), but amended to show:
 - a. Minimum 1:20 planting and tree planting details, including dimensions on all above ground and in ground planter areas;
 - b. A detailed levels plan including spot levels for all ramps, stairs landings, edges and walls;
 - c. Diagram demonstrating soil volume and provision of deep soil areas; ~~and~~
 - d. A detailed planting plan demonstrating the distribution of species across nominated softscape areas, [and](#)
 - e. [Ginkgo trees to be modified to male cultivars.](#)
22. The landscaping works must be carried out and completed in accordance with the endorsed plan to the satisfaction of the responsible authority within the timeframe indicated in that plan. Once the landscaping is carried out, it must thereafter be maintained in good health, including the replacement of any dead or diseased plants to the satisfaction of the responsible authority.
23. Prior to commencement of development, a Landscape Maintenance Plan providing details of proposed maintenance regimes with provision for maintenance beyond the fifty two week period following Practical Completion must be submitted to and be approved by the Responsible Authority, [in consultation with Melbourne City Council](#). Except with the prior written consent of the Responsible Authority the approved landscaping must be implemented prior to the occupation of the development. The landscaped area(s) must be maintained to the satisfaction of ~~the Responsible Authority~~ [Melbourne City Council](#).

ACOUSTICS

24. The acoustical outcomes specified in the Town Planning Report by Acoustic Logic, project ID 20190900.1, dated 9/04/2020 (Revision 3) must be achieved in the completed development, to the satisfaction of the responsible authority. This includes outcomes that relate to glazing, external walls, roofs, mechanical plant and equipment (fixed domestic plant and recommended treatment) as well as rooftop communal areas.

3D MODEL

25. Prior to the commencement of the development, a 3D digital model of the approved development must be submitted to, approved and endorsed by the responsible authority, in consultation with the Melbourne City Council. The model should be prepared having regard to the *Advisory Note - 3D Digital Modelling Melbourne City Council*. In the event that substantial modifications are made to the approved development (particularly the building envelope), an amended 3D digital model must be submitted to the satisfaction of the responsible authority.

Digital models provided to the ~~City of~~ Melbourne City Council may be shared with other government organisations for planning purposes. The ~~City of~~ Melbourne City Council may also derive a representation of the model that is suitable for viewing and use within its own 3D modelling environment.

BUILDING APPURTENANCES AND SERVICES

26. All building plant and equipment on the roofs, balcony areas and common areas are to be concealed to the satisfaction of the responsible authority – with the futsal court and arbour structures excepted. The construction of any additional plant machinery equipment, including but not limited to air-conditioning equipment, ducts, flues, all exhausts including car parking and communications equipment, shall be to the satisfaction of the responsible authority.
27. Any satellite dishes, antennae or similar structures associated with the development must be designed and located at a single point in the development to the satisfaction of the responsible authority, unless otherwise approved in writing by the responsible authority.
28. All service pipes, apart from roof downpipes, must be concealed from the view of a person at ground level within common areas, public thoroughfares, and adjoining properties.

PUBLIC TREES

29. Prior to the commencement of ~~any works the development, excluding demolition and bulk excavation,~~ a Tree Protection Plan (TPP), for any public trees that may be affected by the development, must be provided to the satisfaction of the Responsible Authority (~~Urban Forestry & Ecology~~) in consultation with Melbourne City Council. The TPP must be in accordance with AS 4970-2009 – Protection of trees on development sites and include:
 - a. ~~City of~~ Melbourne City Council asset numbers for the subject trees (found at <http://melbourneurbanforestvisual.com.au>);
 - b. Reference to the finalised Construction and Traffic Management Plan, including any public protection gantries;

- c. Site specific details of the temporary tree protection to be used to isolate public trees from the construction activities or details of any other tree protection measures considered necessary and appropriate to the site and works;
 - d. Specific details of any special construction methodologies to be used within the Tree Protection Zone of any public tree. These must be provided for any utility connections or civil engineering works;
 - e. Full specifications of any pruning required to public trees, including percentage canopy loss;
 - f. Any special arrangements required to allow ongoing maintenance of publicly owned trees for the duration of the development, and
 - g. ~~Details of the frequency of the Project Arborist monitoring visits, interim reporting periods.~~ Requirements for the Project Arborist to attend the site on a regular basis.
30. All works within the Tree Protection Zones of public trees must be undertaken in accordance with the endorsed Tree Protection Plan and supervised by a suitably qualified Arborist where identified in the report, except with the further written consent of the Responsible Authority.
31. Following the approval of a Tree Protection Plan (TPP) a Tree Protection Bond, equivalent to the combined environmental and amenity values of public trees identified in the TPP, must be lodged with the ~~City of~~ Melbourne City Council. The bond will be held against the TPP for the duration of construction activities. The bond amount will be calculated by council and provided to the applicant/developer/owner of the site. Should any tree be adversely impacted on, the Melbourne City Council will be compensated for any loss of amenity, ecological services or amelioration works incurred.
- ~~32. Approval for any tree removal is subject to the Tree Retention and Removal Policy, Council's Delegations Policy and requirements for public notification, and a briefing paper to councillors. It should be noted that certain tree removals including but not limited significant or controversial tree removals, may be subject to decision by Council or a Committee of Council.~~
- ~~33.~~32. All costs in connection with the removal and replacement of public trees, including any payment for the amenity and ecological services value of a trees to be removed, must be met by the applicant/developer/owner of the site. The costs of these works will be provided and must be agreed to before council remove the subject trees.
- ~~34. Subject to the approval of public tree removal and prior to the occupation of the development, Engineering Plans must be provided to the satisfaction of the Melbourne City Council, that show the location and construction details of replacement tree plots.~~
- ~~35. Prior the occupation of the development, Engineering Works, as shown on the endorsed Public Realm Civil Works (Tree Plots) Plans must be completed to the satisfaction of the Melbourne City Council.~~

POTENTIALLY CONTAMINATED LAND AND REMEDIATION

~~36.~~33. Prior to the commencement of the development, including demolition and bulk excavation, the applicant/owner of the land must obtain either:

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

CAR PARKING ALLOCATION

~~37.~~34. Of the 96 car parking spaces permitted, ~~159~~159 spaces must be allocated to the office, 1 space to the food and drink premises staff and ~~80~~86 spaces must be allocated to owners/occupiers of the dwellings. Any car parking spaces provided in tandem must be allocated together.

OPERATING HOURS

~~38.~~35. The food and drink premises use hereby permitted must only be operate between the hours of 7am to 11pm on any day.

~~Transport for Victoria~~

~~39 — Placeholder for requested conditions.~~

LAND SURVEY

~~40.~~36. Prior to occupation, Corporation Lane No. 156 must be named in accordance with the Geographic Place Names Act 1998 to provide appropriate street addressing for the ground floor tenancies.

~~41.~~37. Any proposed road name must comply with the Naming Rules for Places in Victoria, Statutory Requirements for Naming Roads, Features and Localities 2016.

WIND ASSESSMENT

~~42.~~38. Prior to the commencement of the development, excluding bulk excavation and site remediation, a Wind Report, including a wind tunnel assessment, prepared by a suitably qualified consultant must be submitted to and approved by the Responsible Authority. Any modifications required to the development to ensure acceptable wind conditions must be high quality, integrated solutions to the architectural and landscape design. The recommendations of the report must be implemented to the satisfaction of the Responsible Authority at no cost to the Responsible Authority or Melbourne City Council.

DEVELOPMENT CONTRIBUTION PLAN OVERLAY – SCHEDULE 2 DEVELOPMENT CONTRIBUTIONS

~~43.~~39. Prior to the occupation of the development ~~commencement of the development, excluding bulk excavation and site remediation~~, the owner of the land must enter into an agreement pursuant to Section 173 of the Planning and Environment Act 1987 with the Minister for Planning and Melbourne City Council for the following:

- (a) The owner/developer to pay a development contribution of:

- i \$17,053 per dwelling,
 - ii \$193 per sqm of gross commercial floor area,
 - iii \$161 per sqm of gross retail floor area,
 - ~~iv~~—or other amount outlined within an approved development contribution plan to the satisfaction of the Responsible Authority, in consultation with Melbourne City Council.
- (b) Require that development contributions are to be indexed quarterly from 1 January 2021 to the Price Index of the Output of the Construction Industries (Vic) published by the Australian Bureau of Statistics (ABS).
 - (c) Require registration of the agreement on the titles to the affected lands as applicable.
 - (d) Confirm that contributions will be payable to Melbourne City Council.
 - (e) Require that where the planning permit authorises building and works and a subdivision of the subject land, full payment of the development contribution must be paid before the issue of a Statement of Compliance in respect of that subdivision or where the planning permit authorises buildings and works but not subdivision, the development contribution must be paid before the issue of either the certificate of occupancy (in the case of a building) or a certificate of completion (in the case of works).
 - (f) Confirm the procedure for reducing the contribution paid if the permanent development contributions plan for the area is less than the amount stipulated in the Section 173 Agreement.
 - (g) The agreement must make provision for its removal from the land following completion of the obligations contained in the agreement.

The owner of the land must pay all of [the Minister for Planning's and](#) Melbourne City Council's reasonable legal costs and expenses of this agreement, including preparation, execution and registration on title.

PEDESTRIAN CONNECTIONS

~~44.40.~~ Prior to the commencement of the development, excluding bulk excavation, the owner of the land must enter into an agreement pursuant to section 173 of the *Planning and Environment Act 1987* with the [Minister for Planning and](#) ~~City of~~ Melbourne [City Council](#). The agreement must provide the following:

- (a) give rights of public access to the central courtyard off Thompson Street and internal pedestrian link to Stubbs Street located within the subject land 24 hours, 7 days a week but to remain at all times in private ownership as part of the subject land; [and](#)

- (b) the owner must, at its cost, maintain the open space and internal laneways to the same standards as is required by ~~the City of~~ Melbourne City Council for the adjoining road.

The owner of the land must pay all of the Minister for Planning's and ~~City of~~ Melbourne City Council's reasonable legal costs and expenses of this agreement, including preparation, execution and registration on title.

DEVELOPMENT TIME LIMIT

~~45.41.~~ This permit will expire if one of the following circumstances applies:

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

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

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