

**Moreland Planning Scheme
Referral 16: 215-219 Albion Street, Brunswick**

Priority Projects Standing Advisory Committee Report

Planning and Environment Act 1987

17 November 2021

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

Moreland Planning Scheme

Referral 16: 215-219 Albion Street, Brunswick

17 November 2021

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



Con Tsotsoros, Chair



Andrew Hutson, Member

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Glossary and abbreviations

BADS	Better Apartment Design Standards
BESS	Built Environment Sustainability Scorecard
Council	Moreland City Council
DDA	<i>Disability Discrimination Act 1992</i>
DDO	Design and Development Overlay
PE Act	<i>Planning and Environment Act 1987</i>
Planning Scheme	Moreland Planning Scheme
VCAT	Victorian Civil and Administrative Tribunal

Note: Any number following an overlay refers to a schedule number or map reference

1 Overview

(i) Referral summary

Referral summary	
Date of referral	25 July 2021
Members	Con Tsotsoros (Chair), Andrew Hutson
Committee assisted by	Georgia Thomas, Project Officer, Office of Planning Panels Victoria
Description of referral	Construct a nine storey building with retail, office and dwellings, use the land for dwellings, and reduce the standard car parking requirement
Planning Authority	Moreland City Council
Permit Application No	MPS/2020/555
Permit Applicant	Nightingale Albion Landholding Pty Ltd
Subject site	215-219 Albion Street, Brunswick
Site inspection	Unaccompanied, 3 September 2021
Hearing	20, 28 and 29 September 2021
Parties	- Moreland City Council - Nightingale Albion Landholding Pty Ltd (Permit applicant) - Current Power Pty Ltd (Objector)
VCAT Reference No	P779/2021
Information relied on	VCAT file, Council reports, expert evidence, and submissions at the Roundtable discussion
Citation	Priority Projects Standing Advisory Committee Referral 16 [2021] PPV
Date of this report	17 November 2021

(ii) Findings

The Committee finds:

Planning framework

- The proposal implements, and is well supported by, planning policy.
- The subject land's Commercial 1 Zone and strategic location opposite the Anstey railway station, near other public transport and within walking distance to the Brunswick Major Activity Centre, make it a strong candidate for higher density housing.
- The built form and design respond well to the surrounding context.
- The development achieves affordable housing planning policy objectives, including those in Plan Melbourne, by providing 20 per cent of its dwellings as affordable housing.

Transport, parking, access, traffic, loading and waste collection

- The number of proposed car and bicycle parking spaces are appropriate.
- The proposed car parking layout and access arrangements are acceptable.

- There is insufficient evidence to support the need for more parking spaces for people with mobility issues.
- The development will result in acceptable traffic generation or parking impacts on the surrounding road network.
- There is no evidence to support the submission that there is insufficient capacity in the public transport network or on the Upfield shared path for future residents living on the subject land.
- The developer is not responsible for addressing any existing capacity issues on public transport or on the Upfield shared path.

Loading arrangements and waste collection

- An on-site loading zone suitable for apartment furniture and bulky good movements should be provided and accessible from Ilhan Lane.
- An on-street time restricted loading zone will enable smaller and faster deliveries to the subject land, but is not needed for the development to progress.
- The proposed waste collection arrangement sought through permit conditions 1 and 8 to collect bins within the site or the rear lane only is appropriate and will result in an acceptable outcome.

Built form and density

- The building design, height and setbacks are generally appropriate and will result in an acceptable urban design response.
- The building design generally meets Moreland Planning Scheme (Planning Scheme) Clause 58 objectives.
- The building scale and design will not result in unreasonable impact on properties in the Industrial 1 Zone east of the subject land.
- There should be a 2-metre splayed treatment to the south-west corner of the building.
- There should be no requirement to set back the west elevation 500mm from the Upfield shared pathway.
- Balconies to apartments NW213 and NW214 should be a minimum of 5 metres from the northern property boundary, without reducing any other setbacks.
- There is no need for apartments SE202 and SE203 to be combined to create a three-bedroom apartment.

Public realm and amenity impacts

- The building scale and design will result in reasonable public realm and public amenity impacts.
- The building does not need to be set back from the southern boundary.

Affordable housing

- The 20 per cent affordable housing contribution is appropriate.
- The proposed permit conditions and section 173 agreement are clear, implementable and will appropriately manage the provision of affordable housing.

Other issues

- There is no evidence of existing infrastructure and open space capacity issues or that demand from future residents on the subject land would result in an unacceptable impact on infrastructure and open space.
- There is no evidence the development will push lower-income residents out of the area.

- There is no evidence that vegetation shown on a professionally prepared landscape plan will not grow on the proposed building.
- Council has met its statutory obligations set out in the *Planning and Environment Act 1987*.

(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 Moreland Permit MPS/2020/555 be issued, subject to the amended conditions in Appendix C.**

2 Introduction

2.1 Terms of Reference and letter of referral

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

... provide timely advice to the Minister for Planning on projects referred by the Building Victoria's Recovery Taskforce (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 Minister for Planning provided a letter of referral dated 25 July 2021 to the Chief Panel Member (Appendix B) which set out the following matters raised by the objector:

- building height
- building design and setbacks
- site overdevelopment
- amenity impacts
- traffic and car parking, including deliveries and loading bays
- public realm impacts
- lack of due process by Council
- a range of other matters.

This is Referral 16 to the Committee.

The Committee conducted a Hearing with parties to the Victorian Civil and Administrative Tribunal (VCAT) proceedings and focussed on the issues in dispute as set out in the Minister's referral letter.

2.2 Proposal background

Background summary

7 September 2020	Nightingale Albion Landholding Pty Ltd lodged a permit application (MPS/2020/555) to: <ul style="list-style-type: none"> - construct a nine storey building (including roof top terrace) comprising retail and office tenancies and dwellings - use the land for dwellings - reduce the standard car parking requirement
19 November 2020	Permit application amended pursuant to section 50 of the <i>Planning and Environment Act 1987</i> (PE Act)
24 November 2020	Notice of permit application pursuant to section 52(1) of the PE Act
2 February 2021	Planning information and discussion meeting held with Council and objectors

8 April 2021	Council issued a Notice of Decision to grant the planning permit
5 May 2021	Victorian Civil and Administrative Tribunal (VCAT) received an application from Current Power to review Council’s decision on Permit Application MPS/2020/555 ¹ – it included an exhaustive list of issues which were not in Current Power’s original objection
25 July 2021	The Minister for Planning called in the proceeding from VCAT and referred it to the Committee

2.3 Procedural matters

(i) Hearing approach

Current Power objected to the roundtable process which was enabled by the Terms of Reference. The Committee explained how the roundtable process had been successfully conducted for similar Priority Project Standing Advisory Committee matters. The Committee agreed to conducting a hearing after no party objected to it.

The Hearing was conducted in just over two days, providing parties with an opportunity to present their submissions and to call and question expert witnesses.

The Hearing concluded with ‘without prejudice’ discussion on draft permit conditions should the application be approved. The parties were given an opportunity to submit any ‘without prejudice’ permit condition tracked changes to the Committee, which were discussed on the final day of the Hearing.

(ii) Late information

Corrected plan

While questioning the architecture and urban design expert witnesses from 12 noon on the first day of the Hearing, Current Power identified that one of the plans showed access to the Upfield shared path between the subject land and 33 Tinning Street. Current Power asked questions regarding the correct alignment and whether the future development can provide an accessway.

The correct alignment was explained and addressed throughout the Hearing. Council referred to a corrected plan dated 3 May 2021 in its closing submission and provided a copy to parties after closing submissions.

Current Power wrote to all parties on 4 October 2021 stating that it considered it unfair that it did not have the opportunity to question expert witnesses about the correct boundary alignment. The Committee:

- provided parties an opportunity to ask an expert witness questions regarding the May 2021 plan
- directed that expert witness provide their responses
- provide parties with a further opportunity to make a submission regarding the plan
- extended the above deadlines by a further business day in response to a request from Current Power.

¹ Pursuant to section 82 of the PE Act

The Terms of Reference enable the Committee to conduct its activities through a written process. The Committee considered all additional information, including expert witness responses to questions, when reviewing issues later in this report.

Council notices of Albion Street works and arrangements

On 29 September 2021 after submissions had closed, Current Power provided parties with two Council notices regarding Albion Street works and arrangements². The Committee provided parties with an opportunity to comment of these late documents.

The Committee considered this additional information when reviewing issues in Chapter 5.

² Documents 69 and 70

3 Subject land and planning context

3.1 The subject land and surrounds

Address: 215-219 Albion Street, Brunswick (see Figure 1) comprising:

- Lot 1, Title Plan 694780G (215 Albion Street)
- Lot 1, Title Plan 567753V (217 Albion Street)
- Lot 1, Title Plan 712069E (219 Albion Street)

Zone: Commercial 1 (see Figure 2)

Overlays: Design and Development Overlay Schedule 18
Development Contributions Plan Overlay Schedule 1
Environmental Audit Overlay
Parking Overlay – Precinct 1

Surrounding land: Ilhan Lane abuts the subject land's eastern boundary
Industrial 1 Zone properties east of Ilhan Lane
Anstee Railway Station and an eight storey residential apartment building (currently under construction) directly opposite, on south side of Albion Street
Upfield shared pedestrian and bicycle path abuts the subject land's western boundary.

Figure 1 Subject land



Source: mapshare.vic.gov.au/vicplan/ and Planning Panels Victoria

Figure 2 Planning Scheme Zones



Source: mapshare.vic.gov.au/vicplan/ and Planning Panels Victoria

3.2 Planning Scheme

(i) Statutory provisions

The permit requirements set out in Table 1 are relevant to the subject land.

Table 1 Subject land permit requirements

Provisions	
Permit requirements	
Commercial 1 Zone	A permit is required to: <ul style="list-style-type: none"> - use the land for the purposes of dwellings if the frontage at ground level exceeds two metres (Clause 34.01-1) - construct a building or construct or carry out works (Clause 34.01-4)
Design and Development Overlay Schedule 18	A permit is required to construct a building or construct or carry out works (Clause 43.02-2)
Clause 52.06 (Car parking)	A permit is required to reduce (including to zero) the standard car parking requirement
Relevant considerations	
Other provisions	The following provisions do not require a permit but are relevant: <ul style="list-style-type: none"> - Environmental Audit Overlay - Development Contributions Plan Overlay Schedule 1 - Parking Overlay Schedule 1 - Clause 52.34 (Bicycle Parking) - Clause 53.18 (Stormwater Management in Urban Development) - Clause 58: (Apartment Developments)

(ii) Planning Policy Framework

Council and the Applicant agreed that the following planning policies and provisions were relevant to the permit application:

Municipal Planning Strategy (Clause 2)

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

Clause 11 (Settlement)

Clause 13 (Environment risks and amenity)

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

Clause 15 (Built environment and heritage)

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

Clause 16 (Housing)

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

Clause 17 (Economic development)

Clause 18 (Transport)

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

Clause 19 (Infrastructure)

- 19.01 (Energy)
 - 19.01-1S and 19.01-1L (Energy supply)
- 19.02 (Community infrastructure)

- 19.02-6S, 19.02-6R and 19.02-6L (Open space)
- 19.03 (Development infrastructure).

4 Permit application, decision and objection

4.1 Permit application

Permit Application MPS/2020/555 proposes a nine storey building of about 31.5 metres tall, as shown in Figure 3 and Figure 4, with:

- 99 apartments separated into four separate communities (levels 2 to 7) with their own entrances
- a rooftop communal outdoor area for each community including landscaped area and communal areas with laundries, bath houses, clothes lines and dining areas
- commercial/office spaces:
 - twelve ranging from 17.8 to 142.2 square metres (ground floor)
 - nine ranging from 14.1 to 401.3 square metres (first floor)
- seven car parking spaces for commercial tenants (ground floor)
- 283 bicycle parking spaces including 14 for visitors (ground floor)
- 20 affordable housing dwellings (20 per cent of all dwellings)
- central open landscape courtyard of 9 metres by 15.9 metres.

The permit application also seeks to reduce the standard car parking requirement.

Figure 3 Albion Street frontage rendered impression



Source: Planning Application Report, Hansen Partnership, September 2020

4.2 Council assessment

Council assessed the proposal against the Moreland Design Excellence Scorecard and found the proposal demonstrated:

- excellence in architectural design including contextual response, form, articulation and materials
- excellence in environmentally sustainable design and building performance through:
 - a minimum Built Environment Sustainability Scorecard (BESS) score of 70 per cent
 - communal space, landscaping and solar photovoltaics at rooftop level
 - a Nationwide House Energy Rating Scheme minimum rating of 7.5
 - a commitment to gas-free dwellings
- excellence in building accessibility with 75 per cent of apartments meeting the accessibility requirements of Standard D17 from Clause 58.05-1 of the Planning Scheme
- community benefit through:
 - amending the existing section 173 agreement to specify a discount at which the affordable housing must be sold to an affordable housing provider
 - a new pedestrian link between Ilhan Lane and the Upfield Bike Path
 - providing a 2.2-metre interface to the Upfield Bike Path than the 1 metre required in the Planning Scheme.

Council determined the permit application under delegation because it complied with the Moreland Design Excellence Scorecard.

4.3 Council notice of decision

Council issued a Notice of Decision to grant the permit subject to 63 conditions. The conditions broadly summarised as requiring:

- the plans to be resubmitted with 22 changes (condition 1)
- compliance with endorsed plans (condition 2)
- landscape plan changes and landscape works to be completed and maintained (conditions 3 to 5)
- Access report changes (conditions 6 and 7)
- Waste management plan changes (conditions 8 and 9)
- Acoustic Report changes and acoustic management (conditions 10 to 12)
- a Sustainability Management Plan and completion of associated works (conditions 13 to 15)
- Green Travel Plan to be endorsed and complied with (condition 16)
- a Public Works Plan and associated drawing specifications (conditions 17 and 18)
- Breathe Architecture to provide architectural oversight (condition 19)
- Melbourne Water requirements (conditions 20 to 24)
- Transport for Victoria requirements (conditions 25 to 43)
- development contributions (conditions 44 and 45)
- Environmental audit actions and works (conditions 46 to 51)
- a section 173 agreement to, among other things, provide 20 per cent affordable housing (condition 52)
- a three dimensional model (condition 53)
- other general conditions (conditions 54 to 62).

4.4 Current Power’s evolving objection

Current Power’s objection kept changing throughout the process as outlined below.

(i) Objection to the advertised permit application

Council received 20 objections to the advertised permit application, including one from Current Power Pty Ltd.

Current Power owns 35-37 Tinning Street, Brunswick, located west of the Upfield railway line. The property backs onto Albion Street with a blank brick wall. Its objection was based on two sentences of grounds:

- development is too tall, has too many dwellings and will not fit into the area
- development will overshadow the street and surrounding building
- Albion Street is busy and narrow.

(ii) Objection grounds for review at VCAT

Current Power applied to have Council’s decision reviewed at the VCAT and expanded its simple grounds above to:

Building height

- the development will create a precedent for a preferred maximum height north of Albion Street in an amended DDO18 that is higher than the DDO south of Albion Street without community consultation
- excessive height above the good design guideline of five storeys, in the absence of a preferred maximum height in DDO18 area
- building height should not exceed the preferred maximum building heights shown in DDO18
- Council should review building heights specified in DDO18 for land north of Albion Street, in consultation with the public
- the permit should not be approved until the DDO19 heights are reviewed
- the DDO18 preferred height south of Albion Street of 17 metres and 7-storeys should be regarded as a maximum for land north of Albion Street
- building heights in the area which exceed the DDO18 preferred height should not be regarded as an emerging character
- the height increase on the south side of Albion Street above the preferred maximum of 17 metres should not be regarded as meeting the relevant DDO18 objectives

Development size

- the proposal is an over development with too many dwellings
- the development will negatively impact six residences east of the subject land through its visual bulk, overshadowing and overlooking

Building design and setbacks

- third storey balconies behind 29-31 Tinning Street are less than 5 metres from the lane’s centreline and will restrict development on adjacent properties
- apartments NW215, NE216, NE217 and NE218 should be included in the setback requirement

- the lack of setback from Ilhan lane restricts future development to the east due to setbacks from the lane's centre line

Transport and carparking

- good public transport is available
- there should be private car spaces for aged people or individuals with mobility issues
- not everyone can use a bicycle
- West Brunswick has had a rise in cars parked in unrestricted areas in neighbouring areas
- the parking space and charging arrangement is inadequate for 99 units, retail and commercial use
- the development should not increase any parking requirements for street parking
- a reasonable reduction might be 30 to 50 per cent of required numbers for the long term reduction in private car ownership
- all parking spaces should have charging facilities or be charging-ready
- there is unsuitable on-street parking available for the short-term parking needs of visitors and service delivery vehicles
- there is limited two-hour restricted parking
- there is no parking outside or around the subject land because Albion Street is a clearway in front of the subject land and Ilhan Lane is narrow and two-way
- this is a "*once-in-a-century development*" to provide underground parking spaces which can be purchased by apartment owners and excess spaces sold separately
- the *Disability Discrimination Act 1992* (DDA) car space is insufficient

No off-street delivery parking or loading bays

- the development has no parking or standing zones around it
- no parking or standing possibilities for deliveries without traffic disruption
- service and delivery vehicles will not fit under the 2.4 metre roller door into the development's parking area
- a significant reduction in office and retail spaces:
 - may be appropriate, but effectively having no car spaces is inadequate
 - inconsistent with the DDO18 aspiration "*To create accessible, adaptable and visitable housing within the activity centre to ensure housing caters for all residents' needs*"
- does not provide adequate loading/ unloading facilities
- the on-site car parking is inaccessible for service vehicles and is already allocated to car share, charging and retail use
- a proper on-site facility or bay for loading and unloading activities is required

Poor urban planning resulting in inadequate footpaths and public space

- the 1.5 to 1.6 metre wide Albion Street footpath has power poles which is insufficient for street trees or people with mobility issues
- the subject land should be used to widen the footpath and the second floor could be cantilevered above this section of land
- a substantially improved public pedestrian environment has been provided along the western side and a through-lane to the north
- no further pedestrian facilities have been provided on the south side along Albion Street
- the development will transform the area from a mixture of low-rise and density industrial and residential to a medium/high density residential with some retail/commercial spaces

- Ilhan Lane must be redesigned, widened, upgraded to a street and have building setbacks
- the development does not activate Ilhan Lane or Albion Street, with only gated entries onto Ilhan lane, and no building entries on Albion Street
- building entrances are directly onto Ilhan Lane, raising safety concerns

Lack of oversight by Council

- Council and the Permit Applicant did not respond to community concerns, resulting in a lack of due process

Other

- waste management arrangements are inappropriate and inadequate
- there is limited provision for emergencies vehicles
- solar panels at 205 Albion Street will be overshadowed
- development would impact the ability of the 31 Tinning Street owner to use the rear lane for its activities
- development will push out creative, internal national and lower-income residents
- existing construction impacts will be exacerbated in the area
- there are too many apartments in the area which will detract employment and manufacturing in the area
- lack of affordable housing
- lack of architectural quality
- lack of apartments for families
- local infrastructure is currently unable to cater for existing population
- future residents will impact public transport capacity
- the landscape plan does not reflect what will actually grow on the subject land.

(iii) Objection grounds at the Hearing

At the Hearing, Current Power submitted that it would be focussing on issues set out in its Hearing submissions. As outlined in the following chapters, it changed the nature of some of its objection grounds. The Committee has responded to issues referred to it from the Minister for Planning.

The Committee tried to understand Current Power's motivation as an owner of a property in a neighbouring street, west of the railway line. Current Power submitted that it is motivated by:

its long term relationship with future owners of apartments in Nightingale Albion and other residences along Albion Street. It is part of the local community and is concerned for the future of the area and future residents of Nightingale Albion (if approved).

5 Transport, parking, access, traffic, loading and waste collection

5.1 Transport, car parking and access

(i) The issues

The issues are:

- whether the number of proposed car and bicycle parking spaces are appropriate
- whether more parking spaces should be provided for people with mobility issues
- whether the development will result in acceptable traffic generation or parking impacts on the surrounding road network
- whether there is sufficient capacity in the public transport network and on the Upfield shared path for future residents living on the subject land.

(ii) Background

The permit application proposes on the ground floor:

- seven car parking spaces for commercial tenants
- 283 bicycle parking spaces including 14 for visitors
- two bicycle repair spaces and multiple end-of-trip facilities.

(iii) Evidence and submissions

Current Power submitted:

- good public transport is available
- surrounding streets do not have parking or have time restrictions
- the proposed seven shared car parking spaces are inadequate for 99 apartments, retail and commercial spaces
- between 30 to 50 per cent of the required number of parking spaces should be provided on-site as a choice for owners – excess parking can be sold separately
- there is insufficient:
 - on-site parking for people with mobility issues – one DDA space is not enough
 - provision for emergency vehicles such as ambulance and fire trucks
- the development should not increase demand for on-street parking
- Ilhan Lane should be upgraded to a street with mandatory building setbacks at the third storey on the subject land.

At the Hearing, Current Power changed its position regarding car parking spaces by submitted it had *“no issue with the extent of car parking waiver”*.

Current Power called evidence on traffic engineering from David Graham of Stantec and relied on his evidence. Mr Graham noted existing conditions in Albion Street, Ilhan Lane and their surrounds. He referred to surveys which indicated that 400 cyclists use the Upfield shared path each hour during the weekday peak period. His evidence did not include opinion about on-site parking provision, potential traffic impacts, or public transport capacity.

Current Power submitted that Mr Graham would give evidence the proposed car share was deficient, however that did not eventuate.

The Permit Applicant called expert evidence on traffic engineering from Ms Dunstan of Traffix Group. Ms Dunstan explained the Planning Scheme requires 178 car spaces, comprising 108 resident spaces, 23 retail spaces and 47 office spaces. The proposal seeks to provide 171 less spaces than required. She found no traffic engineering reasons to refuse the permit, subject to appropriate conditions. She considered the proposal would generate low traffic volumes and will not negatively impact the nearby road network, including lanes.

Regarding the proposed number of car parking spaces requested to be reduced, Ms Dunstan stated the demand assessment indicates:

- there is strong policy support to waiver car parking requirements for residents
- a small number of residents may need a car, which can be achieved by renting a car space in the area
- staff of the development will need to seek out alternative modes of travel to the subject land
- the development will generate visitor parking overflow – it is appropriate for this to occur on-street in the area, as intended for developments in the Principal Public Transport Network area
- the development will generate customer overflow – will need to be accommodated in the area, consistent with a centre base approach to car parking.

Ms Dunstan added that the reduced car parking satisfied the Clause 52.06-7 guidelines based on:

- State and local planning policies
- the 'Nightingale Model' which ensures that sustainable initiatives are paramount and where residents are made fully aware of the sustainable transport aims of this project, including the aim to have a 'zero car' development
- the proposed Green Travel Plan will be issued to residents and staff of the development and sets out the initiatives, aspirations and alternative modes of available transport
- the existing car parking deficiency associated with the subject land's current use
- a centre-based approach to customer and visitor car parking in an Activity Centre
- available alternative transport modes to the ownership of a private car, including public transport; bicycle parking, on-site periphery services; access to bicycle paths, 3 on-site car share spaces for use by residents and staff; and the number of car share vehicles available near the development
- available on-street car parking in the area for use by customers and visitors
- available off-street parking in other residential developments available for lease
- VCAT approval of similar developments in the past 6 years.

Ms Dunstan considered that bicycle riding would be encouraged because the number of proposed bicycle spaces exceeded the Planning Scheme requirements in Clause 52.34.

Ms Dunstan found the proposed car park layout and access to accord with Planning Scheme requirements, Australian Standards and current practice, subject to permit conditions which require:

- a convex mirror on both sides of the opening to the right-of-way to enable pedestrian sightlines to the north and south
- minimum 300mm clearance to walls or obstructions for all car spaces

- maximum grade of 1:16 (6.25 per cent) across the standard car spaces along the fall of the accessway.

Council supported the reduced car parking rates for similar reasons set out by Ms Dunstan. It did not anticipate the reduction would result in unacceptable parking impacts on the surrounding road network.

(iv) Discussion

The proposal appropriately responds to the subject land's locational benefits, including:

- Anstey railway station across the street and trams about 160 metres to the east
- the Brunswick Major Activity Centre close to its eastern boundary
- direct pedestrian and cycling access to the Upfield shared path.

The Committee accepts expert evidence on matters related to parking, traffic and transport. It agrees with Ms Dunstan that the reduced car parking satisfy the Clause 52.06-7 guidelines. The reduced car parking spaces are justified.

The proposed development will result in little impact on the local road network because:

- there will be no dedicated car spaces provided to any of the apartments
- there is little opportunity for future residents to park a private vehicle on local streets on a long term basis
- trains will give residents and visitors direct access to Melbourne's Principal Public Transport Network, including Melbourne's Central City
- trams will connect residents and visitors to other activity centres in Moreland and to other public transport nodes
- the number of bicycles spaces, which exceed Planning Scheme requirements, will encourage cycling.

The proposed shared car scheme realistically recognises that there may be times where a vehicle will be needed as an alternative to cycling and public transport.

The car park layout and access were not pursued generally at the Hearing, but were referred to with respect to loading and deliveries. Loading and deliveries are discussed in the following chapter. The Committee accepts Ms Dunstan's evidence and agree that the car park layout and access are consistent with Planning Scheme requirements and will result in acceptable outcomes.

There was no evidence to support submissions that:

- there is insufficient capacity in the public transport network to support future residents or that public transport services cannot be increased in the future to meet demand
- there is insufficient capacity on the Upfield shared path to accommodate future residents seeking to walk and cycle
- the development will not have enough car spaces for people with mobility issues.

Irrespective, the future development will not generate negative parking, traffic or transport impacts which require it to contribute to off-site mitigation measures. The development should not be responsible for resolving existing off-site conditions on the Upfield shared path, local streets or public transport.

(v) Findings

The Committee finds:

- The number of proposed car and bicycle parking spaces are appropriate.
- The proposed car parking layout and access arrangements are acceptable.
- There is insufficient evidence to support the need for more parking spaces for people with mobility issues.
- The development will result in acceptable traffic generation or parking impacts on the surrounding road network.
- There is no evidence to support the submission that there is insufficient capacity in the public transport network or on the Upfield shared path for future residents living on the subject land.
- The subject land's developer is not responsible for addressing any existing capacity issues on public transport or on the Upfield shared path.

5.2 Loading arrangements

(i) The issue

The issue is whether the proposed loading arrangements are appropriate.

(ii) Evidence and submissions

Current Power Pty Ltd submitted the development requires a proper on-site loading facility because:

- the subject land has no parking or standing on all sides so on-street delivery is not possible without causing traffic disruption and congestion
- service and delivery vehicles will not fit through the 2.4 metre roller door into the on-site parking area.

Mr Graham noted the only dedicated loading zone near the subject land:

- is on the south side of Tinning Street, west of the railway line
- was fully occupied for part of the surveyed period
- would require walking for a distance of at least 170 metres and crossing the railway line.

He expected the development would generate significant demand for loading and delivery activities multiple times each day. This includes:

- residents needing to move in or out at least once a week
- about 9,000 parcel deliveries each year³, equating to 25 deliveries each day
- ongoing deliveries to the 12 separate retail tenancies.

Mr Graham considered:

- the proposed on-site loading bays to be impractical, inadequate and unlikely to be used by most loading and delivery vehicles
- many loading and delivery drivers will park illegally, potentially mounting the vehicle partly on the footpath or Ilhan Lane, creating safety and operational issues.

³ based on the average of 37 parcels delivered to each person in 2019

Council submitted that it generally did not require on-site loading facilities in inner Melbourne locations such as the subject land. This includes the apartment development under construction opposite the subject land.

Ms Dunstan stated that loading could be accommodated within on-street parking near the subject land or in the rear car parking area for vans, as required. She considered a formal on-site loading bay was not needed. She considered Mr Graham's delivery numbers to be unrealistic, stating that he sourced in from a Google search. She added that not all parcels will be delivered by truck, multiple parcels may be delivered in a single trip, and many residents may opt to collect items from neighbouring parcel lockers.

After submissions had closed, Current Power provided parties with new information on 29 September 2021⁴. This comprised public notices for:

- temporary 'work zone' in Albion Street to support building construction works at 212-214 Albion Street for 12 months from November 2020
- trial bicycle separation along Albion Street, resulting in the removal of parking in front of 205-213 Albion Street.

Council submitted:

- the trial removes parking along Albion Street until July 2022
- Council will then decide whether to implement the changes permanently
- the outcomes of the trial will determine whether there can be a dedicated loading zone in front of the subject land.

(iii) Discussion

The development, with its 99 apartments and 21 commercial/office spaces:

- justifies the need for a practically available and accessible loading area to move entire households and larger items throughout each year
- is larger than the development under construction at 212 - 214 Albion Street opposite the subject land.

With respect to loading, the Committee agrees with Current Power that the subject land has locational challenges. Albion Street is relatively narrow at roughly 12-metres-wide and is a well-used east-west collector road. There are minimal north-south streets therefore using Ilhan Lane would block north-south movements at this location for hours each time. There are parking restrictions on other surrounding streets.

There will be demand for regular deliveries. The Committee does not agree with Mr Graham's broad connection between the statistic showing that Australians received 37 parcels each in 2019. It is unknown what proportion of these would be delivered by a van or truck, however it is not expected to be anywhere near 9,000 trips each year. It agrees with Ms Dunstan that many parcels may be collected off-site or there may be a single delivery for multiple parcels. Even if only a modest proportion of parcels are delivered to the building, the cumulative demand cumulating from household moves, the need to service retail and commercial premises, and parcel deliveries is enough to warrant a convenient and practical loading facility.

⁴ Documents 60 and 61

The Committee acknowledges that Council does not require on-site loading for residential developments in this area. However, this does not respond to the issue of whether future residents and tenants will have appropriate loading and delivery facilities available to them. Council advised it has not required on-site loading facilities in this area however this does not set precedence and does not mean that this is an appropriate response for the proposed development.

A site-specific response is needed to reflect the subject land's unique location on a relatively narrow collector road next to a level crossing and regional shared bike/pedestrian path, with limited parking opportunities. There would be too much demand and there are insufficient on-street loading opportunities to leave it chance, particularly if it means hauling an entire household of items at great distances during poor weather conditions.

Council intends to, but cannot guarantee at this stage, to provide a publicly accessible 30-minute loading space on Albion Street. This would be suitable for delivering parcels and a few smaller items at the one time. The space is likely to be heavily used by residents and tenants on the subject land and from surrounding sites. However, the bicycle trial until July 2022 has reduced the chances of space being available for an on-street loading zone in the future.

Pre-booking the space for two hours is unlikely to provide sufficient time, particularly for moving an entire household to the northern two quadrants of the development. The latter would involve removalists wheeling trolleys for roughly 160 metres return trip from truck, along Ilhan Lane or the colonnade path, to the respective elevator.

There is a need to locate a loading zone in a more practical area. It does not necessarily need to be on the subject land but due to the subject land's locational challenges, there does not appear to be a suitable on-street location. Using Ilhan Lane or the rear access way would mean blocking traffic access for hours each time.

In the absence of a practical on-street solution, there should be a loading zone located on the subject land. The commercial area abutting the substation provides such an opportunity. It is relatively close to all elevators and is wider than the rear access way so would have sufficient turning circle for a truck.

(iv) Findings

The Committee finds:

- An on-site loading zone suitable for apartment furniture and bulky good movements should be provided and accessible from Ilhan Lane.
- An on-street time restricted loading zone will enable smaller and faster deliveries to the subject land, but is not needed for the development to progress.

5.3 Waste collection

(i) The issues

The issue is whether the proposed waste collection arrangement sought through permit conditions 1 and 8 to collect bins on the subject land or the rear lane only, to be appropriate and will result in an acceptable outcome.

(ii) Background

A Waste Management Plan was submitted with the permit application. Permit conditions 8 and 9 requires an amended Waste Management Plan to be submitted and approved by the Responsible Authority before plans are endorsed.

(iii) Evidence and submissions

Current Power Pty Ltd submitted the proposed waste management arrangements are inappropriate because:

- there is no space for bin collection without blocking access to the building and lanes
- the lane for collection is very narrow for trucks
- the bin sizes are inadequate, given the number of apartments and other uses.

Mr Graham considered:

- the development would significantly increase pedestrian traffic in Ilhan Lane
- having waste trucks reverse back into Ilhan Lane after collection would create safety issues due to potential conflict with pedestrians
- waste collection should be accommodated on-site given the subject land area, scale of the development and frequency of waste collection.

In response to objector concerns, Council's Notice of Decision included a permit condition requiring the Waste Management Plan specify that bins be collected on-site or the rear lane only. Council considered the Plan to be sufficient subject to it specifying the collection locations.

Council submitted that its Development Engineers:

- advised a reversing waste truck is an acceptable outcome
- noted a waste truck could enter Ilhan Lane from Tinning Street and reverse into the east-west laneway so the driver can look down the laneway before reversing.

Ms Dunstan considered waste collection in the rear access way along the subject land's northern boundary to be acceptable.

(iv) Discussion

The Committee agrees with expert evidence and submissions that the proposed waste collection arrangement is appropriate. While a reversing waste truck is not ideal, there is sufficient space to enable a safe turning circle with an acceptable outcome.

The Committee accepts Mr Graham's evidence that the development will increase the number of pedestrians using the surrounding streets, including Ilhan Lane. However, there is no evidence this will translate into an unacceptable conflict between waste trucks and pedestrians. There would be few to no pedestrians during waste collection time, a pedestrian would have advanced view of the slow reversing truck and trucks generally have rear reversing cameras.

(v) Findings

The Committee finds the proposed waste collection arrangement sought through permit conditions 1 and 8 to collect bins within the site or the rear lane only to be appropriate and will result in an acceptable outcome.

6 Built form, design and amenity

6.1 Built form and design

(i) The issues

The issue is whether the building design, height and setbacks will result in an appropriate urban design response.

(ii) Background

Design and Development Overlay Schedule 18 (DDO18) of the Planning Scheme applies to the subject land and surrounding area. It specifies Design Objectives for areas outside of the Sydney Road corridor:

- To encourage a new mid-rise built form character with lower built form at the interfaces with the adjoining low rise residential areas.
- To complement the valued built form and heritage character along Sydney Road and respect the form, design and context of buildings of individual heritage significance in the precinct.
- ...
- To establish a new cohesive built form character in off-corridor locations to the east and west of Sydney Road to achieve an appropriate balance between a sense of enclosure and openness and to ensure new street walls reinforce the existing character of street walls in nominated off-corridor streets.
- To protect the amenity of existing and proposed public open spaces and key pedestrian streets, and maintain reasonable amenity for residential properties within and adjacent to the activity centre.

DDO18 specifies a preferred maximum height of 17 metres for the area that encompasses the subject land.

Key proposal design details

The permit application proposes:

- 9 storey building at a height of about 31.3 metres
- at level 3, a 7.036 metre setback from Albion Street, within which are private open spaces on the level 2 roof
- at levels 4 and 5, a 7 metre setback, with 4.9 metres to the face of the balconies
- at levels 6 and 7, a 14.8 metre setback with balconies
- at level 8, balcony set back a similar distance to levels 6 and 7
- south elevation:
 - 3 storey street wall at a height of 12.1 metres
 - street wall treatments of elongated arches
- west elevation:
 - above level 1, 2.0-2.36 metre setback for part of level 2 and the full width of all levels above
 - recessed apartment balconies
 - street wall treatments of elongated arches
- north elevation:

- Ground and level 1: 1.981 metre setback from the title projection to the north west corner of the subject land and zero setback from remaining boundary
- at levels 2-7, between 5-5.25 metre setback with balconies and parts of building projecting 2 metres within these setbacks
- at level 8, balcony to open space is setback similarly
- balcony fronts the north west section of the north elevation are less than 3 metres from the north west portion of the site boundary.
- east elevation:
 - 1 metre setback with a large central indentation of 2.5 metres for all floors above level 1.

(iii) Evidence and submissions

Current Power

Current Power submitted:

Building height

- the building height should not exceed the preferred maximum building height in DDO18 of 17 metres
- recent developments and permit approvals in the vicinity of the subject land that exceed the preferred maximum height do not to justify the proposed height that would greatly exceed that preferred in DDO18
- the proposed height will create a precedent for a maximum height in DDO18 area north of Albion Street that is taller than the south side of Albion Street without community consultation.

Built form scale, design and setbacks

- the development will:
 - result in visual bulk, overshadowing and overlooking residences east of the subject land
 - overshadow solar panels at 205 Albion Street
- the level 2 balconies behind 29-31 Tinning Street are less than 3.5 metres from the lane centre line and will restrict development on adjacent properties
- the development does not respond appropriately to the Clause 15.01-2L policy in respect to setbacks of some apartments to the north and east.

Internal apartment amenity

- the Teilhaus apartments on levels 4 and 5 do not meet the ventilation or accessibility standards in Clause 58 of the Planning Scheme because the plans omit entrance doors
- there is insufficient information to confirm compliance with Clause 58.

Council

Council generally supported the proposed development and submitted:

Building height and setbacks

- the building height was an appropriate response to the context and objectives of DDO18
- the built form character of the area was changing, as evidenced by recent development projects

- recent developments south of Albion Street were taller than the preferred 17 metre maximum height in DDO18, including:
 - a 9-storey development under construction at 216 Albion Street
 - a 9-storey development at 212-214 Albion Street
 - a 7-storey development at 60 Breese Street.
- the subject land is larger than recent development sites south of Albion Street which have accommodated 7-8 storey built forms
- the profile of the proposal in height and setbacks from Albion Street generally meets the 1:1 ratio of height to width from southern side of the street
- the 1:1 ratio strikes an appropriate balance between creating good spatial definition and maintaining sky visibility
- the shadow cast at the equinox onto Albion Street and the minor encroachment of shade onto the footpath would not adversely impact pedestrians' amenity on south side of street
- the balconies of apartments NW213 and NW214 should be set back at least 5 metres from the adjacent north boundary
- apartments SE202 and SE203 should be combined to form a three-bedroom apartment to meet policy in Clause 15.01-2L (Apartment Developments in Moreland) and to improve amenity
- the zero setback and commercial interface with Ilhan Lane is acceptable
- other setbacks for apartment windows and balconies from boundaries are acceptable.

Upfield shared pathway

- a 2-metre splay should be provided at the south-east corner at ground level to improve visibility for pedestrians of the bike path
- DDO18 specifies a 1 metre setback for new walls adjoining the shared Upfield bike path, but it is acceptable for the building to be set back 500mm from the western boundary.

Internal and off-site amenity

- the Teilhaus apartments are considered acceptable in the overall apartment mix for the proposal
- the proposal meets the Clause 58 objectives
- overshadowing of residential properties at 205-213 Albion Street is on balance acceptable due to their location in the Industrial 1 Zone.

Permit Applicant

The Permit Applicant relied on the building proposal presentation by Mr Jeremy McLeod and Mr McPherson's evidence.

Mr McPherson stated:

- the proposal's height and built form was acceptable within the urban context and met strategic policy directions and the objectives of DDO18
- the built form context near the subject land is changing – he cited examples of recent developments between 5 and 8 storeys including three recent developments on the south side of Albion Street of 8 storeys
- the proposal's height above the preferred 17 metre maximum height in DDO18 is supported by recent examples and the area's changing built form character
- the emerging new context of 7-8 storeys in the area equates to a mid-rise character
- the setbacks to the north enable equitable future development

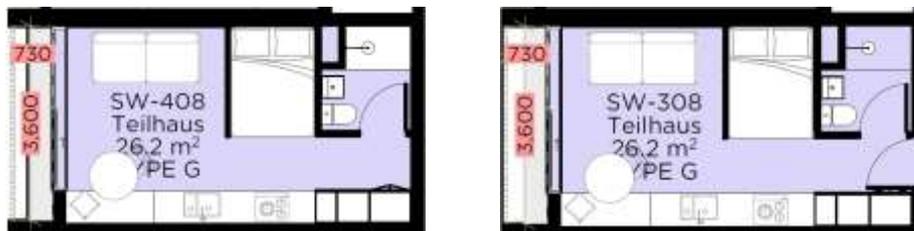
- there would be no amenity impacts on Albion Street through minimal acceptable overshadowing of southern footpath.

Mr McPherson did not support a 500 millimetre setback to the western shared path or the splayed south west corner sought by Council. He acknowledged there were encroachments of the height and setbacks in the street angle guidelines specified in DDO18, but considered them to be minor and acceptable.

The Permit Applicant submitted:

- that a reduced building height would be inconsistent with the emerging physical context along Albion Street and provide no material amenity benefit on adjoining or nearby properties
- the omitted doors on the two Teilhaus apartments was an oversight, and the plans would be revised to show an inward swinging door, consistent with the Teilhaus apartment in the northern section and on level 3 (see Figure 5).

Figure 5 Comparison of Teilhaus apartments showing the omitted door on level 4 and door location on level 3



Source: Advertised plans

(iv) Discussion

Building height and set back

The parent DDO provision allows a permit application which exceeds the preferred maximum 17 metre building height in DDO18. Like a responsible authority, the Committee needs to consider whether the proposed 31.3 metre height generally meets necessary planning objectives and provisions to achieve acceptable on-site and off-site outcomes. Current Power is effectively requesting to apply the 17 metre height as a mandatory provision. There may be good reason to apply such a height in some circumstances. However, no submission or evidence persuaded the Committee that such a circumstance exists.

The subject land does not have sensitive interfaces. There are no adjoining low-rise residential zones, although there are non-conforming use residences to the east along Albion Street in the Industrial 1 Zone. To the north there are industrial buildings and to the west is the Upfield rail corridor and shared pedestrian and bike pathway.

The Committee has assessed how the development's scale and visual bulk will impact the public realm against, among other things, DDO18 that:

- seeks an appropriate balance between a sense of openness and enclosure
- includes Figure 2 which sets out the preferred 12-metre maximum street wall relative to a 12-metre street width based on a 1:1 ratio (45-degree line)
- prefers development above the street wall to be set back within the 45-degree line.

The proposal generally meets the DDO18 provisions through its 12 metre street wall which corresponds with the street width of about 12.5 metres. The upper setbacks are mostly contained

in the 45-degree line. There are some protrusions into the 45-degree line with balcony and upper wall of level 5 and part of upper wall of level 8. DDO18 anticipates some protrusion into setbacks indicated by the 45-degree cone allowing that balconies and architectural features can extend 2 metres into the setbacks. Despite the minor protrusions the proposed building profile conforms to this guideline and would result in an acceptable impact on the public realm.

When viewed from the south side of Albion Street, most of the level 5 wall would be visible above the street wall parapet and no upper levels would be visible. The Committee considers this to be:

- an appropriate response to managing potential visual bulk above the street wall
- an acceptable design response.

The design demonstrates how the proposed development can achieve a greater height than what is specified in DDO18 while achieving the sense of openness sought by the schedule. The series of setbacks to the building profile, enabled by the subject land's generous dimensions, has helped achieve this.

The subject land is larger than recent development sites on the southern side of Albion Street. Its length offers greater scope for stepped-back height while maintaining minimal impact on the public realm.

The proposed development would cast minimal shadow onto the footpath on the south side of Albion Street between 9am and 3pm and no shadow between 10am and 2pm at the equinox. This is an acceptable response to the public realm amenity on what is designated a Key Pedestrian Street in DDO18 Map 2A.

Street wall treatment

The proposed street wall is architecturally articulated with materials and architectural features that draw the eye of pedestrians at ground level. The treatment of the upper levels is architecturally subservient, so the visual prominence of the form is contained largely to the lower levels from within the public realm near the subject land. Further from the subject land, the upper levels and overall height would be apparent but distant views would have the building within the context of the substantive forms of more recent developments.

The street wall extends around the corners along part of the west and east elevation which visually treats the lower sections as a three dimensional form further creating architectural interest in the lower levels in oblique approaches along Albion Street.

Amenity of apartments

The setbacks to some of the apartment balconies to the north and the apartments to the east do not meet setbacks in the Clause 15.01-2L policy. The Committee agrees with Council:

- to increase setbacks to the balcony frontages of apartments NW213 and NW214 to 5 metres from the subject land's north-west corner boundary
- it is acceptable to have east facing apartments with balconies set back 4.5 metres from the centre of Ilhan Lane rather than 6 metres sought through policy.

The Committee considers that a 4.5 metre setback would provide adequate internal amenity and privacy to these apartments.

However, the Committee does not agree with Council to combine apartments SE202 and SE203 to improve amenity of apartment SE203. This change is not necessary given the location of the apartment and the generous balcony depth.

Future adjoining development potential

The setbacks to the north establish a minimum distance of 5 metres from the balcony frontages and the building projections from level 3 and above to the centreline of the laneway. If there was an opportunity to develop land to the north, an equitable setback from the centre of the laneway would enable adequate separation to address privacy and amenity issues.

The level 2 balcony frontages are less than 4.5 metres to the centre of the laneway with the NW apartments having balcony frontages less than 5 metres to the shared boundary. The Committee agrees with Council to reduce the length of balcony for the NW apartments at level 2 to enable a 5-metre setback from the shared northern boundary. This configuration will not impact on equitable development to the north given:

- the area and depth of the balconies to level 2 facing the laneway
- more than half of the balcony would be 5 metres from the centre of the laneway.

To the east the setbacks are 4.5 metres from the balconies to the centre of the laneway for the central section of the proposal for level 2 and above. Sections of the east elevation are 3 metres from the centre of the laneway. These sections have secondary windows to bedrooms. Any potential for development to the east, taking an equitable approach would have capacity to address privacy issues.

The Committee finds the proposed development on the subject land will not unreasonably impact the ability for abutting properties to be developed.

Overshadowing on properties in the Industrial 1 Zone

The subject land does not abut a residential zone but abuts the Industrial 1 Zone to the east. The terrace houses at 207-213 Albion Road in Industrial 1 Zone to the east are non-conforming uses because accommodation is prohibited. These residents cannot expect the same level of amenity as dwellings in the residential zones or in an activity centre.

The properties' rear spaces are currently partially shaded by existing structures and will be further shaded by the construction of the three-storey development to the north. After midday, some of them will be overshadowed until 3pm when all properties are overshadowed for part of the afternoon. The proposal will not overshadow the rear open spaces to these properties at 9am or 12 noon.

Of note, DDO18 seeks to avoid overshadowing the southern Albion Street footpath but has no provisions regarding overshadowing industrial land. Clause 55 overshadowing provisions do not apply because the clause does not apply to buildings taller than four storeys or to the Commercial 1 Zone. It would be unreasonable to scale back the proposed development to reduce overshadowing on non-conforming residential uses in an industrial area with overshadowing for only part of the afternoon.

The Committee considers the proposal's overshadowing on properties in the Industrial 1 Zone to be reasonable.

Interface with shared Upfield pedestrian and bicycle path

DDO18 specifies a preferred 1 metre setback of new development from the shared path. The proposal has the building wall set back 2 metres from the shared path but has a colonnade that aligns with the path edge. Council seeks the colonnade to be set back 500 millimetres from the existing path. The proposal provides for a separate pedestrian walkway for the length of the

subject land west elevation. This provides a pedestrian resource in addition to the shared path for the length of the subject land. The Committee does not agree that a setback of 500mm is needed.

At the point where the shared path meets the footpath of Albion Street, Council has recommended an angled splay of the building line to provide a good sight line for Albion Street pedestrians as they approach the bike path. The Committee agrees with Council that a 2 metre long splayed section of the façade on Albion Street should be incorporated at the corner.

Internal apartment amenity

The Permit Applicant and Council assessments of the proposal against Clause 58 of the Planning Scheme thoroughly consider matters including internal amenity and access. The Committee agrees the proposal generally meets the Clause 58 objectives, even with minor non-compliance.

The Teilhaus apartment layout is replicated or mirrored on levels 3, 4 and 5. The level 3 apartment shows the inward opening entrance door. Through simple logic, it is clear where the omitted door will be located to the southern Teilhaus apartment on levels 4 and 5. There is enough information to correct the plans and confirm compliance with Clause 58.

The Committee is satisfied the Teilhaus apartments are acceptable in the apartment mix of the development.

(v) Findings

The Committee finds:

- The building design, height and setbacks are generally appropriate, will result in an acceptable urban design response.
- The building design generally meets Planning Scheme Clause 58 objectives.
- The building scale and design will not result in unreasonable impact on properties in the Industrial 1 Zone east of the subject land.
- There should be a 2-metre splayed treatment to the south-west corner of the building.
- There should be no requirement to set back the west elevation 500mm from the Upfield shared pathway.
- Balconies to apartments NW213 and NW214 should be a minimum of 5 metres from the north property boundary, without reducing any other setbacks.
- There is no need for apartments SE202 and SE203 to be combined to create a three-bedroom apartment.

6.2 Public realm and amenity impacts

(i) The issues

The issue is whether the building scale and design will result in reasonable public realm and amenity impacts.

(ii) Evidence and submissions

Current Power submitted:

- the 1.5 to 1.6 metre footpath along Albion Street is:
 - insufficient for people with mobility issues, including those with a wheelchair, walking frame or pram
 - unsafe for pedestrians because of its narrow width and intruding power poles

- too narrow for street trees
- a substantially improved public pedestrian environment is proposed along the western side and a through-lane, but no pedestrian infrastructure is provided on the south side along Albion Street.

At the Hearing, Current Power sought a 1 metre setback from the ground floor boundary of Ilhan Lane.

Council submitted that its development engineer was comfortable with the width of the Albion Street footpath and that it could accommodate those with limited mobility.

(iii) Discussion

Albion Street

The footpath to Albion Street south of the subject land is the same width as the existing footpath along the length of Albion Street. There would be little benefit in setting the building further back to widen the footpath because this would only widen the section of footpath along its frontage. It would not address any footpath infrastructure issues which Council is responsible for managing.

The existing conditions of the subject land have almost the entire length of the southern boundary as vehicle crossovers for the factories. The proposal would be a substantially better outcome for the public realm regarding pedestrian safety with the removal of crossovers and the current potential for vehicle-pedestrian issues.

DDO18 states that new developments are to have street walls be built to the street frontage with zero setback, with which the proposed design complies.

Shadow cast from the proposal would have minimal encroachment onto the southern footpath but would have no impact pedestrian amenity.

Ilhan Lane

The location of the building with zero setback to Ilhan Lane is acceptable. Commercial tenancies fronting onto the lane will create greater activity and interest at this interface, but the lane width will accommodate shared usage with the laneway vehicle usage. The entrances to the apartments from the lane are set back from the lane and the inward swinging door entries to the tenancies are set back 500 millimetres from the lane alignment. This arrangement will enable good sight lines down the lane and pedestrian protection from occasional vehicles.

(iv) Findings

The Committee finds:

- The building scale and design will result in reasonable public realm and public amenity impacts.
- The building does not need to be set back from the southern boundary.

7 Other issues

7.1 Affordable housing

(i) The issues

The issues are:

- whether providing 20 per cent of all dwellings as affordable housing is appropriate
- whether the proposed permit conditions, including the requirement to vary the registered section 173 agreement, will appropriately manage the provision of affordable housing.

(ii) Background

Council's draft permit included:

Section 173 agreement

52. Before the commencement of the development the owner of the property must:

- (a) Lodge with Council a request to amend, pursuant to section 178 of the Planning and Environment Act 1987 (the Act), the section 173 agreement registered on title (AS724195R) to specify the discount from market value that the required 20% affordable housing will be sold to a registered housing provider for. The discount must be equal to or better than an overall discount from market value if 4% of the total number of apartments were offered at a 75% discount from market value.
- (b) do all things necessary to enable the Responsible Authority to register the amended agreement with the Registrar of Titles in accordance with section 181 of the Act; and
- (c) pay to the Responsible Authority its costs and disbursements incurred in relation to the negotiation, preparation, execution and registration of the amended agreement on the certificate of title to the land.

(iii) Evidence and submissions

The Permit Applicant submitted the proposed development would increase the quantum and quality of affordable housing in the municipality. Council provided the signed section 173 agreement⁵ executed between itself and Nightingale Albion Land Holding Pty Ltd on 7 November 2019. The agreement, which is registered on the property title, specifies among other things:

Before the issue of an Occupancy Permit for each building constructed on the Subject Land, the Owner must provide evidence to Council's satisfaction on the sale of at least 20% of the total number of dwellings of each dwelling on the Subject Land to:

- a) An Accredited Housing Association; or
- b) a person or persons who meets the criteria for 'very low income households', 'low income households' or 'moderate income households' as defined in the Act and as determined by an Accredited Housing Association

as the case may be.

The section 173 agreement:

- accounts for scenarios where the affordable dwellings are not sold as intended

⁵ Document 22

- requires the specified dwellings to be used as affordable housing for 10 years.

Current Power did not refer to affordable housing in its original objection to Council. In its grounds appended to its application to VCAT, Current Power added “*lack of affordable housing*” without any supporting reason. At the Hearing, Current Power no longer pursued this ground. Rather, it submitted the mechanism for delivering the proposed 20 per cent affordable housing was unclear and did not assure delivery.

Current Power submitted:

- it is not clear now the Permit Applicant would meet its obligations set out in the section 173 agreement register on the subject land’s title
- the letter from Housing Choices does not guarantee the nominated housing will be provided to certain income groups
- the Teilhaus model apartment (apartment Type H) does not form part of affordable housing as defined in the PE Act.

The Permit Applicant called evidence on affordable housing from Mr Lennon of Housing Choices Australia. Mr Lennon explained that Housing Choices Australia provides tenancies to over 8,000 people across Australia, has 48 properties in Moreland and has partnered with Nightingale Housing on five projects comprising 75 dwellings. Regarding the subject land, he stated:

This site is perfectly aligned to our acquisition criteria, being located near transport, services, and education. It is also well within our operational footprint, and we are excited by the potential to partner again with Nightingale Housing who are also concerned with social inclusion. Housing Choices has a well-developed framework for partnerships to provide support services while we concentrate on Community Development, Tenancy and Asset Management.

At the Hearing, Mr Lennon confirmed that Housing Choices Australia has a formal agreement with Nightingale Housing which includes prices, numbers and sizes. He considered the Teilhaus dwellings would be suitable for a single person who had been through difficult circumstances such as divorce or domestic violence.

The Permit Applicant submitted that Mr Lennon demonstrated how the proposal complied with the section 173 agreement. Specifically, the 20 dwellings proposed to be sold to Housing Choices Australia exclude the Teilhaus dwellings, consistent with the agreement’s requirements.

(iv) Discussion

Current Power’s ongoing changed position regarding affordable housing did not instil confidence about its conviction. It commenced with no issue, then considered the 20 per cent contribution to be a lack of affordable housing before changing its objection to the delivery mechanism.

The Committee has considered whether the proposal represents a lack of affordable housing because the Minister for Planning’s letter refers to Current Power’s “*range of other matters*”. It has also considered Current Powers subsequent new issue regarding affordable housing.

There is an existing registered section 173 agreement requiring 20 percent affordable housing. From the Committee’s experience, this proportion considerably exceeds what has been generally offered and provided in other developments. The Teilhaus dwellings offer further affordable housing irrespective of whether they fall under the affordable housing definition in the PE Act.

The registered section 173 agreement is a clearly and logically drafted 14-page document with no apparent implementation issue. The proposed permit conditions require the property owner to

amend the agreement before development commences to specify that the required 20 per cent of affordable housing be offered to the registered housing provider at a discount. This further clarifies how affordable housing should be on-sold to the provider.

The Committee is not persuaded the proposed permit conditions or the section 173 agreement are unclear or will create uncertainty in delivering affordable housing on the subject land.

(v) Findings

The Committee finds:

- The 20 per cent affordable housing contribution is appropriate.
- The proposed permit conditions and section 173 agreement are clear, implementable and will appropriately manage the provision of affordable housing.

7.2 Remaining issues

(i) The issues

The objector listed numerous other issues.

(ii) Evidence and submissions

Current Power submitted:

- the development will:
 - push creative, internal national and lower-income residents out of the area
 - exacerbate existing construction impacts in the area
- local infrastructure such as kindergartens, childcare, primary schools and open space do not have capacity to cater for the existing population
- the increased number of residents will impact public transport capacity
- the landscape plan does not reflect what will grow on the subject land
- Council and the developer systematically did not respond to community concerns which represents *“a lack of due process for such a large development that would set precedence for developing an otherwise low-rise industrial/residential area”*.

(iii) Discussion

Current Power made claims regarding potential impacts resulting from the development without explanation. It did not provide any supporting information to support claims that:

- existing kindergartens, childcare centres and primary schools had existing capacity issues
- relevant government agencies could not expand existing facilities to cater for future growth
- existing public open spaces were at the point where they cannot cater for the existing population
- vegetation shown in a professionally prepared landscape plan would not grow on the subject land.

Current Power did not refer to any existing State or local strategy or plan which identified existing or future capacity issue. The Committee is therefore not persuaded these issues exist.

Irrespective, a proposed development should not be responsible for addressing existing capacity issues.

The Committee is perplexed as to how a development with 20 per cent affordable housing will push lower-income residents out of the area. Current Power did not provide socio-demographic information to profile existing lower-income residents in the area or explain how developing the subject land would push anyone out of the area. A considerable proportion of surrounding land is in either Industrial 1 Zone or Industrial 3 Zone where accommodation is prohibited, and residents are not expected. The subject land itself has no existing residents.

On the Committee's review, Council has met its statutory obligations set out in the PE Act and considered all objections before making its decision.

(iv) Findings

The Committee finds:

- There is no evidence of existing infrastructure and open space capacity issues or that demand from future residents on the subject land would result in an unacceptable impact on infrastructure and open space.
- There is no evidence the development will push lower-income residents out of the area.
- There is no evidence why vegetation shown on a professionally prepared landscape plan will not grow on the subject land.
- Council has met its statutory obligations set out in the PE Act.

7.3 Permit conditions

Council, the Permit Applicant and Current Power:

- provided without prejudice tracked changes to the draft permit conditions
- discussed the proposed changes at the Hearing.

The Permit Applicant suggested changing conditions 46, 47 and 50 to reflect the current *Environment Protection Act 2017* as follows:

46. Prior to the commencement of construction or carrying out of buildings and works associated with a sensitive use, or where no buildings and works are proposed, prior to the commencement of the permitted sensitive use:
 - a) A preliminary risk screen assessment statement in accordance with the *Environment Protection Act 2017* must be issued stating that an environmental audit is not required for the use and development allowed by this permit; or,
 - b) An environmental audit statement under Part 8.3 of the *Environment Protection Act 2017* must be issued stating that the land is suitable for the use and development allowed by this permit; or
 - c) An environmental audit statement under Part 8.3 of the *Environment Protection Act 2017* must be issued stating that the land is suitable for the use and development allowed by this permit if the recommendations made in the statement are complied with.
47. Where an environmental audit statement is issued for the land, and any recommendation of that environmental audit statement requires any maintenance and/or monitoring of an ongoing nature, the Owner(s) must enter into an Agreement with the Responsible Authority pursuant to Section 173 of the *Planning and Environment Act 1987* that provides for the undertaking of the ongoing maintenance and/or monitoring as required by the environmental audit statement.
- ...
50. All the recommendations of the environmental audit statement must be complied with to the satisfaction of the Responsible Authority, prior to commencement of the use of

the site. Written confirmation of compliance must be provided by a suitably qualified environmental consultant or other suitable person acceptable to the Responsible Authority. Compliance sign off must be in accordance with any requirements in the environmental audit statement recommendations regarding verification of works.

Council supported the changes.

The Committee agrees with the changes because they will improve the operation of the permit conditions without affecting their intent.

For reasons set out in this report, the Committee accepts permit conditions shown in Appendix C.

8 Reasons and recommendation

8.1 Reasons

Council supports the proposal subject to permit conditions. Council and the Permit Applicant have clearly demonstrated how the proposal implements, and is supported by, planning policy. Its Commercial 1 Zone, strategic location opposite the Anstey railway station and near other public transport, and within walking distance to the Brunswick Major Activity Centre, make the subject land a strong candidate for higher density housing. Planning policy seeks more affordable housing in Melbourne. The Permit Applicant is commended for offering 20 per cent of its dwellings as affordable housing.

The proposal's built form design is well considered and generally responds appropriately to its surrounding context.

The Committee considers the proposal can be supported and the permit should be issued, given:

- planning policy support, including Plan Melbourne
- the subject land's strategic location, including excellent access to public transport and to a major activity centre
- increased commercial spaces and higher density housing, including 20 per cent affordable housing
- building height and bulk consistent with Albion Street's evolving character
- overall built form and design response to the surrounding context
- acceptable off-site amenity impacts, subject to some design variations.

8.2 Recommendation

The Priority Projects Standing Advisory Committee recommends:

- 1. That the Minister for Planning support the proposal and recommend to the Governor in Council that Moreland Permit MPS/2020/555 be issued, subject to the amended conditions in Appendix C.**

Appendix A 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: MBR045335



Dear Ms Mitchell

CALL IN OF VCAT PROCEEDING P779/2021 AT 215-219 ALBION STREET, BRUNSWICK

I refer to the above Victorian Civil and Administrative Tribunal (VCAT) proceeding, which relates to the proposed Nightingale Albion development at 215-219 Albion Street, Brunswick. The project has been considered by the Development Facilitation Program (DFP), which has deemed it to meet relevant criteria and should be prioritised for accelerated assessment and determination.

I advise that I have decided to call in the proceeding from VCAT under Clause 58(2)(a) of Schedule 1 to the *Victorian Civil and Administrative Tribunal Act 1998*. I have also decided to refer the matter to the Priority Projects Standing Advisory Committee for advice and recommendations about whether a planning permit should be issued and, if so, the appropriate conditions that should be imposed.

On 8 April 2021, the Moreland City Council issued a notice of decision to grant a planning permit. Following the council issuing its planning approval, an objector appeal was lodged with VCAT under section 82 of the *Planning and Environment Act 1987*. The matters raised by the objector primarily relate to building height, overdevelopment of the site, amenity impacts, building design and setbacks, traffic and car parking (including deliveries and loading bays), impacts to the public realm, and a lack of due process by the council, although a range of other matters have also been raised. A compulsory conference was scheduled for 11 October 2021, with a hearing scheduled on 16–17 December 2021.

If you have any questions 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

25/7/21

Appendix B Document list

No.	Date	Description	Provided by
2021			
1	14 Jun	Committee Terms of Reference	Minister for Planning
2	25 Jul	Letter of Referral	Minister for Planning
3	25 Jul	Electronic VCAT file	Victorian Civil and Administrative Tribunal
4	2 Aug	Committee Notification letter	Planning Panels Victoria
5	22 Aug	Email – from Ms Bergin: procedural issues	Current Power
6	23 Aug	Letter – from Ms Jin to the Minister for Planning	Current Power
7	25 Aug	Committee Directions Letter and Timetable (v1)	Planning Panels Victoria
8	25 Aug	Email – from Ms Bergin: interpreter request	Current Power
9	30 Aug	Email – from Ms Bergin: delegation report	Current Power
10	2 Sep	Email – Council planning application delegation guidelines	Council
11	2 Sep	Council planning application delegation guidelines	Council
12	7 Sep	Committee response to document 8	Planning Panels Victoria
13	13 Sep	Expert evidence – Simon McPherson	Permit Applicant
14	13 Sep	Expert evidence – David Graham	Current Power
15	13 Sep	Expert evidence – Charmaine Dunstan	Permit Applicant
16	13 Sep	CV – Michael Lennon	Permit Applicant
17	13 Sep	Expert evidence – Michael Lennon	Permit Applicant
18	13 Sep	CV – Jeremy McLeod	Permit Applicant
19	13 Sep	Expert evidence – Jeremy McLeod	Permit Applicant
20	13 Sep	Expert evidence – Jeremy McLeod (design slides and plans)	Permit Applicant
21	13 Sep	CV – Simon McPherson	Permit Applicant
22	13 Sep	Section 173 agreement – executed between Council and Nightingale Albion Land Holding Pty Ltd, 7 November 2019	Council
23	16 Sep	Committee Directions Letter and Timetable (v2)	Planning Panels Victoria
24	17 Sep	Email – from Ms Bergin regarding permit drafting	Current Power
25	17 Sep	Opening submission	Council
26	17 Sep	Amended notice of refusal – 6 Florence Street, Brunswick	Current Power
27	17 Sep	Property sale information – 8 Florence Street, Brunswick	Current Power
28	17 Sep	Amended planning permit – 204-206 Albion Street, Brunswick	Current Power

No.	Date	Description	Provided by
29	17 Sep	Endorsed amended development plans – 204-206 Albion Street, Brunswick	Current Power
30	17 Sep	Clause 58 report – 215-219 Albion Street, Brunswick	Current Power
31	17 Sep	ABS 8752.0, Building Activity, Australia Dec 2018	Current Power
32	17 Sep	Brunswick Structure Plan Reference Document, April 2018	Current Power
33	17 Sep	Chaucer Enterprises Pty Ltd v Moreland CC [2015] VCAT 1615	Current Power
34	17 Sep	Planning Scheme Clause 02.04 Map	Current Power
35	17 Sep	Council meeting minutes – 8 July 2020	Current Power
36	17 Sep	DDO18	Current Power
37	17 Sep	Austroroads Guide to Road Design Part 6A: Paths for Walking and Cycling, extracts	Current Power
38	17 Sep	Moreland PSA C134 [2015] PPV, p57	Current Power
39	17 Sep	Moreland PSA C134 [2015] PPV, pp 39-40	Current Power
40	17 Sep	Moreland PSA C164 [2015] PPV, p30	Current Power
41	17 Sep	Moreland PSA C164 [2015] PPV, p31	Current Power
42	17 Sep	Moreland PSA C164 [2015] PPV	Current Power
43	17 Sep	Moreland Footpath Trading Guidelines, pp1-6	Current Power
44	17 Sep	Planning Scheme Open Space Framework Plan	Current Power
45	17 Sep	Shadow diagram, 3 pm	Current Power
46	18 Sep	Site context design response, p13	Current Power
47	18 Sep	Site context design response, p41	Current Power
48	18 Sep	Site context design response, p44	Current Power
49	19 Sep	Opening submission	Current Power
50	19 Sep	Opening submission	Permit Applicant
51	22 Sep	Committee Directions and Timetable (v2)	Planning Panels Victoria
52	27 Sep	Closing submission	Permit Applicant
53	27 Sep	Closing submission	Current Power
54	28 Sep	Email filing documents 55 – 57	Council
55	28 Sep	Moreland PSA C134 [2015] PPV	Council
56	28 Sep	Level Crossing Removal Project - Upfield Bicycle Path Diversion Assessment - Council report	Council
57	28 Sep	Level Crossing Removal Project - Upfield Bicycle Path Diversion Assessment - Council decision	Council
58	29 Sep	Notice of Decision conditions document - Tracked	Permit Applicant
59	29 Sep	Email from Ms Bergin regarding process	Current Power

No.	Date	Description	Provided by
60	29 Sep	Albion Street Bicycle Lane COVID Project	Current Power
61	29 Sep	Albion Street Work Zone November 2020	Current Power
62	30 Sep	Email filing plan with site conditions for 33 Tinning Street	Council
63	30 Sep	Plan showing corrected site condition at 33 Tinning Street	Council
64	30 Sep	Email directing parties to comment on various documents by 7 October 2021	Planning Panels Victoria
65	30 Sep	Email filing Hansen Town Planning Report	Permit Applicant
66	30 Sep	Hansen Partnership Town Planning Report	Permit Applicant
67	1 Oct	Preferred Draft Permit conditions	Current Power
68	1 Oct	Email regarding documents filed by Current Power (Documents 60 and 61)	Council
69	1 Oct	Council Report - Safe Movement of Pedestrians and Cyclists - COVID-19 Response 8 July 2020	Council
70	1 Oct	Council Action Memo - Safe Movement of Pedestrians and Cyclists - COVID-19 Response 8 July 2020	Council
71	4 Oct	Email filing response to without prejudice draft permit conditions	Council
72	4 Oct	Preferred without prejudice permit conditions marked up by Council	Current Power
73	4 Oct	Without prejudice permit conditions marked up by Council	Council
74	4 Oct	Email clarifying formatting error in document 73 and providing amended version (document 75)	Council
75	4 Oct	Amended version of document 73	Council
76	4 Oct	Response to document 63	Current Power
77	6 Oct	Further Committee Directions	Planning Panels Victoria
78	7 Oct	Request to extend the due date for expert responses and subsequent submissions	Current Power
79	11 Oct	Response to extension request of Current Power	Planning Panels Victoria
80	11 Oct	Response to various documents filed by parties	Permit Applicant
81	11 Oct	Questions of expert witnesses	Current Power
82	14 Oct	Email extending due date for expert responses and subsequent submissions	Planning Panels Victoria
83	18 Oct	Email advising Council raises no further comments in relation to questions raised of Expert Witnesses by Current Power	Council
84	18 Oct	Response to Current Power questions – Jeremy McLeod	Permit Applicant
85	18 Oct	Response to Current Power questions – Simon McPherson	Permit Applicant

No.	Date	Description	Provided by
86	18 Oct	Response to Current Power questions – Charmaine Dunstan	Permit Applicant

Appendix C SAC preferred version of Permit Conditions

The Committee has used the permit version attached to the Notice of Decision dated 8 April 2021 showing tracked changes since. Conditions will need to be re-alphabetised and renumbered to respond to deletions.

[Tracked Added](#)

~~Tracked Deleted~~

Amended plans

- 1 Before the development commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and must be generally in accordance with the plans advertised but modified to show:
 - a) The north title boundary and extent of the existing building on the adjoining property (33 Tinning Street) shown correctly, including the removal of notations referring to a proposed setback between the subject site and 33 Tinning Street.
 - b) The location, materials and dimensions of impact barriers required by Metro Trains as shown in the email to Nightingale Housing from Metro Trains titled 'Proposed development at 215-219 Albion Street Brunswick' and dated 1 March 2021.
 - ~~c) At ground floor level, the building, including the colonnade and any impact barrier setback 500mm from the west property boundary.~~
 - d) A two metre splay of the south-western corner of the building at ground floor level (excluding the colonnade).
 - e) At ground floor, a minimum finished floor level of 52.59m AHD.
 - f) The northern edge of the balcony to Apartment NW-213 and NW-214 each setback a minimum of five metres from the north property boundary, without reducing any other setbacks.
 - ~~g) Apartments SE-202 and SE-203 combined to form a single apartment, with its main living outlook oriented towards Albion Street, without reducing any setbacks.~~
 - h) Apartment Types C, E and Q shown with an outward opening door or sliding door to the bathroom or otherwise comply with Standard D17 from Clause 58.05-1.
 - i) All door widths noted on the BADS Diagrams and Assessment plan for each apartment, to comply with Standard D17 from Clause 58.05-1.
 - j) A notation on the BADS Diagrams and Assessment plan that all inward opening doors to adaptable apartments will have removable hinges.
 - k) Internal doors between bedrooms and study areas for Apartment Type I to be clear glazed or removed.

- l) The southernmost pedestrian entry door to the apartments from Ilhan Lane relocated to no further than 3 metres from the east property boundary. A minimum of three visitor bicycle parking spaces must be located within this setback.
- m) The provision of public lighting on the western wall of the building, that is equivalent to or better than the existing public lighting that exists on the wall of 215 Albion Street, to illuminate the Upfield Shared Path.
- n) Each bicycle parking device dimensioned, with all spaces 500mm wide (or 700mm for vertical spaces if not in a staggered arrangement) and the horizontal and vertical bicycle spaces 1800mm and 1200mm long respectively, with every space accessed from a 1500mm wide access aisle as required by the Australian Standard for Parking Facilities – Bicycle Parking (AS2890.3).
- o) An area within the site for an accessible sewerage boundary trap.
- p) The following detail as required by Condition 25 (Transport for Victoria) of this permit:
 - i. bus stop infrastructure upgrades along Albion Street (where appropriate);
 - ii. a landscaping plan and schedule; and
 - iii. demonstrate compliance with air, light and fire requirements without reliance on railway land.
- q) The Environmentally Sustainable Design initiatives that are required to be shown on plans, as contained within the Sustainability Management Plan required by Condition 13 of this permit.
- r) An amended landscape plan in accordance with Condition 3 of this permit.
- s) An amended access plan in accordance with Condition 6 of this permit.
- t) An amended waste management plan in accordance with Condition 8 of this permit.
- u) An amended acoustic report in accordance with Condition 10 of this permit.
- v) An amended schedule of all proposed exterior decorations, materials, finishes and colours, including colour samples. The schedule must:
 - i. include details of the materials of louvres to the winter gardens, which must be a transparent material such as glass; and
 - ii. correspond to materials notations on the elevations.
- w) [An on-site loading zone accessible from Ilhan Lane.](#)

Compliance with endorsed plans

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

Landscape plan

- 3 Prior to the endorsement of plans, an amended landscape plan must be submitted to the Responsible Authority. The landscape plan must be generally in accordance with the plan prepared by Openwork dated 7 September 2020 but amended to:
 - a) Reflect modifications made to the proposal in accordance with Condition 1 of this permit;
 - b) Show low level planting within the 500mm setback to the west of the colonnade/impact barrier (adjacent the Upfield Shared Path); and
 - c) Detail the treatment, including paving details and proposed planting, within the northern setback adjacent to the south boundary of 33 Tinning Street.

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

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

Access report

- 6 Prior to the endorsement of plans, the accessibility report prepared by Access Studio and dated 4 September 2020 must be amended by a suitably qualified person to the satisfaction of the Responsible Authority to reflect modifications made to the proposal in accordance with Condition 1 of this permit. When submitted and approved to the satisfaction of the Responsible Authority, the amended Access Report will be endorsed to form part of this permit. No alterations to the report may occur without the written consent of the Responsible Authority. The recommendations of the report must be implemented to the satisfaction of the Responsible Authority prior to the occupation of the development.
- 7 Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, a report from the author of the Accessibility Report, approved pursuant to this permit, or similarly qualified person or company, must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the Accessibility Report have been implemented in accordance with the approved report.

Waste management plan

- 8 Prior to the endorsement of plans an amended waste management plan must be submitted to and approved by the Responsible Authority. The report must be generally in accordance with the waste management report prepared by Ratio and dated 14 September 2020, except that it must be amended to:

- a) Stipulate that bins will be collected from within the site or the rear lane only; and
- b) Reflect modifications made to the proposal in accordance with Condition 1 of this permit.

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

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

Acoustic report

- 10 Prior to the endorsement of plans an amended acoustic report must be submitted to and approved by the Responsible Authority. The report must be generally in accordance with the acoustic report prepared by Marshall Day Acoustics and dated 14 September 2020, except that it must be amended to:
 - a) Include the results of noise and ground vibration survey conducted to verify the accuracy of source reference data used in Section 4.0 of the report (as recommended in Section 9.0 of the report);
 - b) Clearly state whether the noise levels in bedrooms and living rooms will achieve the identified levels for buildings within a noise influence area as required by Standard D16 (Noise impacts) of Clause 58.04-3 of the Moreland Planning Scheme; and
 - c) Reflect modifications made to the proposal in accordance with Condition 1 of this permit.

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

- 11 The building must be constructed and thereafter maintained in accordance with the recommendations contained within the approved Acoustic Report to the satisfaction of the Responsible Authority, unless with the further written approval of the Responsible Authority.
- 12 Prior to the issue of an Occupancy Permit or issue of a Statement of Compliance, whichever comes first, a report from the author of the Acoustic Report approved pursuant to this permit or similarly qualified person or company must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the Acoustic Report have been implemented in accordance with the approved Acoustic Report.

Sustainability Management Plan

- 13 Prior to the endorsement of plans, a Sustainability Management Plan (SMP) must be submitted to and approved to the satisfaction by the Responsible Authority. The SMP must demonstrate a best practice standard of environmentally sustainable design and be generally in accordance with the SMP prepared by Atelier Ten dated 14 September 2020 but modified to include the following changes:
 - a) An amended BESS report which:

- i. Is amended as per the BESS report in the ESD Memo dated 18 December 2020.
 - ii. Deletes the Innovation points for 'Responsible Materials', Triple Bottom Line development and Green Lease.
 - iii. Maintains an overall score of 70% (via the inclusion of new credits to replace the deletion of the above Innovation points. Any innovation points must be to Council's satisfaction and must contain supporting information about how the point will be met, by whom, and how it will maintained. ~~Credits must be sought from the following additional Innovation Point categories: Stormwater, Green Star interiors, Innovation Challenge or Global Sustainability, or other credits to the satisfaction of the Responsible Authority. The additional credits are to contain supporting information about how the credit will be met, by whom and how it will be maintained, to the satisfaction of the Responsible Authority).~~
- b) The items within the ESD Memo prepared by Atelier Ten dated 18 December 2020 to be incorporated into the overall SMP, including:
- i. Discussion of the automatic irrigation and maintenance of the green infrastructure.
 - ii. The NCC 2019 Glazing Calculator.
 - iii. The updated BESS report.
 - iv. The Innovation details (except for 'Responsible Materials' innovation as this is not considered innovative in Moreland).
- c) The following initiatives contained within the SMP and ESD Memo, to be shown on plans:
- i. The 26,000L rainwater harvesting tank.
 - ii. Internal ceiling fans for all bedrooms and living areas (not only on the TP15 BADS plan).
 - iii. Roof materials with high-albedo finishes / light-coloured outdoor floor finishes.
 - iv. The materials and colour schedule to include materials as per the SMP (including Forest Stewardship Council timber and recycled content in cement).

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

14. Prior to the issue of a Statement of Compliance or Certificate(s) of Occupancy whichever occurs first, all works must be undertaken in accordance with the endorsed Sustainability Management Plan report to the satisfaction of the Responsible Authority. No alterations to these plans may occur without the written consent of the Responsible Authority.
15. Prior to the commencement of occupation or issue of a Statement of Compliance, whichever comes first, of any dwelling approved under this permit, a report from the author of the Sustainability Management Plan (SMP) approved pursuant to this permit, or similarly qualified person or company, must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm (and include evidence) that all measures specified in the SMP have been implemented in accordance with the approved plan.

Green Travel Plan

16. Prior to the commencement of the development, the Green Travel Plan prepared by Ratio Consultants dated September 2020 must be endorsed to form part of the permit. The Green Travel Plan endorsed as part of this permit must be complied with at all times. No alterations to the Green Travel Plan may occur without the written consent of the Responsible Authority.

Public Works Plan

17. Prior to the commencement of the development, a Public Works Plan and associated construction drawing specifications detailing the works to the land at the front of the site in Albion Street and to the east of the site in Ilhan Lane must be submitted to the satisfaction of the Responsible Authority. The Plan must include:
 - (a) All construction details in accordance with the Moreland City Council Technical Notes July 2019 (or any updated version);
 - (b) Line marking on the Upfield Shared Path to clearly identify the pedestrian entry point adjacent to the area marked 'communal open space' on the ground floor plan.
 - (c) Line marking on the Upfield Shared Path adjacent the south-western corner of the subject site to instruct path users to slow at the Albion Street intersection.
 - (d) The provision of public lighting on the western wall of the building, that is equivalent to or better than the existing public lighting that exists on the wall of 215 Albion Street, to illuminate the Upfield Shared Path.
 - (e) A detailed level and feature survey of the footpaths and roads.
 - (f) The upgrade of the footpath adjacent to the site. Public footpaths are to be reinstated to the previous levels with a maximum cross fall slope of 1 in 40 (2.5%).
 - (g) Any Council or service authority pole or pit within 1 metre of the proposed vehicle crossing, including the 1 metre splays on the crossings, relocated or modified.
 - (h) For any vehicle crossing not being used, the kerb, channel and footpath reinstated.
 - (i) Any necessary drainage works.
 - (j) The relocation or replacement of existing and installation of new street furniture and infrastructure, such as parking and traffic signs, public seating, bicycle parking and similar.
 - (k) Any other works to the public land adjacent to the development.

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

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

Retention of architect

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

Melbourne Water

20. Finished floor levels of ground floor must be constructed no lower than 52.59 metres to Australian Height Datum (AHD) which is 300mm above the applicable flood level for the property of 52.29 metres to AHD.
21. A pre and post CCTV inspection of Melbourne Water's underground asset running through Albion Street must be carried out at the expense of the developer/owner and submitted to Melbourne Water to ensure the drain is not damaged by the proposed works.
22. All works to be conducted surrounding the drain shall be undertaken in a manner that protects the drain (i.e.: minimum vibration, loading etc). Cost of any repair work to Melbourne Water's asset by the works must be borne by the developer/ owner.
23. If a new or upgraded storm water connection to the main drain is required, a separate on-line application must be made to Melbourne Water. Details of the proposed location and size of the connection must be provided. Prior to accepting an application, evidence must be provided demonstrating that Council considers that it is not feasible to connect the development to the local drainage system.
24. Utility Installation - No services are to be installed across Melbourne Water's asset unless approval in writing has been granted by Melbourne Water. A separate Utility Installation application must be submitted if required.

Transport for Victoria

25. Before the development commences (excluding demolition and site preparatory works), or other time agreed to in writing with Head, Transport for Victoria, amended plans to the satisfaction of the Head, Transport for Victoria (TfV) must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. These plans must be generally in accordance with the plans submitted to TfV with the application but are to be modified to show:
 - a) bus stop infrastructure upgrades along Albion Street (where appropriate);
 - b) a landscaping plan and schedule; and
 - c) demonstrate compliance with air, light and fire requirements without reliance on railway land.

to the satisfaction of the TfV.

26. Before the Development commences (excluding demolition and site preparatory works), unless otherwise agreed in writing with the Head Transport for Victoria, the permit holder must submit detailed plans (inclusive of materials and landscaping) to the satisfaction of the Head, Transport for Victoria (TfV), Vic Track and the Rail Operator (RO) showing the development interface improvements for the Upfield bike path (directly abutting the subject

site's boundaries and extending along the frontage to the railway land and connecting to Albion Street as appropriate) being 'public realm works' on railway land. The plans must:

- (i) show (as appropriate) lighting, landscaping, footpaths, bicycle parking, street furniture and associated infrastructure (no use of signal colours red, green or yellow (excluding red bricks);
- (ii) meet Rail Operator specifications and standards; and
- (iii) demonstrate that the works are compliant with the Disability Standard for Accessible Public Transport 2002.

27. A construction control agreement must be in place between the Permit Holder and RO prior to commencement of the Public Realm Works on Railway Land.
28. The Public Realm Works outlined in the plans must be completed by the permit holder at their full cost and to the satisfaction of TfV, VicTrack & the RO.
29. Prior to the commencement of work on site (excluding demolition and site preparatory works) detailed construction/ engineering plans and computations for construction works abutting railway land, railway operations, and railway infrastructure assets must be submitted [to](#) and approved by VicTrack, TfV and the Rail Operator (RO). The Plans must detail all excavation design and controls of the site adjacent to the railway corridor. The Design Plans must ensure compliance regarding:
 - a. building clearances to aerial power lines as per the applicable Victorian Electrical Safety (Installations) Regulations;
 - b. design loadings for the building include for:
 - i) compliance with AS5100 Parts 1 and 2 for collision protection and impact loads from derailed trains,
 - ii) compliance with AS1170 Part 4 - Earthquake Actions in Australia,
 - c. working adjacent to overhead power to the satisfaction of the RO;
 - d. demonstrate compliance with air, light and fire requirements without reliance on railway land;
 - e. demonstrates a design plan, and a maintenance and operations strategy for balconies and windows that will eliminate any risk of debris falling or being thrown onto railway land; and
 - f. drainage design for the development to drain any water runoff from the (raised level) of the Upfield bike path into the stormwater drainage system.
30. Unless otherwise agreed in writing with TfV, before the commencement of works (including demolition), a Construction Management Plan must be submitted to TfV and Vic Track for approval. The Construction Management Plan must designate operating hours and include details of (but not be limited to) management proposals and actions to protect Vic Track assets, rail infrastructure and the operation of the public transport network during construction and must set out objectives, performance and monitoring requirements to the satisfaction of Vic Track & TfV.

31. Unless otherwise agreed in writing with the TfV, before the commencement of works (including demolition), a Traffic Management Plan must be submitted to TfV which outlines how traffic will be managed throughout the construction of the development and mitigate impacts to public transport, including trains and trams. The Traffic Management Plan must be prepared and implemented to the satisfaction of TfV. All traffic management and mitigation costs will be at the full cost of the permit holder.
32. Unless otherwise agreed in writing with TfV, prior to construction commencing including demolition, a construction control and indemnity agreement as required by TfV must be in place to the satisfaction of TfV at the full cost to the permit holder. Any costs required to review documents for the construction control and indemnity agreement must be met by the permit holder.
33. Unless otherwise agreed in writing with TfV, prior to the commencement of works (excluding demolition and site preparatory works), the permit holder must prepare a report, to the satisfaction of TfV & the RO, by a suitable qualified consultant, which demonstrates that all building materials (including glass / window treatments) visible from the rail corridor are non-reflective such that it will not adversely impact on rail operations and driver safety. The development must avoid using red, green or yellow colour schemes that may interfere with driver operations.
34. Unless otherwise agreed in writing with TfV and VicTrack, windows, doors and balconies must not be placed on the title boundary with Railway Land and no windows or doors are permitted to open beyond the Railway Land title boundary to the satisfaction of TfV and VicTrack.
35. Prior to the occupation of the development, all works outlined on the endorsed plans for bus stops and public realm works relevant to the rail interface must be completed, to the satisfaction of TfV at the full cost to the permit holder.
36. The boundary wall must be treated with a graffiti proof finish and any graffiti that appears on the wall must be removed as soon as practicable to the satisfaction of VicTrack and the Rail Operator. Removal of graffiti must be undertaken at no cost to VicTrack or the Rail Operator.
37. Unless otherwise agreed in writing, permanent or temporary soil anchors must not be installed on railway land.
38. Prior to commencement of works, the Rail Operator must be contacted through the email address metrositeaccess@metrotrains.com.au to obtain the Rail Operator's conditions and safety requirements for works on, over or adjacent to railway land.
39. Any Rail Operator costs required to review documents or construction plan works within the rail environment must be met by the permit holder.
40. Any damage to public transport infrastructure as a consequence of the construction works must be rectified to the satisfaction of TfV, at the full cost of the permit holder.
41. The permit holder must take all reasonable steps to ensure that disruptions to train and bus operation are kept to a minimum during the construction of the development, and in compliance with the Rail and Bus Safety and Environmental requirements.
42. No lighting is to be erected that throws light onto the railway tracks or which interferes with the visibility of signals and the rail lines by train drivers, to the satisfaction of the Rail Operator.

43. No drainage, effluent, waste, soil or other materials must enter or be directed to railway land or stored or deposited on railway land.

Development Contributions

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

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

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

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

45. Prior to the commencement of the development, a legal point of discharge is to be obtained, and, where required, a stormwater drainage plan showing how the site will be drained from the property boundary to the stated point of discharge must be submitted to and approved by the Responsible Authority.

Environmental Audit

46. Prior to the commencement of construction or carrying out of buildings and works associated with a sensitive use, or where no buildings and works are proposed, prior to the commencement of the permitted sensitive use:

- a) A preliminary risk screen assessment statement in accordance with the Environment Protection Act 2017 must be issued stating that an environmental audit is not required for the use and development allowed by this permit; or
- b) An environmental audit statement under Part 8.3 of the Environment Protection Act 2017 must be issued stating that the land is suitable for the use and development allowed by this permit; or
- c) An environmental audit statement under Part 8.3 of the Environment Protection Act 2017 must be issued stating that the land is suitable for the use and development allowed by this permit if the recommendations made in the statement are complied with.

47. Where an environmental audit statement is issued for the land, and any recommendation of that environmental audit statement requires any maintenance and/or monitoring of an ongoing nature, the Owner(s) must enter into an Agreement with the Responsible Authority pursuant to Section 173 of the Planning and Environment Act 1987 that provides for the undertaking of the ongoing maintenance and/or monitoring as required by the environmental audit statement.

Where a Section 173 Agreement is required, the Agreement must be executed prior to the commencement of the permitted use, and prior to the issue of a statement of compliance under the Subdivision Act 1988. All expenses involved in the drafting, negotiating, lodging, registering and execution of the Agreement, including those incurred by the Responsible Authority, must be met by the Owner(s).

48. Prior to any remediation works (if required) being undertaken in association with the environmental audit, a ‘remediation works’ plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The plan must detail all excavation works as well as any proposed structures such as retaining walls required to facilitate the remediation works. Only those works detailed in the approved remediation works plan are permitted to be carried out prior to the issue of an environmental audit statement.
49. No works to construct the development hereby approved shall be carried out on the land and no building contract to construct the development hereby approved may be entered into, other than in accordance with a building contract that stipulates that works must not be commenced until such time as Conditions 46, 47 and 48 are satisfied.
50. All the recommendations of the environmental audit statement must be complied with to the satisfaction of the Responsible Authority, prior to commencement of the use of the site. Written confirmation of compliance must be provided by a suitably qualified environmental consultant or other suitable person acceptable to the Responsible Authority. Compliance sign off must be in accordance with any requirements in the environmental audit statement recommendations regarding verification of works.
- ~~46. Prior to the commencement of construction or carrying out works pursuant to this permit, or any works associated with a sensitive use, or where no works are proposed, prior to the commencement of the permitted use, either:~~
- ~~a) A Certificate of Environmental Audit for the land must be issued in accordance with Section 53Y of the Environment Protection Act 1970 and provided to the Responsible Authority; or,~~
- ~~b) An Environmental Auditor appointed under Section 53S of the Environment Protection Act 1970 must make a Statement in accordance with Section 53Z of that Act that the environmental conditions of the land are suitable for the use and development that are the subject of this permit and that statement must be provided to the Responsible Authority.~~
- ~~47. Where a Statement of Environmental Audit is issued for the land, and any condition of that Statement requires any maintenance or monitoring of an ongoing nature, the Owner(s) must enter into an Agreement with Council pursuant to Section 173 of the Planning and Environment Act 1987. Where a Section 173 Agreement is required, the Agreement must be executed prior to the commencement of the permitted use, and prior to the certification of the plan of subdivision under the Subdivision Act 1988. All expenses involved in the drafting, negotiating, lodging, registering and execution of the Agreement, including those incurred by the Responsible Authority, must be met by the Owner(s).~~
- ~~48. Prior to any remediation works (if required) being undertaken in association with the Environmental Audit, a ‘remediation works’ plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The plan must~~

~~detail all excavation works as well as any proposed structures such as retaining walls required to facilitate the remediation works. Only those works detailed in the approved remediation works plan are permitted to be carried out prior to the issue of a Certificate or Statement of Environmental Audit.~~

- ~~49. No works to construct the development hereby approved shall be carried out on the land and no building contract to construct the development hereby approved may be entered into, other than in accordance with a building contract that stipulates that works must not be commenced until such time as Conditions 46, 47 and 48 of this permit are satisfied.~~
- ~~50. Where a Statement of Environmental Audit is issued for the land, the buildings and works and the use(s) of the land that are the subject of this permit must comply with all directions and conditions contained within the Statement.~~
- ~~51. Where a Statement of Environmental Audit is issued for the land, prior to the commencement of the use, and prior to the issue of a Statement of Compliance under the Subdivision Act 1988, and prior to the issue of an Occupancy Permit under the Building Act 1993, a letter prepared by an Environmental Auditor appointed under Section 53S of the Environment Protection Act 1970 must be submitted to the Responsible Authority to verify that the directions and conditions contained within the Statement have been satisfied.~~

Section 173 agreement

52. Before the commencement of the development the owner of the property must:
- (a) Lodge with Council a request to amend, pursuant to section 178 of the Planning and Environment Act 1987 (the Act), the section 173 agreement registered on title (AS724195R) to specify the discount from market value that the required 20% affordable housing will be sold to a registered housing provider for. The discount must be equal to or better than an overall discount from market value if 4% of the total number of apartments were offered at a 75% discount from market value.
 - (b) do all things necessary to enable the Responsible Authority to register the amended agreement with the Registrar of Titles in accordance with section 181 of the Act; and
 - (c) pay to the Responsible Authority its costs and disbursements incurred in relation to the negotiation, preparation, execution and registration of the amended agreement on the certificate of title to the land.

3D model

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

General

54. Prior to the issuing of Statement of Compliance or occupation of the development, whichever occurs first, all visual screening measures shown on the endorsed plans must be installed to the satisfaction of the Responsible Authority. All visual screening and measures to prevent overlooking must be maintained to the satisfaction of the Responsible Authority. Any screening measure that is removed or unsatisfactorily maintained must be replaced to the satisfaction of the Responsible Authority.
55. Prior to the occupation of the development all telecommunications and power connections (where by means of a cable) and associated infrastructure to the land must be underground to the satisfaction of the Responsible Authority.
 46. The area set aside for the parking of vehicles and access lanes shown on the endorsed plan must to the satisfaction of the Responsible Authority:
 - Be completed prior to the occupation of the development.
 - Be maintained.
 - Have the boundaries of all vehicle parking spaces clearly marked on the ground to accord with the endorsed plan.
 - Not be used for any other purpose other than the parking of vehicles.
56. The car parking spaces provided on the land must not be allocated to any dwelling to the satisfaction of the Responsible Authority.
57. All stormwater from the land, where it is not collected in rainwater tanks for re-use, must be collected by an underground pipe drain approved by and to the satisfaction of the Responsible Authority (Note: Please contact Moreland City Council, City Infrastructure Department).
58. Stormwater from the land must not be directed to the surface of the right-of-way to the satisfaction of the Responsible Authority
59. The bicycle storage room is to have self-closing and self-locking doors or gates that are only accessible using keys, codes or swipe cards in accordance with the Australian Standard for Bicycle Parking (AS2890.3).
60. Any ramp constructed to access the car park from the laneway must be contained entirely within the site to ensure that the level of the laneway remains as constructed by Responsible Road Authority.
61. Lighting on each balcony must be designed to not emit light direct onto adjoining property to the satisfaction of the Responsible Authority.
62. The surface of all balconies and terraces are to be sloped to collect the stormwater run-off into stormwater drainage pipes that connect into the underground drainage system of the development to the satisfaction of the Responsible Authority.

Time limit

63. This permit will expire if one of the following circumstances applies:
 - a) the development is not commenced within three (3) years from the date of issue of this permit;

- b) the development is not completed within five (5) years from the date of issue of this permit;
- c) the use is not commenced within five (5) years from the date of issue of this permit.

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

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

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

Note 1:

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

Note 2:

Moreland City Council is committed to increasing the amount of affordable housing in the municipality. One way to do this, is through Homes for Homes, a social enterprise founded by the Big Issue that aims to raise new funds via voluntary tax-deductible donations on property transactions and invest those funds in building and managing new social and affordable dwellings. If you would like to help build homes for those in need, visit Homes for Homes and register your commitment to donate 0.1% of the sale price of your dwelling(s).

Note 3:

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

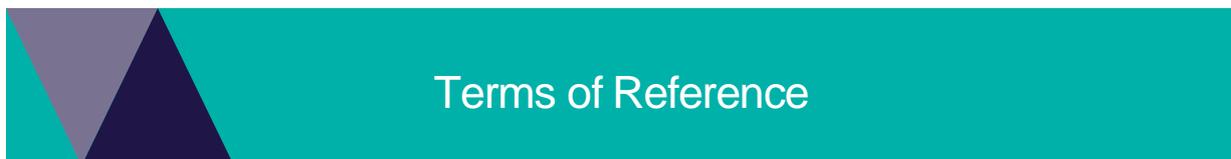
Note 4:

Notes about environmental audits:

- i) A copy of the Certificate or Statement of Environmental Audit, including the complete Environmental Audit Report must be submitted to the Responsible Authority within 7 days of issue, in accordance with Section 53ZB of the Environment Protection Act 1970.
- ii) Where a Statement of Environmental Audit is issued for the land a copy of that Statement must be provided to any person who proposes to become an occupier of the land, pursuant to Section 53ZE of the Environment Protection Act 1970.

- iii) The land owner and all its successors in title or transferees must, upon release for private sale of any part of the land, include in the Vendor's Statement pursuant to Section 32 of the Sale of Land Act 1962, a copy of the Certificate or Statement of Environmental Audit including a copy of any cover letter.

Appendix D 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.

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

Submissions are public documents

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

Outcomes

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

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

Timing

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

Fee

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

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



Richard Wynne MP
Minister for Planning

Date: 14 / 06 / 2020