



City of  
**Moonee Valley**

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# **Ordinary Meeting of Council**

Tuesday, 10 October 2017 at 6.30pm

**Agenda**

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# Ordinary Meeting of Council

Tuesday, 10 October 2017 at 6.30pm  
to be held at the Moonee Valley Civic Centre

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**TO :**

**Members:** Cr Andrea Surace Mayor

Cr Cam Nation

Cr Samantha Byrne

Cr Jim Cusack

Cr Rebecca Gauci Maurici

Cr Richard Lawrence

Cr Nicole Marshall

Cr Narelle Sharpe

Cr John Sipek

**Officers:** Mr Bryan Lancaster Chief Executive Officer

Mr David Benallack Chief Financial Officer

Mr Steven Lambert Director City Services

Ms Kendrea Pope Director Organisational Performance

Ms Natalie Reiter Director Planning & Development

Mr Petrus Barry Manager Statutory Planning

Ms Nicole Battle Acting Manager Communications & Governance

**Business:**

**1. Opening**

**2. Apologies**

**3. Confirmation of Minutes**

Ordinary Meeting of Council held on Tuesday, 26 September 2017.

**4. Declarations of Conflict of Interest**

**5. Presentations**

**6. Petitions and Joint Letters**

**7. Public Question Time**

**8. Reports by Mayor and Councillors**

Nil.

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**BRYAN LANCASTER**  
Chief Executive Officer



## REPORTS

### 9.1 38 Muriel Street Niddrie (Lot 299 on LP 010094) - Construction of three dwellings

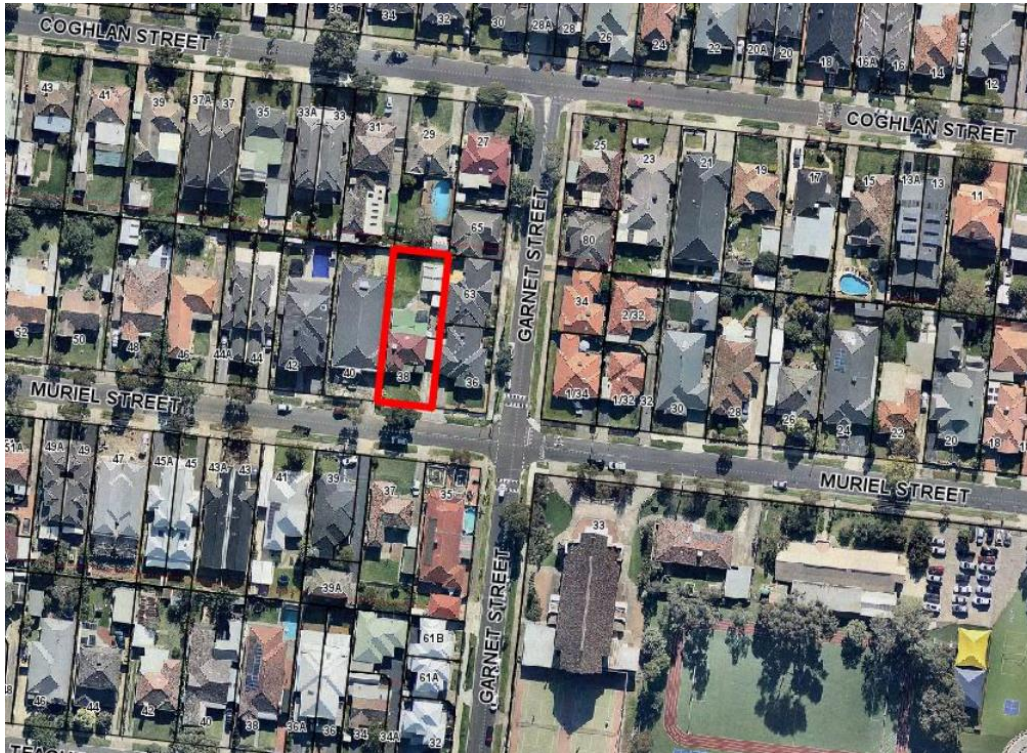
**File No:** FOL/17/11  
**Author:** Alexia Paterson  
Statutory Planner  
**Directorate:** Planning & Development

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<b>Planning File No.</b>	MV/13/2017
<b>Proposal</b>	Construction of three double storey dwellings: <ul style="list-style-type: none"><li>• Two, four bedroom dwellings</li><li>• One, two bedroom dwelling</li></ul>
<b>Applicant</b>	Eminent Designs
<b>Owner</b>	Paula Uren
<b>Planning Scheme Controls</b>	General Residential Zone
<b>Planning Permit Requirement</b>	Clause 32.08-6 – Construct two or more dwellings on a lot
<b>Car Parking Requirements</b>	Required – 5 car spaces Proposed – 5 car spaces
<b>Restrictive Covenants</b>	Covenant Instrument No. 1306499 – does not affect the proposal
<b>Easements</b>	None
<b>Site Area</b>	650 square metres
<b>Number Of Objections</b>	33
<b>Consultation Meeting</b>	7 June 2017

## **Executive Summary**

- This application seeks approval for the construction of three double storey dwellings.
- The site is approximately 650 square metres and is located on the northern side of Muriel Street, between George Street and Garnet Street, Niddrie.
- The application was advertised with 33 objections received. Concerns were raised in relation to the neighbourhood character, built form, overdevelopment, on-site and off-site amenity, non-compliance with Clause 55, traffic and parking, pressure on school occupancy and consistency with the Moonee Valley Planning Scheme.
- A Consultation Meeting was held on 7 June 2017, which was attended by Councillor Byrne, Councillor Sipek, objectors and Council's Planning Officer. As the applicant did not attend the meeting, no resolution was achieved at the meeting.
- The application was internally referred to Council's Development Engineering (Drainage) Unit, Development Engineering (Traffic) Unit, Environmental Sustainable Design (ESD) Officer and Arborist. Conditional support to the application was provided.
- The proposal demonstrates an adequate level of compliance with the relevant policies and provisions of the Moonee Valley Planning Scheme. It proposes an appropriate intensification of residential development in a well-established area, which is close to public open space, including Steele Creek, sporting and community facilities, primary and secondary schools and the Keilor Road Activity Centre amenities.
- The proposal achieves a high level of compliance with the quantifiable standards of ResCode, with two technical areas of non-compliance. The areas of non-compliance relating to street back and parking location will be addressed by way of conditions on any permit issued, with the exception of parking location considered a justified variation.
- The proposed development depicts an appropriate built form that provides a good level of internal amenity, protects the amenity of the adjoining properties and responds to its site context.
- Overall, this assessment report finds that the proposal demonstrates an adequate level of compliance with the relevant policies and provisions of the Moonee Valley Planning Scheme. It is recommended a Notice of Decision to Grant a Permit be issued subject to conditions.



**Figure 1: Aerial photograph of subject site and surrounds**

### **Recommendation**

That Council issue a Notice of Decision to Grant a Permit in relation to Planning Permit Application No. MV/13/2017 for the construction of three dwellings at 38 Muriel Street, Niddrie (Lot 299 on LP 010094), subject to the following conditions:

1. Before the development starts, amended plans must be submitted to and approved to the satisfaction of the Responsible Authority. The amended plans must be drawn to scale and an electronic copy must be provided. The plans must be generally in accordance with the plans submitted and assessed with the application but modified to show:
  - a) Mail boxes to have a maximum height of 1.2 metres;
  - b) Rear pedestrian gate from access way for Dwelling 2;
  - c) Relocate Dwelling 3 garage eastern pedestrian door to south-east corner of garage;
  - d) Swap Dwelling 3 rainwater tank and bins location with each other;
  - e) Dwelling's 1 and 2 porch heights to comply with Standard B6 of Clause 55-03-1 (Street setback) of the Moonee Valley Planning Scheme;
  - f) A BESS report in accordance with Condition 6;
  - g) A note on all floor and elevation plans stating: "Refer to endorsed Sustainable Design Assessment and BESS Report for all ESD commitments and requirements";
  - h) The location and details of all Water Sensitive Urban Design measures outlined within the approved STORM Rating Report shown on Ground Floor Plan;

- i) A notation overhead storage areas must be a minimum height of 1.5m above ground level;
- j) A notation, on all relevant plans, in accordance with Condition 17; and
- k) A Landscape plan in accordance with Condition 15.

When approved these plans become the endorsed plans of this permit.

- 2. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
- 3. A minimum 30 days prior to any building or works commencing, all Water Sensitive Urban Design (WSUD) Details (relating to the WSUD treatment measures nominated in the approved and complying STORM report), such as cross sections and/or specifications, to assess the technical effectiveness of the proposed stormwater treatment measures, must be submitted for approval by the Responsible Authority.
- 4. A minimum 30 days prior to any building or works commencing, a WSUD Site Management Plan must be submitted to and approved by the Responsible Authority detailing the site and environmental management methods to be used. The plan must include, but is not limited to:
  - a) A statement or report outlining all construction measures to be taken to prevent litter, sediments and pollution from entering the stormwater systems.

Once submitted and approved the works detailed by the WSUD Site Management Plan must be carried out to the satisfaction of the Responsible Authority.

- 5. A maximum 30 days following completion of the development, a WSUD Maintenance Program must be submitted to and approved by the Responsible Authority which sets out future operational and maintenance arrangements for all WSUD measures. The program must include, but is not limited to:
  - a) inspection frequency;
  - b) cleanout procedures;
  - c) as installed design details/diagrams including a sketch of how the system operates; and
  - d) a report confirming completion and commissioning of all WSUD Response treatment measures written by the author of the WSUD Response and STORM or MUSIC model approved pursuant to this permit, or licensed installing/commissioning plumber, or similarly qualified person or company. This report must be to the satisfaction of the Responsible Authority and must confirm that all WSUD treatment measures specified in the WSUD Response and STORM or MUSIC model have been completed and implemented in accordance with the approved report.

The WSUD Maintenance Program may form part of a broader Maintenance Program that covers other aspects of maintenance such as a Builder's Guide or a Building Maintenance Guide.

6. Prior to or simultaneously with the submission of Condition 1 plans, submit a 'published' version of BESS Report # 6488 prepared by Eminent Designs dated 14 February 2017.
7. Before the buildings approved by this permit are occupied, all boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority if the owner of the adjoining land allows access for the purpose.
8. Floor levels shown on the endorsed plan(s) must not be altered or modified without written consent of the Responsible Authority.
9. Before the buildings approved by this permit are occupied, the privacy screens and other measures to prevent overlooking as shown on the endorsed plans must be installed in accordance with Clause 55.04-6 (Overlooking) of the Moonee Valley Planning Scheme to the satisfaction of the Responsible Authority.

All privacy screens and other measures to prevent overlooking as shown on the endorsed plans must at all times be maintained to the satisfaction of the Responsible Authority

10. All pipes, fixtures, fittings, ducts and vents servicing any building on the land, other than gutters above the ground floor storey of the building, must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.
11. Provision must be made for the drainage of the land including landscaped and pavement areas. The discharge of water from the land must be controlled around its limits to prevent any discharge onto any adjoining or adjacent property or streets other than by means of an underground pipe drain which is discharged to an approved legal point of discharge to the satisfaction of the Responsible Authority.
12. An on-site stormwater detention drainage system must be installed on the land to the satisfaction of the Responsible Authority.

Before the development starts a Drainage Layout Plan, including computations and manufacturer's specifications, to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The Drainage Layout Plan must be prepared by a Civil Engineer with suitable qualifications to the satisfaction of the Responsible Authority and must depict an on-site stormwater detention drainage system to be installed on the land.

When approved, the Drainage Layout Plan will form part of this permit.

The on-site stormwater detention drainage system must be installed and the provisions, recommendations and requirements of the endorsed Drainage Layout Plan must otherwise be implemented and complied with to the satisfaction of the Responsible Authority.

13. Before the buildings approved by this permit are occupied, concrete vehicular crossing(s) must be constructed to suit the proposed driveway(s) in accordance with the Responsible Authority's specification and any obsolete, disused or redundant vehicle crossing(s) must be removed and the area reinstated to footpath, nature strip and kerb and channel to the satisfaction of the Responsible Authority.

All vehicle access points must be located a minimum of 1.0 metre from any infrastructure including service pits. Alternatively, such assets may be incorporated into the crossover with the prior written consent of the Responsible Authority and the relevant servicing authority/agency. Subsequent works and costs in association with relocation and/or amendment must be incurred at the owner's cost, to the satisfaction of the relevant servicing authority/agency and the Responsible Authority.

14. Before the buildings approved by this permit are occupied, all fencing must be erected along the property boundaries in accordance with the endorsed plans and to the satisfaction of the Responsible Authority
15. Before the development starts, and before any trees or vegetation are removed, an amended landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The landscape plan must be prepared by a person or firm with suitable qualifications to the satisfaction of the Responsible Authority, drawn to scale with dimensions and a digital copy must be provided. The landscape plan must be generally in accordance with the plans submitted with the application but modified to show:
  - a) Any changes required by Condition 1 of this permit.

When approved, the landscape plan will be endorsed and will form part of this permit.

Landscaping in accordance with the endorsed landscaping plan and schedule must be completed before the building is occupied.

16. The garden areas shown on the endorsed plan and schedule must only be used as gardens and must be constructed, completed and maintained in a proper, tidy and healthy condition to the satisfaction of the Responsible Authority. Any tree or shrub damaged, removed or destroyed must be replaced by a tree or shrub of similar size and variety to the satisfaction of the Responsible Authority.
17. The following street tree/nature strip protection measures must be undertaken:
  - a) the nature strip and street tree located within the Muriel Street frontage of the land must be barricaded out using portable cyclone fencing for the duration of the construction. Costs of such fencing must be borne by the developer and/or permit holder;
  - b) no pruning of the nature strip and street tree located within the Muriel Street frontage of the land is to be undertaken by any party other than Moonee Valley City Council; and
  - c) no building materials are to be stacked and/or dumped on any nature strip during construction.
18. This permit will expire if:
  - a) The development does not start within two (2) years of the date of issue of this permit, or
  - b) The development is not completed within four (4) years of the date of issue of this permit.

Before the permit expires or within six (6) months afterwards the owner or occupier of the land may make a written request the Responsible Authority to extend the expiry date.

If the development commences before the permit expires, within twelve (12) months after the permit expires, the owner or occupier of the land may make a written request to the Responsible Authority to extend the expiry date.

**Permit Notes:**

- This is not a building permit under the *Building Act*. A separate building permit is required to be obtained for any demolition or building works
- Before the development starts, the permit holder must contact Moonee Valley City Council regarding legal point of discharge, vehicular crossings, building over easements, asset protection, road consent/occupancy etc.
- No on street parking permits will be provided to the occupiers of the subject site.
- All drainage works undertaken must be in accordance with the requirements of Stormwater Drainage Requirements for Development Works as prepared by the Moonee Valley City Council.

**1. Introduction**

**1.1 Subject Site and Surrounds**

The subject site is located at No. 36 Muriel Street Niddrie (Lot 299 on Plan of Subdivision 010094). The subject site is regular in shape and relatively flat. The site has a maximum depth of 42.5 metres and width of 15.1 metres. The total site area equates to 650 square metres. A restrictive covenant affects the land which prohibits quarrying activities, excavation works other than for a foundation of a building and manufacture of pottery wares, bricks and tile and pipes. The site currently contains a single storey double fronted weatherboard dwelling, and is serviced by a vehicular crossover located at the south-east corner of the subject site.





**Figure 2 – Subject site (38 Muriel Street, Niddrie)**

The site is located within an established residential area. The immediate vicinity features single and double storey dwellings, with several infill multi-dwelling developments located along Muriel Street and the surrounding streets. There are examples of new and contemporary developments emerging nearby which contribute to the varying architectural styles of the area.

## **1.2 Proposal**

It is proposed to construct three double storey dwellings on the land, summarised as follows:

**Table 1**

Dwellings	3 including: <ul style="list-style-type: none"><li>• 2 x 4-bedroom</li><li>• 1 x 2-bedroom</li></ul>
Car spaces	5 car spaces
Max building height	7.35 metres
Site coverage	44%
Permeability	27%

Refer **Appendix C** Plans (separately circulated).



## 2. Background

### 2.1 Relevant Planning History

There are no historical planning applications for the site.

### 2.2 Planning Policies and Decision Guidelines

#### State Planning Policy Framework

Clause 11 Settlement

Clause 15 Built Environment and Heritage

Clause 16 Housing

Clause 18 Transport

#### Local Planning Policy Framework

Clause 21.01 Municipal Profile

Clause 21.03 Vision

Clause 21.04 Sustainable Environment

Clause 21.05 Housing

Clause 21.06 Built Environment

Clause 22.03 Stormwater Management (Water Sensitive Urban Design)

#### Zoning and Overlays

Clause 32.08 General Residential Zone

#### Particular and General Provisions

Clause 52.06 Car Parking

Clause 55 Two or More Dwellings on a Lot

Clause 65 Decision Guidelines

### 2.3 Referrals

No external referrals were required.

The following internal referrals were undertaken:

**Table 2**

Department/Officer	Comments/Conditions
Development Engineering (Traffic)	Conditions requiring: <ul style="list-style-type: none"><li>The existing and proposed vehicle crossover must be upgraded including splays to be updated on plans and constructed in line with Council's Vehicle Crossing Policy (VCP) as a double vehicle crossover with the neighbouring property and match into the proposed access way.</li></ul>

Department/Officer	Comments/Conditions
	<ul style="list-style-type: none"><li>All overhead storage areas must be a minimum height of 1.5m above ground level</li></ul> Conditions included to the above effect.
Development Engineering (Drainage)	Standard drainage conditions and notes
Environmental Sustainable Design (ESD)	Both STORM and SDA are compliant. STORM report # 431876 BESS report # 6488- published version required. Conditions for notations on plans required.

## 2.4 Public Notification of the Application

Pursuant to Section 52 of the *Planning and Environment Act 1987*, the application was advertised by mail to adjoining and surrounding properties, with notices displayed on site for 14 consecutive days.

A total 33 objections were received from the properties contained within **Appendix A** of this report. The objections are discussed at Section 3.5 of this report.

## 2.5 Consultation Meeting

A Consultation Meeting was held on 7 June 2017, attended by Councillor Byrne, Councillor Sipek, 2 objectors and Council's Planning Officer. As the applicant did not attend the meeting, no formal resolution was achieved.

# 3. Discussion

## 3.1 Does the proposal address the relevant State and Local Planning Policies?

The proposal is considered to comply with the relevant State and Local Planning Policies. Generally, these objectives seek to encourage urban consolidation in locations which take advantage of existing commercial and community services and public transport. The proposal contributes to the objective of housing diversity by providing a mix of dwelling sizes and configurations, which will cater for the increasingly diverse needs of future residents. The subject site is located in reasonable proximity to commercial amenities, public reserves, education facilities and public transport options.

The proposal has the ability to comply with the environmental sustainable design principals regarding BESS and STORM, subject to any conditions on permit.

The proposal accords with objectives of Clause 21.04-7 (Waste) of the Moonee Valley Planning Scheme and can be adequately catered for by Council's waste collection service.

### **3.2 Does the development accord with the preferred character of the area?**

The subject site is located within the Garden Suburban 6 Precinct.

The development is considered a suitable response to the immediate context and the preferred character statement of the precinct as follows:

- The proposed development is for three double storey dwellings within a streetscape and surrounding area dominated by a mix of single low scale dwellings and in-fill double storey dual occupancies. The proposed layout pattern affords two street frontage dwellings, and one at the rear, largely concealed behind the two front dwellings. Despite the additional dwelling at the rear, the proposed layout and orientation of the dwellings would present as a two side by side development, which is consistent with the emerging character of the streetscape.
- The architectural theme of the development is contemporary but incorporates simple design elements that reference both older dwellings and contemporary infill development in the immediate surrounds. This will contribute to the diverse architectural styles within the precinct as sought by the preferred character statement.
- The proposed development will maintain the pitched roof that forms part of the existing design, as well as introducing parapet style porches and first floor feature walls, which is an emerging style within the area. The roofing form and parapet featured proposed are considered to be appropriate given the site's context.
- This emerging streetscape is considered capable of accommodating a range of architectural styles, including the development in its current format. The use of a relatively bold built form when viewed from Muriel Street is mitigated through the use of varying building materials and colours.
- The bulk and scale of the proposed development is generally consistent with the dwellings in the area. It is noted that Muriel Street is in transition and features a range of dwellings of more or similar assertive scales.
- The built form of the proposed development is similar in nature to the contemporary dwellings along Muriel Street and it is considered the design will contribute positively to the streetscape values of the area. The layout of the dwellings on site provides a decent building form break along the site length, avoiding the continuous building form. The majority of rear dwelling first floor footprint is contained within the Ground Floor footprint. It is considered that layout and built form are appropriate and does not result in an overly dominant built form when viewed from the street.
- The design layout is considered to provide adequate spacing to the adjoining dwellings and align with the identified spacing of the streetscape.

- The use of different building materials ensure a good level of articulation along the frontage of the development.
- A landscaping plan has been supplied in support of this application, which is considered to be appropriate given the site's context. There are sufficient areas provided within the front and rear setbacks for a landscaping response, including canopy trees planting to contribute to the garden character of the area. Further, the shared driveway is provided with landscaping strips to soften the impact of paved surfaces.

### 3.3 Is the provision and design of car parking acceptable?

The proposal provides car parking as set out in the table below:

**Table 3**

	Requires	Provides
Two four-bedroom dwellings	4	4
One two-bedroom dwelling	1	1
Total	5	5

It is noted that Council's Development Engineering (Traffic) Unit had no objection subject to conditions requiring crossovers to be constructed in accordance with Council's Vehicle Crossover Policy (VCP) and over bonnet storage to have a minimum 1.5 metres clearance above ground floor. These alterations are to be included as conditions to a permit.

### 3.4 Does the proposal achieve compliance with ResCode?

The proposal is considered to generally comply with the provisions of Clause 55 as set out in the assessment table (refer to **Appendix B** – separately circulated of this report). A full ResCode assessment can be found on file.

The following points of exception, which have not been satisfied through this development, are listed below with corresponding assessments:

**Table 4**

ResCode Standard	Response
Clause 55-03-1 Street Setback Standard B6	To comply with this clause, porch heights are to be below 3.6 metres in height to allow for encroachment into the street setback. Compliance is required by reducing porch height. A condition to be placed on permit.

ResCode Standard	Response
Clause 55.03-10 Parking Location Standard B15	Dwelling 2 ground floor living room window faces common accessway at height of 1.94 metres above natural ground level with a 0.44 metres setback in lieu of 1 metre minimum distance. Plans illustrate that this window will be double glazed. It is considered this measure would be satisfactory to minimise on-site amenity impacts. This is a preferred option than requiring reducing minimum living area space to comply with the 1 metre option.

### 3.5 Objections

The following table provides a discussion of the concerns raised within the objections to the application:

**Table 5**

Issue	Officer Response
Neighbourhood character Visual bulk and scale	<p>As discussed under Section 3.2 of this report, the development is considered to represent an appropriate design outcome in this context.</p> <p>The proposal complies with the relevant building heights standard and majority all setbacks standard, and provides adequate articulation, with mix of material and colour to address visual bulk.</p> <p>The proposal provides an appearance of two front facing dwellings from the streetscape</p>
Overdevelopment	<p>The development is not considered to represent an overdevelopment of the site, particularly in light of its level of compliance with the relevant provisions of the planning scheme as discussed throughout this report.</p> <p>Objectors raised a particular concern with lack of open space across the site and within the front setback. The allocated private open spaces for each dwelling is compliant with the relevant planning scheme provision. The proposed layout would have the same front landscaping provisions as a dual occupancy (side-by-side) development, which is a common development layout arrangement along Muriel Street and the surrounding area.</p> <p>The proposed built footprint is equal or similar to the existing dual occupancies notably found along Muriel Street and surrounding area.</p>

Issue	Officer Response
Over densified	<p>The development provides diversity to the housing stock in an area dominated by single dwellings and dual occupancies, coupled with the high level of compliance, with the relevant provisions of the planning scheme.</p> <p>Occupancy capacity for the proposal is similar to sites which have been in-fill dual occupancy.</p> <p>The building extent of the three separate dwellings do not extend beyond what has been approved in previous dual occupancy permits.</p>
Off-site amenity impacts Including solar panel solar access	<p>The proposal achieves an acceptable level of compliance with the relevant objectives of Clause 55 including noise, wall on boundary overshadowing, daylight to habitable rooms and overlooking.</p>
On-site amenity impacts	<p>The proposed is fully compliant with Clause 55 with the exception of street setback and parking locations.</p> <p>Objectors raised concerns with non-compliance with the existing north-facing window requirements of Clause 55. It should be noted, due to site's orientation, there are no north-facing windows affected by this proposal.</p>
Clause 55 non-compliance <ul style="list-style-type: none"> <li>• Overshadowing</li> <li>• Overlooking</li> </ul>	<p><b>Appendix B</b> (separately circulated) outlines that the proposal is fully compliant to these Clause 55 provisions.</p>
Traffic congestion and off-street impacts (particularly adding to existing congestion with near schools and other public spaces) Safety impacts due to increase in traffic volume	<p>The proposal provides the minimum on-site car parking space for each dwelling, and it is not considered there would be any unreasonable safety impacts as a result of the development, largely due to development-suitable landscaping, low front fence and Council's Development Engineering (Traffic) Unit not raising concerns with the vehicle movements on and off the site.</p> <p>Objectors raised concerns that tandem car parking will also encourage residents to park in the street, increasing congestion and risk. It should be noted the majority of the objectors currently reside in dual occupancies in side by side arrangement with tandem car parking, which is an acceptable parking outcome in this instance.</p>

Issue	Officer Response
Infrastructure impacts	The development would not cause an unreasonable burden on infrastructure within the area, noting that any necessary connections/upgrades are dealt with at the subdivision stage through the relevant authorities.
Boundary fencing along western boundary (particularly issue for 40 Muriel Street)	Property owners of 40 Muriel Street are currently building a plunge pool, setback 1 metre from boundary with footings along the shared title boundary. Owners are concerned construction of Dwelling 2 and 3's western wall on boundary would damage and/or weaken the pool foundation. The proposal complies with the standard, however during construction there is scope for the builder to set the building back 200mm in order to maintain the development's integrity with regards to the site constraints, such as the proximity of the footings of the existing pool at 40 Muriel street.
Other issues <ul style="list-style-type: none"> <li>• Lead a decrease in surrounding property values.</li> <li>• Noise impacts</li> <li>• Pressure in school capacity</li> </ul>	<p>Devaluation of property values is not a valid planning consideration.</p> <p>The level of general residential noise experienced by an increase in population to an area is not a planning consideration matter. Local laws and Environmental Protection Authority both govern noise parameters for residents within a residential area.</p> <p>Pressure of the school capacity is not a valid planning consideration. School infrastructure is governed by the State Education Department.</p>

#### 4. General

The application was lodged prior to the 27 March 2017, and is therefore exempt from the mandatory garden area and height requirements at Clauses 32.08-4 and 32.08-9 (General Residential Zone) of the Moonee Valley Planning Scheme. Similarly, the requirements of Clause 55.07 introduced by Amendment VC136 on 13 April 2017 are not applicable.

#### 5. Human Rights

The application process and decision making is in line with the Victorian Charter of *Human Rights and Responsibilities 2006* (Section 18 – Taking part in public life).

## 6. Conclusion

The application has been assessed against the relevant provisions of the State Planning Policy Framework, Local Planning Policy Framework, zoning controls, the relevant Particular and General Provisions, and the decision guidelines at Clause 65 of the Moonee Valley Planning Scheme. Consideration has also been given to the requirements of Section 60(1B) of the *Planning and Environment Act 1987* with respect to the number of objections received.

It is determined that the proposal would not have a significant social effect. It is considered the proposal demonstrates general compliance with the requirements of these provisions and policies. The application should be supported as detailed in the recommendation section.

## Appendices

Appendix A: List of Objectors [↓](#)

Appendix B: Clause 55 Assessment (separately circulated) [⇒](#)

Appendix C: Plans (separately circulated).



**38 Muriel Street Niddrie**

List of Objectors

19 Nolan Street Niddrie
10 Muriel Street Niddrie
20 Muriel Street Niddrie
26 Muriel Street Niddrie
29 Muriel Street Niddrie_St John Basco's Primary School
30 Muriel Street Niddrie
35 Muriel Street Niddrie
36 Muriel Street Niddrie
39 Muriel Street Niddrie
40 Muriel Street Niddrie
41 Muriel Street Niddrie
42 Muriel Street Niddrie
1/44 Muriel Street Niddrie
2/44 Muriel Street Niddrie
57 Muriel Street Niddrie
59 Muriel Street Niddrie
62 Muriel Street Niddrie
63 Muriel Street Niddrie

Note: Some addresses have more than one (1) objector.

**9.2                    30-32 Lincoln Road, Essendon (Land in PC 106165) - Use and development of a Child care centre with associated business identification signage and alteration of access to a road in a Road Zone (Category 1)**

**File No:** FOL/17/11  
**Author:** Lachlan Orr  
Senior Statutory Planner  
**Directorate:** Planning & Development

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<b>Planning File No.</b>	MV/23/2017
<b>Proposal</b>	<ul style="list-style-type: none"><li>• Use of the land for a Child care centre with a capacity of 140 places</li><li>• Two storey building with basement level car parking</li><li>• Altered access point to Lincoln Road to accommodate two-way traffic to the basement</li></ul>
<b>Applicant</b>	Ellis Group Architects
<b>Owner</b>	Richard and Yvonne Spillane
<b>Planning Scheme Controls</b>	General Residential Zone Abuttal to a Road Zone, Category 1
<b>Planning Permit Requirement</b>	Clause 32.08-2 – Use of land for a Child care centre Clause 32.08-8 – Buildings and works associated with a Section 2 use Clause 52.05-9 – Business identification signage Clause 52.29 – Alter access to a road in a Road Zone
<b>Car Parking Requirements</b>	Required – 30 spaces Provided – 30 spaces
<b>Restrictive Covenants</b>	None
<b>Easements</b>	1.22 metre wide drainage and sewerage easement at the north-eastern edge of the site abutting the Laneway and rear of properties facing Washington Street
<b>Site Area</b>	1,523 square metres
<b>Number Of Objections</b>	15
<b>Consultation Meeting</b>	21 June 2017

## Executive Summary

- The application seeks planning permission for the use and development of a Child care centre. The building is two storeys with a basement level car park, and has a capacity of 140 children. Permission is also sought to display business identification signage, and to alter access to a Road Zone – Category 1 (Lincoln Road).
- The application was advertised with 15 objections received. Concerns were raised primarily in relation to car parking and traffic impacts, a Child care centre being inappropriate in this location, neighbourhood character, site layout and building massing and off-site amenity impacts.
- A Consultation Meeting was held on 21 June 2017, which was attended by Councillor Gauci Maurici, objectors, the permit applicant and Council's Planning Officer. Whilst no resolution was achieved, there was some further discussion between the applicant, some objectors and Council relating to additional acoustic fencing, privacy screening and landscaping.
- The proposal is considered to be a favourable land use and development outcome, providing a beneficial non-residential use at an appropriate scale and intensity. The proposal has support within State and Local Policy as it provides a required service in an appropriate area, and adequately addresses potential amenity impacts on its residential surrounds. The proposal provides the required amount of car parking, and the design and layout of parking and accessways has the consent of both VicRoads and Council's Development Engineering (Traffic) Unit.
- Overall, this assessment report finds the proposal demonstrates an adequate level of compliance with the relevant policies and provisions of the Moonee Valley Planning Scheme. It is recommended that a Notice of Decision to Grant a Permit be issued subject to conditions.



Figure 1: Aerial photograph of subject site and surrounds

## Recommendation

That Council issue a Notice of Decision to Grant a Permit in relation to Planning Permit Application No. MV/23/2017 for the use and development of a Child care centre with associated business identification signage and alteration of access to a road in a Road Zone (Category 1) at 30-32 Lincoln Road, Essendon (Land in PC 106165), subject to the following conditions:

### Use and development conditions

1. Before the development starts, amended plans must be submitted to and approved to the satisfaction of the Responsible Authority. The amended plans must be drawn to scale and an electronic copy must be provided. The plans must be generally in accordance with the plans submitted and assessed with the application but modified to show:
  - a) The street setback of the building, including entry canopy, increased by at least 1 metre;
  - b) The entry canopy reduced so that it has a maximum height of 3.6 metres;
  - c) The deletion of all shade sail structures within the front setback;
  - d) First floor windows provided with obscure glazing or with increased sill height to 1.7 metres from finished floor level;
  - e) The balustrading enclosing the first floor terrace play area to be obscured up to 1.7 metres from finished floor level;
  - f) Acoustic fencing provided along the side and rear boundaries increased to a height of 2.4 metres;
  - g) A notation on the plans stating 'Refer to endorsed SDA, BESS and STORM reports for detailed ESD and WSUD requirements and commitments, including maximum lighting specifications and selection of building materials, fittings and fixtures';
  - h) Water efficient landscaping to be installed project wide as per endorsed BESS report;
  - i) All materials, paints and sealants to be low VOC/formaldehyde and all timbers to be from sustainable sources as per the endorsed Sustainable Design Assessment;
  - j) A notation that the bicycle racks are to be constructed in accordance with the relevant standards;
  - k) A notation that the car spaces will be appropriately signed and line-marked in accordance with Conditions 18 and 19;
  - l) A landscape plan in accordance with Condition 25; and
  - m) The requirements of VicRoads Conditions 27 and 28.When approved these plans become the endorsed plans of this permit.
2. The use and development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.

3. Except with the prior written consent of the Responsible Authority, the use authorised by this permit may only operate from Monday to Friday between the hours of 6:30am and 7:00pm.
4. Except with the prior written consent of the Responsible Authority, no more than 140 children may be present on the land at any time.
5. The amenity of the area must not be detrimentally affected by the use of land, through:
  - a) Transportation of materials, goods or commodities to or from the land;
  - b) Appearance of any building, works or materials;
  - c) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot ash, dust, waste water, waste produces, grit or oil;
  - d) Presence of vermin;or in any other way, to the satisfaction of the Responsible Authority.
6. Noise emitted from the land must not exceed the permissible noise levels determined in accordance with State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1 (SEPP N-1).
7. All security alarms or similar devices installed on the land must not emit any noise which is audible beyond the boundary of the land and must be designed in accordance with the relevant Australian Standard and must be connected to a security monitoring service.
8. Before the development starts, the Acoustic Assessment prepared by Renzo Tonin and Associates dated 23 March 2017 must be modified as required by Condition 1 of this permit and submitted to the Responsible Authority for endorsement. When approved, the Acoustic Assessment will be endorsed and will form part of this permit and must be implemented to the satisfaction of the Responsible Authority.
9. Before the development starts, the Sustainable Design Assessment (SDA) prepared by Frater Consulting dated 3 April 2017, inclusive of the approved BESS Report and STORM assessment, is to be submitted to the Responsible Authority for endorsement and will form part of this permit.
10. Before the development starts, a Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The Waste Management Plan must be generally in accordance with the plan prepared by Leigh Design dated 23 March 2017.

When approved, the Waste Management Plan will be endorsed and will form part of this permit. The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.
11. A minimum 30 days prior to any building or works commencing, all Water Sensitive Urban Design (WSUD) Details (relating to the WSUD treatment measures nominated in the approved and complying STORM report), such as cross sections and/or specifications, to assess the technical effectiveness of the proposed stormwater treatment measures, must be submitted for approval by the Responsible Authority.

12. A minimum 30 days prior to any building or works commencing, a Construction and Site Management Plan (CSMP) must be submitted to and be approved by the Responsible Authority detailing the construction activity proposed and the site and environmental management methods to be used. The CSMP must be in accordance with Moonee Valley City Council's CSMP's guideline and templates.

When approved, the CSMP will be endorsed and will form part of this permit.

The development must be carried out in accordance with the endorsed CSMP and the provisions, requirements and recommendations of the endorsed CSMP must be implemented and complied with to the satisfaction of the Responsible Authority.

13. A maximum 30 days following completion of the building or works, a WSUD Maintenance Program must be submitted to and approved by the Responsible Authority which sets out future operational and maintenance arrangements for all WSUD measures. The program must include, but is not limited to:

- a) Inspection frequency;
- b) Cleanout procedures;
- c) As installed design details/diagrams including a sketch of how the system operates; and
- d) A report confirming completion and commissioning of all WSUD Response initiatives by the author of the WSUD Response and STORM or MUSIC model approved pursuant to this permit, or similarly qualified person or company. This report must be to the satisfaction of the Responsible Authority and must confirm that all initiatives specified in the WSUD Response and STORM or MUSIC model have been completed and implemented in accordance with the approved report.

The WSUD Maintenance Program may form part of a broader Maintenance Program that covers other aspects of maintenance such as a Builder's User Guide or a Building Maintenance Guide.

14. Floor levels shown on the endorsed plan(s) must not be altered or modified without written consent of the Responsible Authority.
15. All pipes, fixtures, fittings, ducts and vents servicing any building on the land, other than gutters above the ground floor storey of the building, must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.
16. Except with the prior written consent of the Responsible Authority, equipment, services or other building features (other than those shown on the endorsed plan) must not be erected above the roof level of the building.
17. The existing street trees must not be removed or damaged as a result of the permitted development.

18. Prior to the issue of an Occupancy Permit, the areas set aside for the parking of vehicles, together with the associated driveways and access lanes as shown on the endorsed plans must be:

- a) Constructed;
- b) Available for use in accordance with the endorsed plans;
- c) Properly formed to such levels and drained so that they can be used in accordance with the endorsed plans;
- d) Finished with a permanent trafficable surface (such as concrete, asphalt or paving); and
- e) Line-marked or provided with another adequate means of ensuring that the boundaries of all vehicle spaces are clearly indicated on the ground, in accordance with the endorsed plans to the satisfaction of the Responsible Authority.

The area set aside for the parking of vehicles, together with the associated driveways and access lanes as shown on the endorsed plans must:

- a) Be maintained and made available for such use; and
- b) Not be used for any other purpose,

to the satisfaction of the Responsible Authority.

19. Prior to the issue of an Occupancy Permit, signs must be erected in association with the staff and non-staff car parking hereby provided, allowing for the identification of the staff and non-staff car park, to the satisfaction of the Responsible Authority.
20. Prior to the issue of an Occupancy Permit, the concrete vehicular crossing must be constructed to suit the proposed driveway in accordance with the Responsible Authority's specification and any obsolete, disused or redundant vehicle crossings must be removed and the area reinstated to footpath, nature strip and kerb and channel to the satisfaction of the Responsible Authority.

All vehicle access points must be located a minimum of 1.0 metre from any infrastructure including service pits. Alternatively, such assets may be incorporated into the crossover with the prior written consent of the Responsible Authority and the relevant servicing authority/agency. Subsequent works and costs in association with relocation and/or amendment must be incurred at the owner's cost, to the satisfaction of the relevant servicing authority/agency and the Responsible Authority.

21. Provision must be made for the drainage of the land including landscaped and pavement areas. The discharge of water from the land must be controlled around its limits to prevent any discharge onto any adjoining or adjacent property or streets other than by means of an underground pipe drain which is discharged to an approved legal point of discharge to the satisfaction of the Responsible Authority.

22. Stormwater runoff from the development must drain via an underground system and discharge to the kerb and channel in front of the land. If discharge to the kerb and channel via gravity is not possible, the discharge to the kerb and channel in front of the land must be via a dual pump system in accordance with AS3500.3.2. 2003, Section 9.
23. Prior to the issue of an Occupancy Permit, all acoustic boundary fencing must be erected. The cost of such fencing must be met by the permit holder and carried out to the satisfaction of the Responsible Authority.
24. The development must be provided with external lighting capable of illuminating access to each garage, car parking space and pedestrian walkways. Lighting must be located, directed and shielded and of limited intensity so that no nuisance or loss of amenity is caused to any person within or beyond the site to the satisfaction of the Responsible Authority.
25. Before the development starts, or any trees or vegetation removed, an amended landscape plan (an electronic copy) prepared by a suitably qualified person or firm shall be submitted to and approved to the satisfaction of the Responsible Authority. The plans must be drawn to scale, with dimensions, and be generally in accordance with the plans submitted with the application but modified to show:
  - a) Any changes required by Condition 1 of this permit; and
  - b) Planting along the side and rear boundaries capable of providing screening to prevent views into the neighbouring secluded open space areas.

Once approved these plans become the endorsed plans of this permit. Landscaping in accordance with this approved plan and schedule shall be completed before the building is occupied.

26. The garden areas shown on the endorsed plan and schedule must only be used as gardens and must be constructed, completed and maintained in a proper, tidy and healthy condition to the satisfaction of the Responsible Authority. Any tree or shrub damaged, removed or destroyed must be replaced by a tree or shrub of similar size and variety to the satisfaction of the Responsible Authority.

#### End of use and development conditions

##### VicRoads conditions

27. The crossover and driveway are to be constructed to the satisfaction of the Responsible Authority and at no cost to the Roads Corporation prior to the commencement of the use or occupation of the works hereby approved.
28. The crossover must be constructed at least 1m away from any object.

##### End of VicRoads conditions

##### Signage conditions

29. The location and details of the signage and any supporting structure shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.



30. The advertising signage and any related panel and any supporting structure must be constructed and maintained to the satisfaction of the Responsible Authority.
31. The signage authorised by this permit must not be illuminated or floodlit by internal or external light.
32. Flashing, intermittent or moving light must not be displayed.
33. The signage must not be animated in part or whole.
34. Bunting, streamers and festooning must not be displayed.
35. The signage authorised by this permit must only contain an advertisement which provides or supplies information relating to the business conducted on the land.

End of signage conditions

Expiry conditions

36. This permit for advertising signage will expire fifteen (15) years after the date it is issued.
37. This permit will expire if:
  - a) The development does not start within two (2) years of the date of issue of this permit, or
  - b) The development is not completed and the use is not commenced within four (4) years of the date of issue of this permit.

Before the permit expires or within six (6) months afterwards the owner or occupier of the land may in writing request the Responsible Authority to extend the expiry date.

Once the development has commenced the owner or occupier of the land may in writing request the Responsible Authority to extend the expiry date within twelve (12) months of the lapse date.

End of expiry conditions

**Permit Notes**

- This is not a building permit under the *Building Act*. A separate building permit is required to be obtained for any demolition or building works.
- Before commencement of the development occurs, the applicant should contact Moonee Valley City Council on 9243 8888 regarding legal point of discharge, new crossings, building over easements, etc.
- All drainage works undertaken must be in accordance with the requirements of Stormwater Drainage Requirements for Development Works as prepared by Moonee Valley City Council.
- All works undertaken within any existing road reserves must accord with the requirements of Moonee Valley City Council and be to the satisfaction of the Responsible Authority.

- Existing levels along the property line must be maintained. All proposed levels must match to existing surface levels along the property boundary. Council will not accept any modifications to existing levels within any road reserve.
- No parking permits will be issued to employees or visitors.

## 1. Introduction

### 1.1 Subject Site and Surrounds

The subject site is located on the eastern side of Lincoln Road, partially bounded to the rear by a Right of Way accessed from Florence Street further north. The site is generally rectangular in shape with a frontage of 30.35 metres and a total site area of approximately 1,523 square metres. The land is generally flat, and is affected by a 1.22 metre wide drainage and sewerage easement at the north-eastern edge of the site abutting the rear of properties facing Washington Street. No covenants or other restrictions affect the site.



**Figure 2 – Subject site (30-32 Lincoln Road, Essendon)**

The site currently accommodates a single storey brick dwelling. Vehicle access is provided via an existing crossover to Lincoln Road at the south-western corner of the site, leading to a garage and parking area at the rear. A high brick and timber fence encloses the front garden, which features a number of medium sized trees. Four street trees and a power pole occupy the road reserve outside the site.

Lincoln Road is an arterial road, identified within a Road Zone (Category 1), providing thoroughfare between the North Essendon Junction (Mt Alexander and Keilor Roads) to the north and Buckley Street to the south. Development is generally residential although there is the presence of non-residential land such as St Therese's Church and Primary School, and the Lincoln Park reserve, further to the north.

The site and land within the surrounding residential streets are within the General Residential Zone. They feature a mixture of single dwellings on large allotments as well as examples of multi-unit/apartment developments. The site is located approximately 500 metres south-west of the southern edge of the North Essendon Activity Centre, 550 metres north-west of the Essendon Junction Activity Centre and approximately 980 metres south of the Keilor Road Activity Centre.

## 1.2 Proposal

It is proposed to use and develop the land for a Child care centre, summarised as follows:

**Table 1**

Number of children	Maximum of 140
Hours of operation	6:30am – 7:00pm, Monday to Friday
Car parking	30 spaces at basement level, accessed via 5.5 metre wide accessway at the south-western corner of the site.
Building details	<p>1,053 square metres of building area over two levels:</p> <ul style="list-style-type: none"> <li>- 687 square metres at ground floor</li> <li>- 366 square metres at first floor</li> </ul> <p>983 square metres of outdoor area over two levels:</p> <ul style="list-style-type: none"> <li>- 649 square metres at ground floor</li> <li>- 334 square metres at first floor</li> </ul> <p>Maximum height of 7.4 metres.</p> <p>Minimum front setback of 7.2 metres.</p> <p>Side and rear setbacks ranging between 4.95 to 10.64 metres.</p> <p>Existing front fence partially retained, with sections removed/altered around pedestrian entrance and basement ramp.</p> <p>Business identification sign (5.4 square metre advertisement area) attached to the north-western corner of ground floor façade, facing Lincoln Road.</p>
Site coverage	46.94%
Permeability	29.48%

Refer **Appendix B** Plans (separately circulated).

## 2. Background

### 2.1 Relevant Planning History

There are no historical planning applications relevant to the site.

### 2.2 Planning Policies and Decision Guidelines

#### State Planning Policy Framework

- Clause 11 Settlement
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 17 Economic Development

#### Local Planning Policy Framework

- Clause 21.01 Municipal Profile
- Clause 21.03 Vision
- Clause 21.04 Sustainable Environment
- Clause 21.05 Housing
- Clause 21.06 Built Environment
- Clause 21.08 Economic Development
- Clause 22.03 Stormwater Management (Water Sensitive Urban Design)

#### Zoning and Overlays

- Clause 32.08 General Residential Zone
- Clause 36.04 Road Zone (Category 1)

#### Particular and General Provisions

- Clause 52.05 Advertising Signs
- Clause 52.06 Car Parking
- Clause 52.29 Land Adjacent to a Road Zone (Category 1)
- Clause 65 Decision Guidelines

### 2.3 Referrals

The following referrals were undertaken:

**Table 2**

External Referrals	Comments/Conditions
VicRoads (s55)	No objection subject to conditions.
Internal Referrals	Comments/Conditions
Development Engineering (Traffic)	No objection subject to conditions.

Development Engineering (Drainage)	Standard conditions.
Environmental Sustainable Design (ESD) Officer	Sustainable Design Assessment (SDA), inclusive of BESS and STORM complies. Notations on plans required.
Family and Children's Services	No objection, with all comments and queries addressed through conditions of permit where necessary.
Waste Projects Officer	No objection to Waste Management Plan.

## **2.4 Public Notification of the Application**

Pursuant to Section 52 of the *Planning and Environment Act 1987*, the application was advertised by mail to adjoining and surrounding properties, with a notice displayed on site for 14 days.

A total 15 objections were received from the properties contained within **Appendix A** of this report. The concerns raised within objections are summarised and discussed at Section 3.6 of this report.

## **2.5 Consultation Meeting**

A Consultation Meeting was held on 21 June 2017, which was attended by Councillor Gauci Maurici, the permit applicant and representatives, objectors and Council's Planning Officer.

Whilst no overall resolution was achieved, there were some modifications volunteered by the permit applicant following discussions with objectors. These are discussed under Section 3.6 of this report.

# **3. Discussion**

## **3.1 Does the proposed use comply with the relevant State and Local Planning Policies?**

The proposal is considered to comply with the relevant State and Local Planning Policies on the provision of commercial and community/social infrastructure services. Generally, the commercial objectives seek to encourage use and development which meets the communities' needs for commercial services and provides net community benefit in relation to accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities. Meanwhile, the community/social infrastructure objectives aim to assist the integration of community and commercial facilities, such as Child care centres, with local and regional communities. This is balanced with policy that seeks to ensure non-residential use and development in residential areas is supported and managed in an appropriate manner. The proposed use and development of a Child care centre represents a satisfactory and well-balanced outcome in relation to these various policy objectives.

Of particular relevance is Clause 21.05-4 (Non-residential Uses in Residential Zones) which provides guidance for uses such as that proposed, and objectives and strategies that aim to minimise their impact on residential land.

The scale of the proposed use is appropriate given the opportunities of the site and the constraints of its residential context. The main road location, the scale of the site and its ability to accommodate built form, mean the maximum capacity of 140 children is an acceptable outcome. The hours of operation, coupled with the nature of the use will avoid conflict with the residential amenity of the area at peak morning and evening times, and will have no impact during weekends. Whilst preferred hours for Child care centres are not specified within this policy, those proposed by the applicant are generally consistent with other specified uses (such as Medical Centres). The submission of a suitable Waste Management Plan and Acoustic Assessment, which would be enforced through conditions of any permit issued, further demonstrates that the ongoing operation of the Child care centre can be appropriately managed to minimise impacts on surrounding residential land. Some additional modifications to improve the immediate interfaces of the site, following discussions between the applicant and objectors, are discussed at Section 3.6 of this report.

The development component of the proposal is consistent with these objectives and strategies, as discussed in detail within Section 3.2 of this report.

The proposal generally complies with the environmental sustainable design principles within Clauses 21.04-3 and 22.03 through the submission of a Sustainable Design Assessment (SDA) which includes compliant BESS and STORM assessments.

The proposal also accords with objectives of Clause 21.04-7 (Waste) as it relates to encouraging the use of recycling and achieving best practice in waste minimization. A Waste Management Plan was submitted with the application providing for a private waste contractor to manage and collect (at basement level) all waste generated by the proposal.

### **3.2 Does the development represent an appropriate built form outcome?**

The objectives and strategies contained within Clause 21.06 (Built Environment) provide guidance for building design, siting and massing, in particular at Clause 21.06-4 (Urban Design). The proposal responds to the strategies of Clause 21.06-4 in the following manner:

- The contemporary architectural theme is compatible with the varied character of built form within the area, and will be surrounded by ample landscaped areas which will soften the visual impact to the street and neighbouring dwellings.
- The proposed development achieves visual interest and articulation through the use of different materials/finishes and the provision of windows, canopies and eaves, an entry porch and vertical feature column centrally within the building façade. While the proposed development is of a contemporary design, it respects the existing

character of the street through a selection of masonry finishes which reference the use of such materials throughout the area, as well as eaves and canopy protrusions to increase articulation to the building's flat roof form. The use of both horizontal and vertical forms serves both to reflect the predominant scale of built form in the area, and to break up the building mass across the considerable site frontage.

- The height and scale of the building will generally sit comfortably within the streetscape, and the setbacks provided to side and rear boundaries successfully mitigates visual and amenity impacts to sensitive interfaces to the north, east and south. It is noted that the building has an overall site coverage of 46.94%, which is well within the maximum of 60% which ResCode would require of a residential development. The centralised location and modest size of the proposed building, with good setbacks from all property boundaries, reduces any potential bulk/mass issues while also minimising amenity impacts on surrounding properties. The proposed siting of the development adequately responds to the opportunities, constraints and features of the site and surrounding area.
- The setback of the building from the street is of concern as it protrudes ahead of the two neighbouring buildings, particularly at the feature entry canopy. Given the breadth of the building and size of the site, it is considered appropriate to require an increase in the setback of the entire building by at least 1 metre. This will achieve a more suitable transition in form alongside the neighbouring dwellings and reduce the visual impact within the streetscape. Conditions will also require the entry canopy to be reduced in height to a maximum of 3.6 metres and the deletion of any shade sail structure within the front setback. These changes will minimise built form interruptions within the residential garden setting of the street.
- Due to the location of the site, visual and physical links are predominantly towards the front. The proposed development provides for a suitable level of glazing on the ground and first floor levels, which would encourage interactions and improve visual interest and passive surveillance to Lincoln Road. It is also noted that the proposed front porch/entry is highly visible within the building facade, providing a clear pedestrian linkage to the site and referencing the large porches featured within many dwellings in the street.
- The adjoining properties would continue to maintain a reasonable level of amenity as the proposed development would have a well contained and articulated built form, with good setbacks from all property boundaries. Furthermore, the siting of the proposed development would ensure that adjoining properties are not significantly overshadowed. However, there is overlooking potential from the first floor level and open terrace play area, which should be screened in accordance with Clause 55.04-6 (Overlooking) of the

Moonee Valley Planning Scheme. This is to be a condition on any permit granted.

- Considerable areas are provided for landscaping around the proposed building. The submitted landscape plans demonstrate a comprehensive planting schedule including canopy trees within the front, side and rear setbacks to filter views of the proposed building as well as to improve the internal layout of the centre. Planting is also achieved within the first floor terrace play area which will further soften the visual impact of the building.
- Car parking facilities are concealed completely within a basement level, which is an outcome sought by policy and that suitably responds to the residential character of the area. The basement garage is fully concealed below street level, and occupies a minor width of the street frontage.

### **3.3 Does the proposal comply with the purpose and decision guidelines of the General Residential Zone?**

The proposed use and development is considered to be consistent with the purpose of the zone as it seeks to implement State and Local Policy, to encourage development that respects the neighbourhood character of the area, and to allow a limited range of non-residential uses to serve local community needs in appropriate locations.

The proposal is also considered to address the relevant decision guidelines of the zone at Clause 32.08-12, specifically those which relate to non-residential use and development which require the consideration of:

- Whether the use or development is compatible with residential use;
- Whether the use generally serves local community needs;
- The scale and intensity of the use and development;
- The design, height, setback and appearance of the proposed buildings and works;
- The proposed landscaping;
- The provision of car and bicycle parking and associated accessways;
- Any proposed loading and refuse collection facilities; and
- The safety, efficiency and amenity effects of traffic to be generated by the proposal.

The proposal is considered to meet the above guidelines for the reasons discussed throughout this report.



### **3.4 Is the proposed signage appropriate?**

The display of business identification signage within the General Residential Zone requires a permit pursuant to Clause 52.05-9 (Category 3 – High Amenity Areas). The purpose of this category is to ensure that signs in high-amenity areas are orderly, of good design, and do not detract from the appearance of the building on which a sign is displayed or the surrounding area.

Having regard to the decision guidelines of Clause 52.05, the proposed sign has been considered to provide clear and simple identification for the proposed Child care centre which does not result in a visual clutter for the site and surrounds. The location and design of the sign within the ground floor canopy of the building, and an overall advertisement area of 5.4 square metres, is appropriate and will have an ancillary presence within the building façade. This ensures it will not detrimentally affect the residential character of the area.

### **3.5 Is the provision and design of car parking acceptable?**

The proposal provides car parking as set out in the table below:

**Table 3**

	<b>Requires</b>	<b>Provides</b>
Child care centre with 140 places (0.22 spaces per child)	30	30

The proposal provides the required number of parking spaces in relation to the maximum number of children associated with the centre, as required by Clause 52.06. The design of the accessway and parking spaces complies with Clause 52.06-8. Council's Development Engineering (Traffic) Unit had no objection to the proposal subject to conditions, and raised no concern with the provision of car parking or the level of traffic generated by the use.

The proposal complies with the decision guidelines of Clause 52.29 (Create or Alter Access to a Road Zone). The application was referred to the road corporation (VicRoads) which had no objection as outlined under Section 2.3 of this report, subject to two conditions relating to the design and construction of the modified vehicle crossing.

### **3.6 Objections (Discussion)**

The following table provides a discussion of the concerns raised within the objections to the application:

**Table 4**

Issue	Officer Response
Traffic and parking impacts Pedestrian safety	<p>As discussed under Section 3.3 of this report, the proposal will provide adequate on-site car parking for each dwelling and the design standards of Clause 52.06-8 will be met.</p> <p>Both Council's Development Engineering (Traffic) unit and VicRoads, as the road management body for arterial roads such as Lincoln Road, had no objection to the proposal.</p> <p>In light of this, the proposal is not considered to pose unreasonable impact on safe operation of the road network (including footpaths).</p>
Inappropriate land use, impact on residential properties	<p>The use of the land for a Child care centre has policy support at both state and local level, and the scale of the proposed use is appropriate to its residential context as discussed throughout this report. The impact of the proposal on residential land is not unreasonable, and will be suitably managed through conditions of permit.</p>
Saturation of Child care uses in the area	<p>There is no evidence to suggest excessive Child care centres in this area. Comments from Council's Family and Children's Services Unit indicates there continues to be demand for long stay Child care services in this area, which will grow with the anticipated increase in housing forecast for the area and municipality as a whole.</p>
Neighbourhood Character Site layout and Building massing	<p>As discussed under Section 3.2 of this report, the development is considered an appropriate design response to the opportunities and constraints of the site.</p>
Off-site amenity impacts (noise, overlooking, overshadowing)	<p>The proposal generally achieves an acceptable level of compliance with the relevant objectives of ResCode including noise, overshadowing, and daylight to habitable rooms.</p> <p>Conditions will be imposed on any permit issued to ensure overlooking from the first floor windows and open play area is prevented through window and balcony screening.</p> <p>Additionally, following discussions between the permit applicant, some objectors and Council, the provision increased acoustic fencing and additional landscaping along immediate interfaces was contemplated. It is considered appropriate to require these changes through conditions of permit.</p>

Issue	Officer Response
Lack of sustainable design features Stormwater impacts	The proposed building incorporates sustainable design initiatives as demonstrated through the submission of a satisfactory Sustainable Design Assessment, including a compliant BESS report. These will be reinforced through conditions of permit requiring their endorsement, as well as supporting notations on the development plans.  Similarly, the proposal will adequately reduce runoff of contaminated stormwater through the inclusion of water sensitive urban design measures as set out in the compliant STORM assessment.  Drainage impacts are also addressed through standard conditions of permit required by Council's Development Engineering (Drainage) Unit.
No traffic management plan No fire/emergency plan	There is no requirement within the planning scheme for a traffic management plan, noting the scale of the proposed use and the adequate provision of parking facilities and accessways.  A fire/emergency plan is not contemplated within the planning assessment framework for this application, and would be associated with the operational obligation of the Child care centre management.
Impact on property value	This is not a valid planning consideration

#### 4. Human Rights

The application process and decision making is in line with the *Victorian Charter of Human Rights and Responsibilities 2006* (Section 18 – Taking part in public life).

#### 5. Conclusion

The application has been assessed against the relevant provisions of the State Planning Policy Framework, Local Planning Policy Framework, zoning controls, the relevant Particular and General Provisions, and the decision guidelines at Clause 65 of the Moonee Valley Planning Scheme.

Consideration has also been given to the requirements of Section 60(1B) of the *Planning and Environment Act 1987* with respect to the number of objections received. It is determined that the proposal would not have a significant social effect.

It is recommended Council issue a Notice of Decision to Grant a Planning Permit in accordance with the conditions contained within the recommendation section above.

#### Appendices

Appendix A: Location of Objectors [↓](#)

Appendix B: Plans (separately circulated).

## APPENDIX A

### Location of Objectors

41 Washington Street, ESSENDON VIC 3040
75 Scott Street, MOONEE PONDS VIC 3039
35 Lincoln Road, ESSENDON VIC 3040 (x2)
38 Lincoln Road, ESSENDON VIC 3040 (x3)
45 Lincoln Road, ESSENDON VIC 3040
43 Lincoln Road, ESSENDON VIC 3040
34 Lincoln Road, ESSENDON VIC 3040
31 Washington Street, ESSENDON VIC 3040
28 Lincoln Road, ESSENDON VIC 3040
37 Lincoln Road, ESSENDON VIC 3040
36 Lincoln Road, ESSENDON VIC 3040 (x2)

**9.3                    2-8 Lamb Street, Moonee Ponds - Construction of thirteen dwellings and a reduction to the visitor car parking requirement**

**File No:**                FOL/17/11  
**Author:**             Lachlan Orr  
                              Senior Statutory Planner  
**Directorate:**        Planning & Development

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<b>Planning File No.</b>	MV/985/2016
<b>Proposal</b>	<ul style="list-style-type: none"><li>• Thirteen dwellings over four lots</li><li>• Eleven triple-storey and two double-storey</li><li>• Reduction in visitor car parking</li></ul>
<b>Applicant</b>	Archsign Pty Ltd
<b>Owner</b>	John Ma and Wan Hoi Law
<b>Planning Scheme Controls</b>	General Residential Zone
<b>Planning Permit Requirement</b>	Clause 32.06-6 – Two or more dwellings Clause 52.06-3 – Car parking reduction
<b>Car Parking Requirements</b>	Required – 26 spaces Provided – 24 spaces A reduction of two visitor spaces is sought
<b>Restrictive Covenants</b>	None
<b>Easements</b>	None
<b>Site Area</b>	1339 square metres
<b>Number Of Objections</b>	10
<b>Consultation Meeting</b>	21 June 2017

## Executive Summary

- The application seeks planning permission for the construction of thirteen dwellings and a reduction in the visitor car parking requirement (over 4 lots)
- The site is located on the eastern side of Lamb Street, with land immediately to the west fronting Mt Alexander Road and within the Moonee Ponds Activity Centre. The site is bounded by laneways to the north, east and south.
- The application was advertised with 10 objections received. Concerns were raised primarily in relation to neighbourhood character, visual bulk and scale, siting and massing, overdevelopment, traffic and parking impacts, ResCode compliance, off-site amenity impacts, waste storage/collection and property devaluation.
- A Consultation Meeting was held on 21 June 2017, which was attended by Councillor Marshall, objectors, the permit applicant and Council's Planning Officer. There was no resolution achieved.
- The proposal is an appropriate increase of housing in a location which has seen a consistent level of infill development, owing to its location alongside Mt Alexander Road and the Moonee Ponds Activity Centre. Additionally, the unique characteristics of the site, being a large consolidated parcel with no direct residential interfaces, lends further support for a higher level of development such as that proposed.
- The development represents an acceptable intensification of built form to the street and throughout the site. Through a townhouse arrangement with separate pedestrian and vehicle accessways, the proposal will contribute an enhanced presentation to each laneway. Habitable room windows and balconies provide passive surveillance and activity, whilst pedestrian pathways interspersed with low planting will create a safe and convenient residential interface for occupants.
- The proposal achieves a high level of compliance with the objectives and standards of ResCode. There are five minor areas of non-compliance with the quantitative standards; these do not pose unreasonable impact on the public realm or neighbouring properties and achieve an appropriate response to the relevant decision guidelines. One condition of permit is included to ensure internal balcony screening is provided to prevent views between each secluded open space area.
- Overall, this assessment report finds the proposal demonstrates an adequate level of compliance with the relevant policies and provisions of the Moonee Valley Planning Scheme. It is recommended a Notice of Decision to Grant a Permit be issued subject to conditions

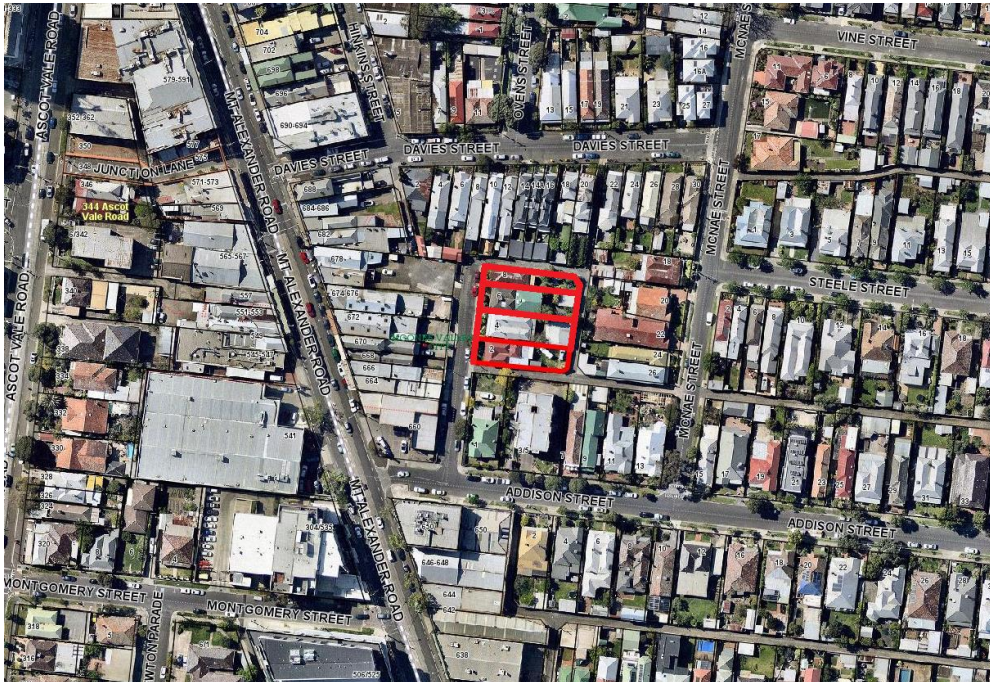


Figure 1: Aerial photograph of subject site and surrounds

## Recommendation

That Council issue a Notice of Decision to Grant a Permit in relation to Planning Permit Application No. MV/985/2016 for the construction of thirteen dwellings and a reduction to the visitor car parking requirement at 2-8 Lamb Street, Moonee Ponds (Lot 1 on TP 543426W, Lots 1 and 2 on TP 257357J, Lot 1 on TP 592477B and Lot 1 on TP 444622Y), subject to the following conditions:

1. Before the development starts, amended plans must be submitted to and approved to the satisfaction of the Responsible Authority. The amended plans must be drawn to scale and an electronic copy must be provided. The plans must be generally in accordance with the plans submitted and assessed with the application but modified to show:
  - a) All structures (at ground and first floor level) and landscaping near the south-eastern corner of the site designed to ensure the abutting laneways maintain a minimum dimension of 3 metres, or 4.2 metres at the intersection, noting the location of existing structures of properties facing McNaie Street;
  - b) The open plan living areas of Dwellings 10 to 12 to have a maximum depth of 9 metres from the northern window to the southern wall;
  - c) All internal balcony screening annotated to comply with Standard B23 of Clause 55.04-7 (Internal Views) of the Moonee Valley Planning Scheme;
  - d) Pedestrian visibility splays provided near the accessways of Dwellings 5 and 9, or the provision of mirrors to ensure visibility of pedestrians along the proposed footpath;
  - e) Any doors to storage areas designed so that they do not impact upon minimum internal garage dimensions;

- f) The double crossover for Dwellings 7 and 8 reduced to 5.5 metres in width;
- g) A minimum distance of 5.4 metres provided between the crossover for Dwelling 6 and the double crossover for Dwellings 7 and 8;
- h) Details (height, materials) of internal fencing;
- i) Any changes as a result of Condition 6 and 16; and
- j) A landscape plan as required by Condition 17.

When approved these plans become the endorsed plans of this permit.

- 2. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
- 3. A minimum 30 days prior to any building or works commencing, all WSUD Details (relating to the permeable paved surfaces), such as cross sections &/or specifications, to assess the technical effectiveness of the proposed stormwater treatment measures, must be submitted for approval by the Responsible Authority.
- 4. A minimum 30 days prior to any building or works commencing, a Construction and Site Management Plan (CSMP) must be submitted to and be approved by the Responsible Authority detailing the construction activity proposed and the site and environmental management methods to be used. The CSMP must be in accordance with Moonee Valley City Council's CSMP's guideline and templates.

When approved, the CSMP will be endorsed and will form part of this permit.

The development must be carried out in accordance with the endorsed CSMP and the provisions, requirements and recommendations of the endorsed CSMP must be implemented and complied with to the satisfaction of the Responsible Authority.

- 5. A maximum 30 days following completion of the building or works, a WSUD Maintenance Program must be submitted to and approved by the Responsible Authority which sets out future operational and maintenance arrangements for all WSUD measures. The program must include, but is not limited to:
  - a) Inspection frequency;
  - b) Cleanout procedures;
  - c) As installed design details/diagrams including a sketch of how the system operates; and
  - d) A report confirming completion and commissioning of all WSUD Response initiatives by the author of the WSUD Response and STORM or MUSIC model approved pursuant to this permit, or similarly qualified person or company. This report must be to the satisfaction of the Responsible Authority and must confirm that all initiatives specified in the WSUD Response and STORM or MUSIC model have been completed and implemented in accordance with the approved report.



The WSUD Maintenance Program may form part of a broader Maintenance Program that covers other aspects of maintenance such as a Builder's User Guide or a Building Maintenance Guide.

6. Before the development commences, an amended Sustainable Design Assessment (SDA) that outlines proposed design initiatives must be submitted to and approved by the Responsible Authority. The amended SDA shall refer to the endorsed plans. Upon approval the SDA will be endorsed as part of this planning permit and the development must incorporate the sustainable design initiatives outlined in the endorsed SDA to the satisfaction of the Responsible Authority. The SDA must be generally in accordance with the SDA submitted with the application, but modified as follows:

- a) Any changes as a result of Condition 1;

The development must incorporate the sustainable design initiatives outlined in the endorsed Sustainable Design Assessment (SDA) to the satisfaction of the Responsible Authority.

7. Prior to the issue of an Occupancy Permit, all boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority if the owner of the adjoining land allows access for the purpose.
8. Floor levels shown on the endorsed plan(s) must not be altered or modified without written consent of the Responsible Authority.
9. All pipes, fixtures, fittings, ducts and vents servicing any building on the land, other than gutters above the ground floor storey of the building, must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.
10. Before the buildings approved by this permit are occupied, the concrete vehicular crossing must be constructed to suit the proposed driveway in accordance with the Responsible Authority's specification and any obsolete, disused or redundant vehicle crossings must be removed and the area reinstated to footpath, nature strip and kerb and channel to the satisfaction of the Responsible Authority.

All vehicle access points must be located a minimum of 1.0 metre from any infrastructure including service pits. Alternatively, such assets may be incorporated into the crossover with the prior written consent of the responsible authority and the relevant servicing authority/agency. Subsequent works and costs in association with relocation and/or amendment must be incurred at the owner's cost, to the satisfaction of the relevant servicing authority/agency and the Responsible Authority.

11. The street tree must not be removed or replaced without the prior written consent of the Responsible Authority. Any replacement tree planted must be to the satisfaction of the Responsible Authority. All costs associated with the removal and replacement/replanting of the street tree must be borne by the permit applicant and the street tree replacement must be completed to the satisfaction of the Responsible Authority before the buildings approved by this permit are occupied.

12. Provision must be made for the drainage of the land including landscaped and pavement areas. The discharge of water from the land must be controlled around its limits to prevent any discharge onto any adjoining or adjacent property or streets other than by means of an underground pipe drain which is discharged to an approved legal point of discharge to the satisfaction of the Responsible Authority.
13. An on-site stormwater detention drainage system must be installed on the subject land to the satisfaction of the Responsible Authority.

Before the development starts a Drainage Layout Plan, including computations and manufacturer's specifications, to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The Drainage Layout Plan must be prepared by a Civil Engineer with suitable qualifications to the satisfaction of the Responsible Authority and must depict an on-site stormwater detention drainage system to be installed on the land.

When approved, the Drainage Layout Plan will form part of this permit.

The on-site stormwater detention drainage system must be installed and the provisions, recommendations and requirements of the endorsed Drainage Layout Plan must otherwise be implemented and complied with to the satisfaction of the Responsible Authority.

14. Prior to the issue of an Occupancy Permit, all boundary fencing must be erected. The cost of such fencing must be met by the owner and carried out to the satisfaction of the Responsible Authority.
15. The development must be provided with external lighting capable of illuminating access to each garage, car parking space and pedestrian walkways. Lighting must be located, directed and shielded and of limited intensity so that no nuisance or loss of amenity is caused to any person within or beyond the site to the satisfaction of the Responsible Authority.
16. Before the development starts, an amended Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The Waste Management Plan must be prepared in accordance with Moonee Valley City Council's 'Waste Management Plans – Guidelines for Applicants', and be generally in accordance with the plan submitted with the application but modified as follows:
  - a) Provision for private collection for all residential waste; and
  - b) Any changes as required by Condition 1 of this permit.

When approved, the Waste Management Plan will be endorsed and will form part of this permit.

The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

17. Before the development starts, or any trees or vegetation removed, an amended landscape plan (an electronic copy) prepared by a suitably qualified person or firm shall be submitted to and approved to the satisfaction of the Responsible Authority. The plans must be drawn to scale, with dimensions, and be generally in accordance with the plans submitted with the application but modified to show:

a) Any changes as a result of Condition 1.

Once approved these plans become the endorsed plans of this permit. Landscaping in accordance with this approved plan and schedule shall be completed before the building is occupied.

18. The garden areas shown on the endorsed plan and schedule must only be used as gardens and must be constructed, completed and maintained in a proper, tidy and healthy condition to the satisfaction of the Responsible Authority. Any tree or shrub damaged, removed or destroyed must be replaced by a tree or shrub of similar size and variety to the satisfaction of the Responsible Authority.

19. This permit will expire if:

- a) The development does not start within two (2) years of the date of issue of this permit, or
- b) The development is not completed within four (4) years of the date of issue of this permit.

Before the permit expires or within six (6) months afterwards the owner or occupier of the land may in writing request the Responsible Authority to extend the expiry date.

Once the development has commenced the owner or occupier of the land may in writing request the Responsible Authority to extend the expiry date within twelve (12) months of the lapse date.

### **Permit Notes**

- This is not a building permit under the *Building Act*. A separate building permit is required to be obtained for any demolition or building works.
- Before commencement of the development occurs, the applicant should contact Moonee Valley City Council on 9243 8888 regarding legal point of discharge, new crossings, building over easements, etc.
- No on-street parking permits will be provided to occupiers of the subject site.
- All drainage works undertaken must be in accordance with the requirements of Stormwater Drainage Requirements for Development Works as prepared by Moonee Valley City Council.
- All works undertaken within any existing road reserves must accord with the requirements of Moonee Valley City Council and be to the satisfaction of the Responsible Authority.
- Existing levels along the property line must be maintained. All proposed levels must match to existing surface levels along the property boundary. Council will not accept any modifications to existing levels within any road reserve.

## 1. Introduction

### 1.1 Subject Site and Surrounds

The subject site is located on the eastern side of Lamb Street and comprises four residential allotments. The site is bounded by laneways to the sides and rear, and is generally square in shape with a frontage of 37.08 metres to Lamb Street. The total site area is approximately 1,339 square metres. The land falls approximately 900mm from the south-west to the north-east.



**Figure 2: Subject site (View along Lamb Street)**

Each property currently accommodates a single storey weatherboard dwelling. Vehicle access to each dwelling is provided via the rear laneway to a carport or open parking area. Each dwelling has a low front fence enclosing a small front yard, except for 6 Lamb Street which has a high timber fence. No easements or covenants affect the land.

Lamb Street is a small street, with the subject properties the only land which formally addresses it. The western side of Lamb Street is occupied by the rear of commercial properties facing Mt Alexander Road. The laneways bounding the sides and rear of the site provide vehicle access to the rear of properties facing Davies, McNae and Addison Streets.

The context of the site is characterised by its location at the boundary of the Moonee Ponds Activity Centre. The site and land within the surrounding residential streets to the north, east and south are within the General Residential Zone. They feature a mixture of single dwellings on narrow to medium sized allotments as well as examples of multi-unit/apartment developments, as seen immediately to the north and south of the land. Properties immediately to the west, and further north and south along Mt Alexander Road and beyond, are within the Activity Centre Zone. The Schedule to the Activity Centre Zone identifies land

immediately to the west as within the Junction South Precinct, and a preferred height of up to 14 metres (four storeys) opposite the site. Existing development along Mt Alexander Road is generally in the order of one to three storeys, with recently developed apartment buildings of up to six and seven storeys at the intersection with Montgomery Street approximately 100 metres to the south-west.

## 1.2 Proposal

It is proposed to construct thirteen dwellings to the rear of the existing dwelling, summarised as follows:

**Table 1**

No of dwellings	13, including: <ul style="list-style-type: none"><li>- 11 three-bedroom, three-storeys</li><li>- 2 two-bedroom, two-storeys</li></ul>
No of car spaces	24 resident spaces No visitor parking provided
Max building height	9.9 metres
Site coverage	70%
Permeability	30%

Refer **Appendix C** – Plans (separately circulated).

## 2. Background

### 2.1 Relevant Planning History

Planning permit application MV/610/2013 for the construction of a three storey building with basement parking accommodating eleven dwellings at 6-8 Lamb Street, Moonee Ponds, was refused by Council in its meeting on 16 December 2014.

### 2.2 Planning Policies and Decision Guidelines

#### State Planning Policy Framework

- Clause 11 Settlement
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 18 Transport

#### Local Planning Policy Framework

- Clause 21.01 Municipal Profile
- Clause 21.03 Vision
- Clause 21.04 Sustainable Environment
- Clause 21.05 Housing

Clause 21.06 Built Environment

Clause 22.03 Stormwater Management (Water Sensitive Urban Design)

Zoning and Overlays

Clause 32.08 General Residential Zone

Particular and General Provisions

Clause 52.06 Car Parking

Clause 55 Two or More Dwellings on a Lot

Clause 65 Decision Guidelines

## 2.3 Referrals

No external referrals were required for this application.

The following internal referrals were undertaken:

**Table 2**

Internal Referrals	Comments/Conditions
Development Engineering (Traffic)	Concern with waiver of visitor car parking, modifications required to ensure traffic operability of laneway.
Development Engineering (Drainage)	Standard conditions. A specific requirement to construct an easement drain has not been included, as this is more broadly covered by the standard condition for an overall drainage layout plan (including an on-site detention system).
Environmentally Sustainable Design (ESD) Officer	STORM assessment complies. Amended BESS report required, annotations on plan. Concern raised with daylight to internal service yards, depth of living areas of Dwellings 10-12. A Condition of permit has been added.
Waste Projects Officer	Amended Waste Management Plan required, providing for private collection.
Arborist	No objection subject to standard conditions.

## **2.4 Public Notification of the Application**

Pursuant to Section 52 of the *Planning and Environment Act 1987*, the application was advertised by mail to adjoining and surrounding properties, and notices displayed on site for 14 days.

A total 10 objections were received from the properties contained within **Appendix A** of this report. The objections are discussed at Section 3.6 of this report.

## **2.5 Consultation Meeting**

A Consultation Meeting was held on 21 June 2017, which was attended by Councillor Marshall, objectors, the permit applicant and Council's Planning Officer. No resolution was achieved.

# **3. Discussion**

## **3.1 Does the proposal address the relevant State and Local Planning Policies?**

The relevant State and Local Planning Policy Framework objectives are considered to have been satisfied by the proposal. The policy framework objectives broadly encourage consolidation of urban allotments in locations which can provide housing diversity and take advantage of existing public transport and community and commercial services. Relevant policy guidance is contained within 'Plan Melbourne 2017-2050: Metropolitan Planning Strategy' and Clauses 11, 15, 16, 18 and 21.05, which all seek to increase the residential supply in these areas.

The subject site is located adjacent to the Moonee Ponds Activity Centre and as such, is well serviced by commercial amenities, public reserves, education centres and public transport options. The proposal represents an appropriate degree of housing intensification in this location and contributes to the objective of housing diversity, providing a mix of dwelling sizes and configurations that will cater for the increasingly diverse needs of future residents.

The proposal is capable of compliance with the objectives and strategies of Clause 21.04 (Sustainable Environment). The development incorporates the use of ecologically sustainable design principles, as highlighted within the submitted Sustainability Management Plan (SMP), however an amended BESS report is required prior to endorsement as discussed under Section 2.3.

The concerns raised by Council's ESD Officer are noted, and a condition of permit will require a maximum depth of 9 metres (currently 10-10.5 metres) for the living areas of Dwellings 10-12 to ensure adequate daylight access. The concern relating to the internal daylight access of the service yards is noted, however it is considered to be an acceptable outcome given they are small utility areas. All bedroom windows reliant on the internal service yards and light-well for daylight will receive in excess of the ResCode requirement for direct solar access.

The proposal accords with the objectives of Clause 21.05 (Housing) by increasing housing opportunities to meet growing population needs, providing a diversity of housing choice in a well-established area with access to public transport options and local/community services.

The proposed development generally responds to the objectives and strategies of 21.06 (Built Environment). The key concepts of this clause are assessed against the relevant Neighbourhood Character Precinct Profile Guidelines in the following section.

The proposal is capable of compliance with Clause 22.03 (Stormwater Management – Water Sensitive Urban Design). The STORM assessment submitted with the application achieves a 100% rating and is accurately reflected on the plans. A standard condition of permit will require detailed design drawings of the permeable paved surfaces to be submitted for endorsement.

### **3.2 Does the development accord with the preferred character of the area?**

The subject site is located within the Garden Suburban 1 Precinct. The development is considered a suitable response to the immediate context and the preferred character statement of the precinct as follows:

- From the outset it is noted that the subject land does not conform to the typical site characteristics identified within the precinct profile. The consolidated site forms the entire residential segment of this small street, with the remainder being either the rear of commercial properties on Mt Alexander Road or the side boundary of a residence facing Addison Street. The land has no direct residential abutments due to the surrounding laneways. The adjacent Activity Centre Zone (Schedule 1) identifies a discretionary preferred height of four storeys (14 metres), and the area features examples of infill built form ranging from 3 to 7 storeys. These characteristics provide a unique opportunity for an intensification of built form with minimal off-site amenity impacts, and an improved level of activation to the public realm.
- The architectural style and form of the development is consistent with both the emerging and preferred character of the area, and respects the nature of built form nearby. The proposal has a contemporary design which is in keeping with newer developments nearby, but also incorporates materials and detailing that references older dwellings throughout the area.
- The siting and massing of the development is compatible with the pattern of development which has occurred in the immediate and wider area, noting the varied pattern of subdivision that includes several narrow allotments with attached dwellings, as well as larger three and four storey buildings.



- The height of the development at three storeys is consistent with the emerging and preferred character of the area. The upper floors of each dwellings are provided with a high level of articulation and physical recession to mitigate their impact as viewed from the street and the limited residential views to the north, east and south. A two storey form with a substantial internal break is provided for the eastern-most dwellings. This achieves a graduation in built form between the lower scale residential area to the east, and the higher level built form expected within the activity centre.
- The development is well articulated through a variety of setbacks, window forms, roofing styles, materials and finishes that together present a visually engaging built form and a positive urban design outcome. The materials and finishes complement the existing and emerging character of built form in the area, and are appropriate to this form of development. Habitable rooms, balconies and landscaping are provided along each laneway which will improve outlook, safety and activity to the public realm.
- Noting that no other properties within Lamb Street provide any garden or planting to the street, the development will achieve a positive landscape response, which will enhance the setting of the area. Canopy trees are provided across the street frontage, as well as the north-eastern and south-eastern corners of the site, to filter views of the proposed development. Planters are utilised at both ground and the upper levels to further soften the presentation of the development to all interfaces.

**3.3 The presentation of garaging and accessways to the street and surrounding laneways is appropriate, with all garaging designed to be recessive within the dwelling facades and paved surfaces limited particularly as the development presents to Lamb Street. Is the provision and design of car parking acceptable?**

The proposal provides car parking as set out in the table below:

**Table 3**

	<b>Requires</b>	<b>Provides</b>
Eleven three-bedroom dwellings	22	22
Two two-bedroom dwellings	2	2
Visitors	2	0
Total	26	24

The proposal provides the required number of parking spaces for each proposed dwelling as set out under Clause 52.06, but seeks a reduction of two visitor car spaces. This is considered to be an appropriate outcome, notwithstanding the concern of Councils Development Engineering (Traffic) Unit. The subject site is well located in terms of public transport due to its proximity to the Moonee Ponds Activity Centre which offer train (Craigieburn line), tram (Route 59) and numerous bus routes within

walking distance of the site. As demonstrated by the impact assessment and surveys conducted by O'Brien Traffic (Friday 3 and Saturday 4 March 2017), the supply of on-street parking in the surrounding area is capable of absorbing a shortfall of two visitor spaces.

The design of the accessway and parking spaces generally conforms to Clause 52.06-8, with compliant garage and accessway dimensions and pedestrian visibility splays (except for Dwellings 5 and 9) provided where necessary. A condition of permit is required to ensure the development does not reduce the dimensions of the laneway below the minimum requirements of this clause near the south-eastern corner of the site, where the nearby properties along McNae Street have encroached into the laneway as defined on title.

Design changes recommended by Council's Development Engineering (Traffic) Unit are generally included as conditions of permit, where not already addressed on the plans. A requirement to further widen the proposed internal footpaths along the northern and southern boundaries is not considered necessary, given there is no planning requirement to do so and design standards for vehicle movements are easily met. The requirement to modify the bin storage doors is also not considered necessary, as it is acceptable for these to open onto the internal footpaths where they would be collected by a private contractor.

### **3.4 Does the proposal comply with the objectives and standards of ResCode?**

The proposal is considered to generally comply with the provisions of Clause 55 as set out in the assessment table (refer to **Appendix B** of this report). A full ResCode assessment can be found on file.

The following points of exception, which have not been satisfied through this development, are listed below with corresponding assessments:

**Table 4**

<b>ResCode Standard</b>	<b>Response</b>
Clause 55.03-1 (Standard B6) Street Setback	<p>From Lamb Street, the development is proposed to be set back between 2.7 to 4 metres at ground and first floor level. At second floor level, a setback of at least 5.7 metres is provided. The standard requires a minimum setback of 4 metres, therefore a variation is sought at ground and first floor level.</p> <p>While the proposal does not comply with the quantitative requirements of this standard, the proposal provides a suitable streetscape presentation that respects existing and preferred character while making efficient use of the site. The context of the site is otherwise predominantly the rear of commercial properties, with built form envisaged at around four storeys (14 metres) and minimal setbacks. The</p>

ResCode Standard	Response
	<p>precinct profile also contemplates setbacks in the range of 2 to 4 metres. Given the unique characteristics of the site and its context, the relatively minor variation to the standard is considered acceptable.</p>
<p>Clause 55.03-3 (Standard B8) Site Coverage</p>	<p>The proposed site coverage is 70%, which exceeds the maximum requirement of 60%.</p> <p>As discussed above, the proposed development is considered to respect the existing and preferred neighbourhood character. The unusual characteristics of the site, not conforming to the typical 'Garden Suburban 1' properties, and its strategic context encourages a higher level of built form than would typically be expected within a residential zone. The location of the site adjoining the commercial corridor of Mt Alexander Road, location opposite the Moonee Ponds Activity Centre and the consolidated size of the site provide appropriate justification for a higher level of built form as presented within the proposed development.</p> <p>Given the unique characteristics of the site and its context, the proposal meets the objective of this clause and is considered acceptable.</p>
<p>Clause 55.04-1 (Standard B17) Side and Rear Setbacks</p>	<p>The proposal seeks variations to the standard from each side and rear boundary. These boundaries adjoin laneways that provide a physical buffer of between 3.7 to 5.5 metres in width. Coupled with the setbacks provided at each level of the development, the dwellings are set back from the nearest residential properties by at least 3.7 to 4.8 metres at first floor level, and between 5 to 5.8 metres at second floor level. These setbacks would achieve full compliance with the standard. It is also noted that many of the nearest residential properties feature car parking facilities which further separates the development site from the nearest sensitive private open space areas.</p> <p>Overall, a variation is considered acceptable as the proposal meets the decision guidelines of this clause which requires consideration of whether the boundary abuts a side or rear, as well as whether there would be any impact on the amenity of existing habitable room windows or secluded open space areas.</p>

ResCode Standard	Response
Clause 55.04-2 (Standard B18) Walls on Boundaries	With the exception of Dwellings 1 and 13, the development is generally not constructed to any boundary. The respective south-eastern and north-eastern corners of these dwellings are built to the splayed corners of the site at both ground and first floor level. Given the irregular dimensions of the land and the non-sensitive interface of the laneway, this is considered to be an appropriate outcome.  It is also noted that the boundary wall of Dwelling 1 will be set back from the boundary due to a condition discussed under Section 3.3.
Clause 55.04-7 (Standard B23) Internal Views	A condition will ensure all internal balcony screening is noted to comply with this clause. It is noted that some screening details have been appropriately noted, but some have not (such as the north-facing balconies of Dwellings 10-13).

### 3.5 Does the proposal address the issues raised in the previous application?

The previous application (MV/610/2013) was for the construction of a three storey building containing eleven apartments with basement car parking, on the land at 6 and 8 Lamb Street. This was refused by Council at its meeting on 16 December 2014 on grounds of visual bulk and inadequate compliance with ResCode.

The current development is considered to be an improved outcome to the previous proposal and addresses many of the key areas which led to the 2014 refusal. Whilst a three storey form is still proposed, the visual and amenity impacts are resolved due to the incorporation of the only other properties in the street and only immediate abutments, 2 and 4 Lamb Street. This has removed the properties which would have suffered amenity impacts through visual bulk and overshadowing, and presents the opportunity to create a more respectful response to the streetscape. The current application also achieves a higher level of compliance with ResCode (as detailed in the previous section).

### 3.6 Objections (Discussion)

The following table provides a discussion of the concerns raised within the objections to the application:

**Table 5**

Issue	Officer Response
Neighbourhood character Visual bulk and scale Siting and massing	As discussed under Section 3.2 of this report, the development is considered to be an appropriate design response and responds to the opportunities and constraints of the site.
Overdevelopment	The proposal is considered to achieve a suitable balance between the expected housing growth and the preferred character of the area, and represents an appropriate level of intensification in this context.
Traffic and parking impacts	As discussed under Section 3.3 of this report, the proposal will provide adequate on-site car parking for each dwelling and the design standards of Clause 52.06-8 will be met.
Compliance with ResCode	This is discussed under Section 3.4.
Off-site amenity impacts	The proposal achieves an acceptable level of compliance with the relevant objectives of ResCode including noise, overshadowing, daylight to habitable rooms and overlooking subject to conditions, where necessary.
Waste storage/collection	Waste collection will be adequate subject to an amended waste management plan, with private collection.
Property devaluation	This is not a valid planning consideration.

#### **4. General**

The application was lodged prior to the 27 March 2017, and is therefore exempt from the mandatory garden area and height requirements at Clauses 32.08-4 and 32.08-9 (General Residential Zone) of the Moonee Valley Planning Scheme.

#### **5. Human Rights**

The application process and decision making is in line with the Victorian Charter of *Human Rights and Responsibilities 2006* (Section 18 – Taking part in public life).

## 6. Conclusion

The application has been assessed against the relevant provisions of the State Planning Policy Framework, Local Planning Policy Framework, zoning controls, the relevant Particular and General Provisions, and the decision guidelines at Clause 65 of the Moonee Valley Planning Scheme.

Consideration has also been given to the requirements of Section 60(1B) of the *Planning and Environment Act 1987* with respect to the number of objections received. It is determined that the proposal would not have a significant social effect.

It is recommended Council issue a Notice of Decision to Grant a Planning Permit in accordance with the conditions contained within the recommendation section.

## Appendices

Appendix A: Location of Objectors [↓](#)

Appendix B: ResCode Assessment [↓](#)

Appendix C: Plans (separately circulated).

## APPENDIX A

### Location of Objectors

22 Davies Street, MOONEE PONDS VIC 3039
7 Addison Street, MOONEE PONDS VIC 3039
8 Davies Street, MOONEE PONDS VIC 3039
22 McNae Street, MOONEE PONDS VIC 3039
10 Davies Street, MOONEE PONDS VIC 3039
11 Addison Street, MOONEE PONDS VIC 3039 (x2)
6 Davies Street, MOONEE PONDS VIC 3039
24 McNae Street, MOONEE PONDS VIC 3039
28 Salisbury Street, MOONEE PONDS VIC 3039

## APPENDIX B

### Clause 55 of the Moonee Valley Planning Scheme

Two or more dwellings on a lot and residential buildings (Clause 55 and Schedule to the General Residential Zone).

Where there is non-compliance, see Section 3.4 in report.

Title and Objective	Compliance with Standard	Compliance with Objective
<i>B1 - Neighbourhood Character Objectives</i>	✓	✓
<i>B2 - Residential Policy Objectives</i>	✓	✓
<i>B3 - Dwelling Diversity Objective</i>	✓	✓
<i>B4 - Infrastructure Objectives</i>	✓	✓
<i>B5 - Integration with the Street Objective</i>	✓	✓
<i>B6 - Street Setback Objective</i>	X	✓
<i>B7 - Building Height Objective</i>	✓	✓
<i>B8 - Site Coverage Objective</i>	X	✓
<i>B9 - Permeability Objectives</i>	✓	✓
<i>B10 - Energy Efficiency Objectives</i>	✓	✓
<i>B11 - Open Space Objective</i>	N/A	N/A
<i>B12 - Safety Objective</i>	✓	✓
<i>B13 - Landscaping Objectives</i>	✓	✓
<i>B14 - Access Objectives</i>	✓	✓
<i>B15 - Parking Location Objectives</i>	✓	✓
<i>B16 - Parking Provision Objectives</i>	Deleted from Clause 55 on 5 June 2012 (VC90). Refer to Clause 52.06 for car parking requirements under Section 3.3 of the report.	
<i>B17 - Side and Rear Setbacks Objective</i>	X	✓
<i>B18 - Walls on Boundaries Objective</i>	X	✓
<i>B19 - Daylight to Existing Windows Objective</i>	✓	✓
<i>B20 - North-facing Windows Objective</i>	✓	✓
<i>B21 - Overshadowing Open Space Objective</i>	✓	✓
<i>B22 - Overlooking Objective</i>	✓	✓



<i>B23 - Internal Views Objective</i>	✓ Condition	✓
<i>B24 - Noise Impacts Objectives</i>	✓	✓
<i>B25 - Accessibility Objective</i>	✓	✓
<i>B26 - Dwelling Entry Objective</i>	✓	✓
<i>B27 - Daylight to New Windows Objective</i>	✓	✓
<i>B28 - Private Open Space Objective</i>	✓	✓
<i>B29 - Solar Access to Open Space Objective</i>	✓	✓
<i>B30 - Storage Objective</i>	✓	✓
<i>B31 - Design Detail Objective</i>	✓	✓
<i>B32 - Front Fences Objective</i>	✓	✓
<i>B33 - Common Property Objectives</i>	✓	✓
<i>B34 - Site Services Objectives</i>	✓	✓

✓ – Complies

x – Non-compliance

N/A – Not applicable

**9.4                      43 Fletcher Street, Essendon (Lot 1 TP753799H) -  
Construction of a multi-storey building, use of the land for  
dwellings and a reduction in car parking requirements**

**File No:** FOL/17/11  
**Author:** William Wheeler  
Principal Statutory Planner  
**Directorate:** Planning & Development

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<b>Planning File No.</b>	MV/807/2016
<b>Proposal</b>	Construction of a part four, part five storey building comprising: <ul style="list-style-type: none"><li>• an office and</li><li>• seven dwellings with</li><li>• reduction in car parking requirements.</li></ul>
<b>Applicant</b>	G2 Urban Planning C/- Lauriston Properties Pty Ltd
<b>Owner</b>	Lauriston Properties Pty Ltd
<b>Planning Scheme Controls</b>	Commercial 1 Zone No overlays
<b>Planning Permit Requirement</b>	Clause 34.01-1 – Use of the land for dwellings Clause 34.01-4 – Construct a building or construct or carry out works Clause 52.06-3 – Reduction in car parking requirements
<b>Car Parking Requirements (Clause 52.06)</b>	Required: 19 car spaces Provided: 16 car spaces
<b>Bicycle Requirements</b>	Required: 2 bicycle spaces Provided: 4 bicycle spaces
<b>Restrictive Covenants</b>	None
<b>Easements</b>	None
<b>Site Area</b>	502 square metres
<b>Number Of Objections</b>	9
<b>Consultation Meeting</b>	Not applicable

## Executive Summary

- The application seeks planning approval for the construction of a part four, part five storey building comprising an office and seven dwellings, use of the land for dwellings and a reduction in car parking requirements.
- The site has an area of 502 square metres and is located on a corner on the southern side of Fletcher Street and western side of Nicholson Street, Essendon. The site comprises an existing part single, part double storey brick office building.
- The application was advertised and nine objections were received. The concerns raised related to neighbourhood character, architectural style/design, building height, inadequate setbacks, visual bulk/massing, overdevelopment, overshadowing, overlooking, car parking, traffic impacts, internal amenity, noise, construction and excavation impacts, stormwater impacts, removal of street trees, precedence, property devaluation and errors within the plans/reports.
- A Consultation Meeting was not held as less than 10 objections were received by Council.
- The application was internally referred to Council's Development Engineering (Drainage) Unit, Development Engineering (Traffic) Unit, Waste Management Unit, Urban Designer and Environmental Sustainable Design (ESD) Officer. Conditional support to the application was provided.
- This assessment report finds the proposal demonstrates an adequate level of compliance with the relevant policies and provisions of the Moonee Valley Planning Scheme, and recommends a Notice of Decision to Grant a Permit be issued subject to conditions.

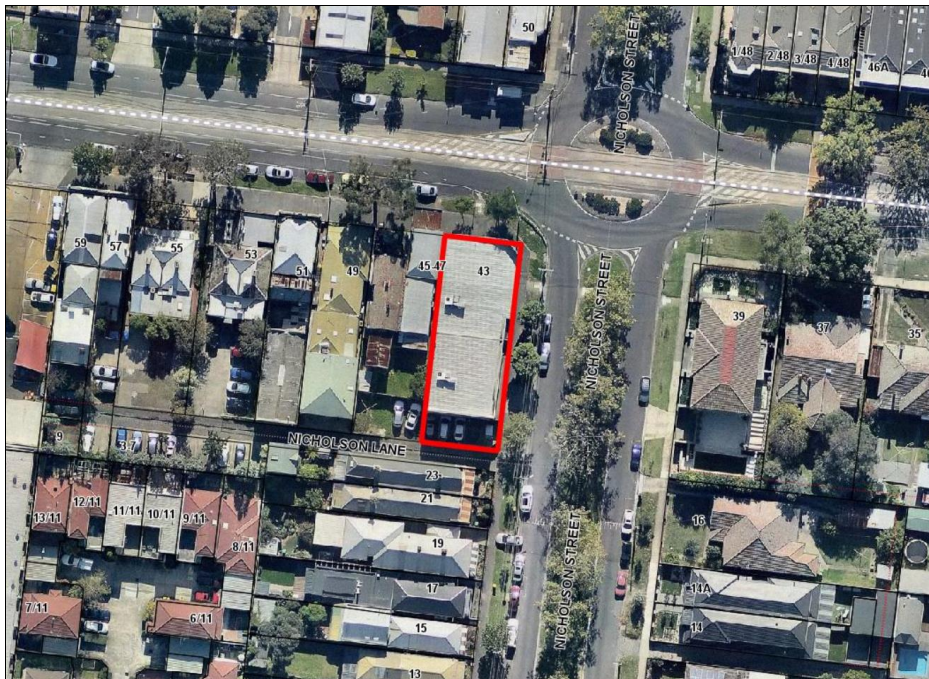


Figure 1 – Aerial photo of the subject site and surrounds

## Recommendation

That Council issue a Notice of Decision to Grant a Permit in relation to Planning Permit Application No. MV/807/2016 for the construction of a multi-storey building, use of the land for dwellings and a reduction in car parking requirements at No.43 Fletcher Street, Essendon (Lot 1 TP753799H), subject to the following conditions:

1. Before the use and development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The amended plans must be drawn to scale with dimensions and an electronic copy must be provided. The amended plans must be generally in accordance with the plans submitted and assessed with the application but modified to show:
  - a) Deletion of the roof deck/balcony, roof top lobby and associated structures on the roof top level;
  - b) A reduction in the depth of the rear (southern) section of balcony for Apartment B1, to a maximum of 1.0m in width, along the southern interface;
  - c) Deletion of the rear (southern) balcony for Apartment C, with this balcony area replaced with roof ballast;
  - d) All residential and office car parking spaces to be line marked and signed in accordance with the relevant Australian Standards;
  - e) All bicycle parking designed in accordance with the relevant Australian Standards;
  - f) The provision of pedestrian visibility splays in accordance with the requirements of Clause 52.06-9 (Design Standards for Car Parking) of the Moonee Valley Planning Scheme;
  - g) The redundant vehicle crossover along Nicholson Street reinstated to nature strip, kerb and channel in accordance with Council's 'Vehicle Crossings Policy';
  - h) A prominent note on the floor plans stating the rear laneway is to be widened and constructed in accordance with the requirements of Condition 15 of this permit;
  - i) A prominent note stating all noise attenuation measures are to be implemented as required by the endorsed acoustic report under Condition 23 of this permit;
  - j) Details and notations for all Water Sensitive Urban Design (WSUD) treatment measures within the approved STORM Rating Report;
  - k) Details of a suitable infiltration system, nominated by a hydraulic engineer, to adequately filter rainwater collected from trafficable areas for the use of flushing toilets within the development;
  - l) A prominent note on all floor and elevation plans stating: "Refer to endorsed Sustainable Design Assessment, and associated BESS Report, for all ESD commitments and requirements";

m) A detailed schedule of all external materials and finishes. The schedule must show the material, colour (including colour samples) and finishes of all external walls, roofing, fascias, window frames, fences and paving; and

n) A Landscape Plan in accordance with Condition 28.

When approved, these plans will be endorsed and will form part of this permit.

2. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
3. A minimum 30 days prior to any building or works commencing, all Water Sensitive Urban Design (WSUD) details (relating to the WSUD treatment measures nominated in the approved and complying STORM report), such as cross sections and/or specifications, to assess the technical effectiveness of the proposed stormwater treatment measures, must be submitted for approval by the Responsible Authority.
4. A minimum 30 days prior to any building or works commencing, a Construction and Site Management Plan (CSMP) must be submitted to and be approved by the Responsible Authority detailing the construction activity proposed and the site and environmental management methods to be used. The CSMP must be in accordance with Moonee Valley City Council's CSMP's Guidelines and Template.

When approved, the CSMP will be endorsed and will form part of this permit.

The development must be carried out in accordance with the endorsed CSMP and the provisions, requirements and recommendations of the endorsed CSMP must be implemented and complied with to the satisfaction of the Responsible Authority.

5. A maximum 30 days following completion of the development, a WSUD Maintenance Program must be submitted to and approved by the Responsible Authority which sets out future operational and maintenance arrangements for all WSUD measures. The program must include, but is not limited to:
  - a) Inspection frequency;
  - b) Cleanout procedures;
  - c) As installed design details/diagrams including a sketch of how the system operates; and
  - d) A report confirming completion and commissioning of all WSUD Response initiatives by the author of the WSUD Response and STORM or MUSIC model approved pursuant to this permit, or similarly qualified person or company. This report must be to the satisfaction of the Responsible Authority and must confirm that all initiatives specified in the WSUD Response and STORM or MUSIC model have been completed and implemented in accordance with the approved report.

The WSUD Maintenance Program may form part of a broader Maintenance Program that covers other aspects of maintenance such as a Builder's Guide or a Building Maintenance Guide.

6. Before the building approved by this permit is occupied, all boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority if the owner of the adjoining land allows access for the purpose.
7. Service units, including air conditioning units, must not be located on any of the balconies or terrace areas unless appropriately visually and acoustically screened to the satisfaction of the Responsible Authority.
8. Floor levels shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.
9. Before the building approved by this permit is occupied, the privacy screens and other measures to prevent overlooking as shown on the endorsed plans must be installed in accordance with Clause 55.04-6 (Overlooking) of the Moonee Valley Planning Scheme to the satisfaction of the Responsible Authority.

All privacy screens and other measures to prevent overlooking as shown on the endorsed plans must at all times be maintained to the satisfaction of the Responsible Authority.

10. All pipes, fixtures, fittings, ducts and vents servicing any building on the land, other than stormwater downpipes and gutters above the ground floor storey of the building, must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.
11. Before the building approved by this permit is occupied, the areas set aside for the parking of vehicles, together with the associated driveways and access lanes as shown on the endorsed plans must be:
  - a) Constructed;
  - b) Available for use in accordance with the endorsed plans;
  - c) Properly formed to such levels and drained so that they can be used in accordance with the endorsed plans;
  - d) Finished with a permanent trafficable surface (such as concrete, asphalt or paving); and
  - e) Line-marked or provided with another adequate means of ensuring that the boundaries of all vehicle spaces are clearly indicated on the ground,

in accordance with the endorsed plans to the satisfaction of the Responsible Authority.

The area set aside for the parking of vehicles, together with the associated driveways and access lanes as shown on the endorsed plans must:

- f) Be maintained and made available for such use; and
    - g) Not be used for any other purpose,
- to the satisfaction of the Responsible Authority.
12. Before the building approved by this permit is occupied, concrete vehicular crossing(s) must be constructed to suit the proposed driveway(s) in accordance with the Responsible Authority's specification and any obsolete, disused or redundant vehicle crossing(s) must be removed and the area reinstated to footpath, nature strip and kerb and channel to the satisfaction of the Responsible Authority.

All vehicle access points must be located a minimum of 1.0 metre from any infrastructure including service pits. In addition, all vehicle access points must be located a minimum of 2.0 metres from any tree. Alternatively, such assets may be incorporated into the crossover with the prior written consent of the Responsible Authority and relevant servicing authority/agency. Subsequent works and costs in association with the relocation and/or amendment must be incurred at the owner's cost, to the satisfaction of the relevant servicing authority/agency and Responsible Authority.

13. Before the development starts, a Car Parking Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The Car Parking Management Plan must be prepared by a traffic consultant with suitable qualifications to the satisfaction of the Responsible Authority and must include:
- a) Details as to how the car lift is to be regularly maintained and serviced;
  - b) Details of timeframes and measures to be undertaken, to reinstate the car lift back to working order, if the car lift becomes non-operational; and
  - c) Details of measures to be undertaken if the car lift is not operational, so not to provide any additional on-street parking demand.

When approved, the Car Parking Management Plan will be endorsed and will form part of this permit.

The provisions, recommendations and requirements of the endorsed Car Parking Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

14. Bicycle parking spaces, access, lockers and compounds must be provided, maintained and kept available for these purposes at all times to the satisfaction of the Responsible Authority.
15. The Right of Way must be widened and constructed to a 5.5m width (in bluestone) for the entire property length. All costs associated with the survey, design and construction of the Right of Way must be borne by the permit holder.

Prior to the commencement of buildings and works, detailed engineering drawings to show the widening and construction of the Right of Way are to be submitted to and approved by the Responsible Authority. The Right of Way is to be surveyed and designed by a qualified surveyor/civil engineer respectively. The plans are to indicate, existing surface levels, proposed surface levels and reinstatement of the Right of Way in accordance with Moonee Valley City Council standards.

Prior to the issue of an Occupancy Permit for the approved development, construction and reinstatement of the Right of Way as specified in this permit must be satisfactorily completed.

Prior to certificate of occupancy, a plan of subdivision reflecting the widened and constructed Right of Way shown as "road" must be submitted to Council and approved by the relevant authority.

16. All structures within the pedestrian visibility splays at each vehicle access point must be at least 50% visually permeable pursuant to Clause 52.06-9 (Design Standards for Car Parking) of the Moonee Valley Planning Scheme.
17. Provision must be made for the drainage of the land including landscaped and pavement areas. The discharge of water from the land must be controlled around its limits to prevent any discharge onto any adjoining or adjacent property or streets other than by means of an underground pipe drain which is discharged to an approved legal point of discharge to the satisfaction of the Responsible Authority.
18. An on-site stormwater detention drainage system must be installed on the land to the satisfaction of the Responsible Authority.

Before the development starts a Drainage Layout Plan, including computations and manufacturers' specifications, to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The Drainage Layout Plan must be prepared by a Civil Engineer with suitable qualifications to the satisfaction of the Responsible Authority and must depict an on-site stormwater detention drainage system to be installed on the land.

When approved, the Drainage Layout Plan will form part of this permit.

The on-site stormwater detention drainage system must be installed and the provisions, recommendations and requirements of the endorsed Drainage Layout Plan must otherwise be implemented and complied with to the satisfaction of the Responsible Authority.

19. A Council drain (minimum 300mm RCP RRJ) must be constructed to reach the approved point of discharge. Before the development commences, Engineering Design Plans and a Drainage Layout Plan (with computations) to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority. The Engineering Design Plans and Drainage Layout Plan must be prepared by a Civil Engineer with suitable qualifications to the satisfaction of the Responsible Authority and must accord with Council's Drainage Design Guidelines.

When approved, the Engineering Design Plans and Drainage Layout Plan will be endorsed and will form part of this permit.

The drainage must be constructed in accordance with the endorsed Engineering Design Plans and Drainage Layout Plan and the provisions, recommendations and requirements of the endorsed Engineering Design Plans and Drainage Layout Plan must otherwise be implemented and complied with to the satisfaction of the Responsible Authority.

After the drainage works have been constructed and before the building approved by this permit is occupied, as constructed plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority.

All costs associated with the preparation of the plans and installation and construction of the required drainage works must be borne by the permit holder.



20. Except with the prior written consent of the Responsible Authority, equipment, services or other building features (other than those shown on the endorsed plan) must not be erected above the roof level of the building.
21. The development must be provided with external lighting capable of illuminating access to the vehicle accessway, car parking spaces and pedestrian entrances. Lighting must be located, directed and shielded and of limited intensity so that no nuisance or loss of amenity is caused to any person within or beyond the land.
22. Noise levels emanating from service equipment on the land must not exceed the permissible noise levels determined in accordance with State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade), No. N-1 (SEPP N-1).
23. Before the development starts, an acoustic report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The acoustic report must be prepared by an acoustics consultant with suitable qualifications to the satisfaction of the Responsible Authority and must detail the noise attenuation measures required to all habitable rooms within each dwelling to ensure minimal impacts from noise sources external to that dwelling.

When approved, the acoustic report will be endorsed and will form part of the permit.

The provisions, recommendations and requirements of the endorsed acoustic report must be implemented and complied with to the satisfaction of the Responsible Authority.

24. All security alarms or similar devices installed on the land must not emit any noise which is audible beyond the boundary of the land and must be designed in accordance with the relevant Australian Standard and must be connected to a security monitoring service.
25. The amenity of the area must not be detrimentally affected by the use of land, through:
  - a) Transportation of materials, goods or commodities to or from the land;
  - b) Appearance of any building, works or materials;
  - c) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot ash, dust, waste water, waste products, grit or oil; and
  - d) Presence of vermin,or in any other way, to the satisfaction of the Responsible Authority.
26. Prior to the commencement of building and works, the Sustainable Design Assessment (SDA) prepared by 'Sustainable Development Consultants' dated 15 March 2017 is to be modified in accordance with Condition 1 and submitted to the Responsible Authority for approval. The associated BESS Report must be a 'published' version, with supporting NatHERS assessment, to the satisfaction of the Responsible Authority. Once approved the Sustainable Design Assessment, inclusive of the BESS Report, is to be implemented and appropriately managed during construction of the proposed building.

27. Before the development starts, an amended Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The amended Waste Management Plan must be in accordance with the City of Moonee Valley's 'Waste Management Plans – Guidelines for Applicants' and must be:

a) Modified in accordance with Condition 1 of this permit.

When approved, the amended Waste Management Plan will be endorsed and will form part of this permit.

The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

28. Before the development starts, a landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The landscape plan must be prepared by a person or firm with suitable qualifications to the satisfaction of the Responsible Authority, drawn to scale with dimensions and an electronic copy must be provided. The landscape plan must be generally in accordance with the plans submitted with the application but modified to show:

- a) Any changes as required by Condition 1 of this permit;
- b) A planting schedule of all proposed vegetation (trees, shrubs and ground covers) which includes, botanical names, common names, pot size, mature size and total quantities of each plant;
- c) The use of drought tolerant species;
- d) Features such as paths, paving and accessways;
- e) All planting abutting the accessway(s) and land frontage to have a maximum mature height of no more than 900mm in accordance with Clause 52.06-8 (Design Standards for car parking) of the Moonee Valley Planning Scheme; and
- f) An appropriate irrigation system.

When approved, the landscape plan will be endorsed and will form part of this permit.

Landscaping in accordance with the endorsed landscaping plan and schedule must be completed before the building is occupied.

29. The garden areas shown on the endorsed plan and schedule must only be used as gardens and must be constructed, completed and maintained in a proper, tidy and healthy condition to the satisfaction of the Responsible Authority. Any tree or shrub damaged, removed or destroyed must be replaced by a tree or shrub of similar size and variety to the satisfaction of the Responsible Authority.
30. The existing street trees abutting the subject site along Fletcher Street and Nicholson Street must not be removed or damaged as a result of the permitted development, except with the prior written consent of the Responsible Authority.

31. The on-site car spaces and storage cages must not be subdivided, leased or sold separately to external parties that are not prime lot owners or tenants of the building or development.
32. This permit will expire if one of the following circumstances applies:
  - a) The development is not commenced within two (2) years from the date of issue of this permit, or
  - b) The development is not completed and the use is not commenced within four (4) years from the date of issue of this permit.

Before the permit expires, or within six (6) months afterwards, the owner or occupier of the land may make a written request to the Responsible Authority to extend the expiry date.

If the development commences before the permit expires, within twelve (12) months after the permit expires, the owner or occupier of the land may make a written request to the Responsible Authority to extend the expiry date.

### **Permit Notes**

- This is not a building permit under the *Building Act*. A separate building permit is required to be obtained for any demolition or building works.
- Before the development starts, the permit holder must contact Moonee Valley City Council regarding legal point of discharge, vehicular crossings, building over easements, asset protection, road consent/occupancy, etc.
- This permit does not authorise any advertising signs. No advertising signs may be erected on the land (other than those which, under the Moonee Valley Planning Scheme, are exempt from the need for a planning permit).
- No on street parking permits will be provided to the occupiers of the land.
- The required on-site detention system must be designed to limit the rate of stormwater discharge from the land to pre-development levels in accordance with the following calculation:  $C=0.4$ ,  $t_c=5\text{mins}$ , ARI 1 in 5. An ARI of 1 in 10 should be used for storage and the greater of post development C or  $C=0.80$ .
- All drainage works undertaken must be in accordance with the requirements of Stormwater Drainage Requirements for Development Works as prepared by the Moonee Valley City Council.
- All works undertaken within any existing road reserves must accord with the requirements of Moonee Valley City Council and be to the satisfaction of the Responsible Authority.
- Existing levels along the property line and easements must be maintained. All proposed levels must match to existing surface levels along the property boundary and/or easement. Council will not accept any modifications to existing levels within any road reserve or easement.
- In the event that car parking spaces or storage cages are separately titled, a condition will be imposed on any future subdivision permit requiring the permit holder to enter into a Section 173 Agreement to ensure the on-site car spaces and storage cages must not be subdivided, leased or sold separately to external parties that are not prime lot owners or tenants of the building or the development.

## 1. Introduction

### 1.1 Subject Site and Surrounds

The subject site is a corner site located on the southern side of Fletcher Street and the western side of Nicholson Street, Essendon. The site is regular in shape with a frontage to Fletcher Street of 13.72 metres and a maximum depth of 36.58 metres, resulting in a total area of 502m<sup>2</sup>.

The land has a fall of approximately 2.35 metres from north-west to south-east across the site.

There are no restrictions or easements noted on the Certificate of Title provided.

The site comprises a part single, part double storey brick office building with an undercroft car parking area to the rear. The existing building has no front setback to Fletcher Street. Vehicle access is obtained from an existing crossover to the south-east along Nicholson Street. There is no landscaping or vegetation on the subject site. There are two street trees located at the front of the site along Fletcher Street and four street trees located to the east of the site along Nicholson Street.



**Figure 2 – Subject site (No.43 Fletcher Street, Essendon)**

The surrounding area is predominantly commercial and residential zoned land used and developed for commercial and residential purposes. The subject site is located within the Essendon Junction Activity Centre and directly abuts the No.59 tram route and the No.503 and No.510 bus routes. The site is also located proximate to Essendon Railway Station and numerous other bus routes, local businesses and schools. The built form within the vicinity is predominantly single and double storey, with multi-dwelling and multi-storey developments evident nearby. While the built form within the immediate vicinity is predominantly brick, render and weatherboard external finishes, the broader

area is more eclectic with a slow emergence of new and contemporary developments within the activity centre.

## **1.2 Proposal**

It is proposed to construct a part four, part five storey building, use the land for dwellings and reduce the car parking requirements. The proposal, as advertised, can be summarised as follows:

**Table 1**

Office area	116.6 square metres
No. of dwellings	7 (7 x 3 bedrooms)
No. of car spaces	16 (14 resident spaces and 2 office spaces)
No. of bicycle spaces	4 (2 resident spaces and 2 visitor spaces)
Max. building height	20.07 metres

Refer **Appendix B** – Advertised Plans (separately circulated).

## **2. Background**

### **2.1 Relevant Planning History**

No relevant planning history has been identified for the land.

### **2.2 Planning Policies and Decision Guidelines**

#### State Planning Policy Framework

Clause 9	Plan Melbourne
Clause 11	Settlement
Clause 15	Built Environment and Heritage
Clause 16	Housing
Clause 17	Economic Development

#### Local Planning Policy Framework

Clause 21.01	Municipal Profile
Clause 21.02	Key Issues and Influences
Clause 21.03	Vision
Clause 21.04	Sustainable Environment
Clause 21.05	Housing
Clause 21.06	Built Environment
Clause 21.07	Activity Centres
Clause 21.08	Economic Development
Clause 22.03	Stormwater Management (Water Sensitive Urban Design)

### Zoning

Clause 34.01              Commercial 1 Zone

### Particular and General Provisions

Clause 52.06              Car Parking

Clause 52.34              Bicycle Facilities

Clause 58                  Apartment Developments

Clause 65                  Decision Guidelines

## **2.3 Referrals**

The following referrals were undertaken:

### External

Not applicable.

### Internal

Department/Officer	Conditions
Development Engineering (Drainage)	Standard engineering and drainage conditions. Construction of a Council barrel drain to reach the approved point of discharge. Right of Way widened and constructed to a width of 5.5 metres along the rear property boundary.
Development Engineering (Traffic)	Standard car parking, bicycle and traffic conditions. Relocating the car lift to the south-west of the site to avoid vehicles queuing along Nicholson Street may have been a better outcome but the proposal is acceptable given the practical operation of the lifts and the expected [limited] traffic generation in peak times.
Waste Management	Shared bin arrangement for dwellings and Council kerbside collection service appropriate.
Urban Design	Reduction in the depth of the rear balcony for Apartment B1 to a maximum of 1.0m in width along the southern interface. Deletion of the southern balcony for Apartment C, with the balcony area replaced with roof ballast. Deletion of the roof deck.
Environmental Sustainable Design (ESD) Officer	Details of infiltration system to filter water from trafficable areas for flushing toilets. Amended BESS Report required, including provision of NatHERS assessment. Sustainable Design Assessment (SDA) to be endorsed and implemented. Details and notations to be shown on the plans.

## **2.4 Public Notification of the Application**

Pursuant to Section 52 of the *Planning and Environment Act 1987* the application was advertised by mail to adjoining and surrounding properties, with three notices erected on site for 14 days.

As a result, nine (9) objections were received from the properties contained within **Appendix A** of this report.

A response to the objections is provided in Section 3.6 of this report.

## **3. Discussion**

### **3.1 Does the proposal address the relevant State and Local Planning Policies?**

The proposal is considered to comply with the relevant State and Local Planning Policies. Generally, these objectives seek to encourage urban consolidation in locations which take advantage of existing commercial and community services and public transport. The proposal contributes to the objective of housing diversity by providing a mix of dwelling sizes and configurations, which will cater for the increasingly diverse needs of future residents. The subject site is located in reasonable proximity to commercial amenities and public transport options.

Clause 15.01-2 (Urban Design Principles) of the State Planning Policy Framework provides the main assessment tool for residential development of five or more storeys in height. It is considered the proposal generally complies with the objectives and strategies as contained within the design principles of Clause 15.01-2. It should be noted that the majority of these design principles are further expanded under the design elements contained within Clause 21.06-4 (Urban Design). Elements not specifically covered within Clause 21.06-4 are discussed as follows:

#### Landmarks, Views and Vistas

There are no significant monuments, landmarks or vistas in the vicinity of the site that have been identified within the Moonee Valley Planning Scheme as requiring specific protection. The proposed building, subject to a reduction in height and increase in upper floor rear setbacks as discussed within Section 3.3 of this report, would not significantly obscure or impact on views along Fletcher Street, Nicholson Street or within Essendon Junction Activity Centre. The proposed building, with these modifications, would enhance views and vistas within the precinct through high quality and contemporary urban design.

#### Heritage

The site is not subject to a Heritage Overlay and does not directly abut any properties subject to a Heritage Overlay. There are a number of heritage properties located nearby to the west along Fletcher Street, with many surrounding properties also subject to the Heritage Gap Study, however the proposed development is contemporary in design and would not detract from the heritage character of these properties. The proposed development does not mimic any existing heritage characteristics found within the immediate vicinity, which is in accordance with the provisions of the Burra Charter 1999.

With regard to Clause 16.01-2 (Location of Residential Development), the proposed development provides new housing in an activity centre on a site that offers good access to jobs, services and public transport. Specifically, higher density housing developments are encouraged in such locations to help consolidate established urban areas and reduce the pressure for fringe development. Accordingly, the subject site offers an opportunity for more high density housing near employment and transport within Metropolitan Melbourne under Clause 16.01-3 (Housing Opportunity Areas). The proposal also contributes to the objective of Clause 16.01-4 (Housing Diversity) by contributing to a mix of dwelling sizes, which will cater for the increasingly diverse needs of future residents.

With regard to Clause 17.01-1 (Business) the proposal will help meet the communities' needs for office space within Essendon Junction Activity Centre. Importantly, the proposal provides a net community benefit in relation to accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities.

The proposal complies with Clause 21.04 (Sustainable Environment) through the use of ecologically sustainable design principles, subject to the provision of an amended BESS Report and NatHERS assessment as a condition on any permit granted. As referenced in Section 2.3 of this report, Council's ESD Officer has no objection to the proposed development or Sustainable Design Assessment (SDA), subject to the inclusion of conditions on any permit granted.

The proposal accords with the objectives of Clause 21.04-7 (Waste) as it integrates waste management and recycling facilities in order to achieve best practice in waste minimisation and recycling. A waste management plan was submitted with the application, which adequately addresses the provisions of this clause and is to be endorsed, implemented and managed through a condition on any permit granted accordingly.

The proposal complies with the objectives and strategies of Clause 21.05 (Housing) by increasing housing opportunities to meet growing population needs, providing a diversity of housing choice in a well-established area with access to public transport options and local/community services. It is noted that the subject site is located within an area of 'high to substantial housing intensification'.

Clause 21.06-4 (Urban Design) sets out the urban design and built form objectives and policies for residential development of five or more storeys. To assist with the assessment are the 'Guidelines for Higher Density Residential Development' (Department of Sustainability and Environment 2004) and the 'City of Moonee Valley Design Guidelines for Multistorey Residential Buildings' (2003). A number of the policies and guidelines appear to overlap and, therefore, the key concepts of the documents have been grouped together to provide a more consolidated assessment against the key criteria identified across all documents. The following discussion is provided:



### Building Design Quality and Context / Urban Context

A description of the proposal has been provided within this report, along with the accompanying documentation, which accurately details the context of the site. The proposed design response is generally appropriate, subject to modifications discussed within Section 3.3 of this report, given the size and location of the site with good access to a range of services including public transport, local businesses and commercial facilities.

The proposed design is contemporary and responds well to the site's location and context through the provision of architectural elements and an acceptable combination of materials. An appropriate degree of visual interest and design articulation has been provided at the ground and upper floor levels, which demonstrates a high quality urban design outcome for the site and surrounding area.

### Streetscape and Urban Design / Street Pattern and Street-Edge Quality

The front façade would make a positive contribution to Fletcher Street and Nicholson Street, help integrate the development with each streetscape and assist to enhance the experience for pedestrians. The inclusion of ground floor office space, and a residential lobby area, provides for suitable active frontages at street level which is consistent with the design objectives of the policy. It is noted that there would be a significant increase in fenestration, passive surveillance and public safety to adjoining streets and public areas as a result of the proposed development. The incorporation of balconies at the upper floor levels provides appropriate articulation of the building façade and maximises opportunities for visibility and passive surveillance. In addition to this, all vehicle and pedestrian entries are well defined and clearly identifiable from the public realm.

Car parking for the development is to be contained within two basement levels with vehicle access from the Right of Way to the rear. The provision of vehicle access from the Right of Way allows the articulated built form to be the main focal point of the proposed development. Therefore, car parking and vehicle access would be adequately concealed from Fletcher Street and Nicholson Street, allowing the proposed development to address each streetscape with a more active and interesting frontage.

### Setbacks and Site Coverage / Building Envelope

The objectives for this design element seek to ensure that the siting of new development responds to the context of the site and does not adversely affect existing neighbourhood character, including off-site amenity impacts. The proposed site coverage and setbacks are generally acceptable to the commercial setting of the site and provisions within the Essendon Junction Activity Centre Structure Plan, subject to increased upper floor rear setbacks and the deletion of the roof deck as discussed within Section 3.3 of this report.

The proposed three storey street wall is built up to the front property boundary along Fletcher Street, which provides an acceptable response to the commercial zoning of the site. A three storey street wall to Fletcher Street also accords with the provisions of the 'infill interface' within the Essendon Junction Structure Plan, as discussed within Section 3.3 of this report.

The proposed rear setbacks generally accord with the provisions of the 'laneway interface' within the Essendon Junction Structure Plan, subject to increased rear setbacks at the upper floor levels as discussed within Section 3.3 of this report.

The provision of light court areas along the western (side) property boundary help minimise amenity impacts while allowing for equitable development opportunities along this interface, which is an appropriate design response given the lack of side setback requirements within the Essendon Junction Structure Plan.

The proposed development demonstrates maximum site coverage, which is consistent with the commercial zoning of the site and its location within an activity centre area.

#### Building Height and Silhouette

The 'Guidelines for Higher Density Residential Development' note that appropriate building height is derived from the local context, street conditions and character objectives for an area.

As highlighted earlier, the subject site is located within an activity centre adjoining the Principal Public Transport Network (PPTN) and as such, is considered to be a 'housing opportunity area' under Clause 16.01-3 (Housing Opportunity Areas). Such locations encourage more medium and high density housing near employment and transport in Metropolitan Melbourne.

The Essendon Junction Structure Plan provides guidance on heights for the subject site, as discussed within Section 3.3 of this report. As the proposed development exceeds the preferred building height, with particular regard to the roof deck and associated lobby enclosure and protruding roof structure, these structures are to be deleted as a condition on any permit granted. The deletion of these roof top structures is supported by Council's Urban Designer, as outlined within Section 2.3 of this report, and will provide an appropriate building height and silhouette to the site and surrounding area.

#### Internal Circulation, Space and Building Adaptability / Circulation and Services

The proposed development achieves an acceptable degree of internal amenity and provides for comfortable living environments with adequate internal living spaces to meet the needs of future occupants.

The office entry and residential lobby area would be easily identifiable from Fletcher Street and Nicholson Street respectively. The provision of lift and stair access in conjunction with a lobby/foyer area along Nicholson Street will allow for ease of movement, including the movement of furniture, emergency access and escape.

The development generally provides an adequate and efficiently designed car parking layout that will ensure safe vehicle movements. As discussed within Sections 2.3 and 3.4 of this report, Council's traffic engineers have no objection to the proposed development subject to the inclusion of conditions on any permit granted.

In terms of storage space, all dwellings have been provided with between 14m<sup>3</sup> to 54m<sup>3</sup> of storage space within the basement floor levels. This proposed storage arrangement is considered adequate to cater for the storage needs of apartments that do not rely on large garden areas for private open space.

Provision for waste storage is included within the semi-basement level by way of a common bin storage area for all residents and occupiers of the office tenancy, with Council to collect waste from the kerbside. Council's Waste Management Unit has no objection to the submitted waste management plan, as outlined within Section 2.3 of this report. Therefore, this waste management plan is to be implemented and managed as a condition on any permit granted.

#### On-Site Amenity and Liveability / Building Layout and Design

The proposal has been designed to accommodate a range of dwelling sizes and types, including different layouts and orientations. This will cater to the needs and preferences of a range of different people.

In a general sense, the layout of each dwelling provides an appropriate level of amenity for future occupants. Residents will be afforded with generous sized open plan living opportunities with good fenestration and access to daylight. It is noted that all habitable rooms (living areas and bedrooms) have direct access to daylight, which is considered to be a good design outcome allowing for a high level of internal amenity for each dwelling.

Each dwelling is provided with a private balcony area ranging from 10.2m<sup>2</sup> to 73m<sup>2</sup>, which is considered acceptable.

The proposed development has been designed to limit internal overlooking to lower-level dwellings directly below and within the same development, where possible. While there is some minor internal overlooking potential, this is considered acceptable in this instance.

The proposed development is to minimise the transmission of noise within the development, including from external noise sources such as the No.59 tram and surrounding businesses, through the provision of an acoustic report and inclusion of suitable noise conditions on any permit granted.

#### Off-Site Amenity

There would not be any overlooking potential to existing dwellings from the proposed development. While ResCode is not applicable in this instance, it is noted that the requirements of Clause 55.04-6 (Overlooking) have been met.

The proposed development does not significantly overshadow secluded private open space areas associated with existing dwellings directly to the south along Nicholson Street due to the orientation of the site and proposed design response. One existing secluded private open space area located to the south-west at No.23 Nicholson Street would be subject to some additional overshadowing at 9am; however, there is no additional overshadowing from 10am onwards. Importantly, this secluded private open space area would receive a minimum of five hours of sunlight between 9am and 3pm on 22 September, which is in accordance with the requirements and objectives of Clause 55.04-5 (Overshadowing).

The proposed development would minimise the transmission of noise to adjoining properties through the inclusion of suitable conditions on any permit granted.

Therefore, subject to appropriate noise conditions on any permit granted, the proposal complies with this design element.

#### Parking, Traffic and Access

See comments provided by Council's traffic engineers within Section 2.3 of this report in addition to discussions against Clause 52.06 (Car Parking) and Clause 52.34 (Bicycle Facilities) within Sections 3.4 and 3.5 of this report, respectively.

#### Landscaping and Fencing / Open Space and Landscape Design

The subject site currently has no permeability and does not contain any landscaping or vegetation. The proposed development would have maximum site coverage, which is acceptable to a site within a Commercial 1 Zone and activity centre area. There are opportunities for landscaping and planter boxes at street level along the eastern property boundary. These plantings would help soften the built form, and enhance the character and design of this building, as viewed from Nicholson Street. Further details of the proposed plantings, including irrigation details, are to be submitted to Council as a condition on any permit granted.

#### Environmental Sustainability

Given the type of development and the intensive use of the site for a multi-level, mixed-use development, there are quite a number of inherent energy efficient design principles used in this project. These include the sharing of floors, walls and ceilings, which assist in the prevention of excessive heat gain and loss. This sharing of floors, walls and ceilings also makes efficient use of resources and building materials.

The waste management plan is acceptable and is to form a condition for endorsement, implementation and management on any permit granted accordingly.

The proposed development has incorporated many Environmentally Sustainable Design initiatives, including the provision of a 7,000 litre rainwater tank for the re-use of stormwater within the development and a 5.5kW solar panel system for renewable energy generation. Furthermore, all habitable living areas and bedrooms have windows with direct access to daylight.

Lastly, it is noted that the location of the subject site offers a number of benefits, namely access to public transport, the Melbourne CBD and other local services/facilities. Each of these factors reduce the need for additional housing on the fringes of the metropolitan area and make efficient use of existing infrastructure and services, reducing travel time/costs and thereby environmental impacts.

### Service Infrastructure

The proposed infill development would utilise existing infrastructure and services available on site and within the surrounding area. This is an efficient and appropriate use of available resources. Furthermore, Council's Development Engineering (Drainage) Unit has no objection to the proposal subject to the inclusion of drainage and engineering conditions on any permit granted, as outlined within Section 2.3 of this report.

Clause 21.07 (Activity Centres) is applicable in this instance and builds on the objectives and strategies of the State Planning Policies, in particular Clause 11 (Settlement). The subject site is located within Essendon Junction Neighbourhood Activity Centre. The proposed mixed-use development continues to promote commercial and residential growth within this area. The Essendon Junction Activity Centre Structure Plan has been considered in the design and assessment of the proposed development as discussed within Section 3.3 of this report.

With regard to Clause 21.08 (Economic Development), the proposed development would contribute to and enhance Essendon Junction Activity Centre in terms of employment and business. It is noted that the proposed office is an 'as-of-right' use within the Commercial 1 Zone, as discussed within Section 3.2 of this report. Accordingly, the proposed development and mix of uses are considered acceptable.

The proposal generally complies with Clause 22.03 Stormwater Management (Water Sensitive Urban Design) and meets the required on-site stormwater treatment as demonstrated by achieving 100% on the STORM Rating Report, subject to the provision of a suitable infiltration system to filter water from trafficable areas. The relevant WSUD notations and conditions will therefore, be placed on any permit granted in accordance with this policy.

### **3.2 Does the proposal accord with the Commercial 1 Zone?**

The proposed use of the land for dwellings requires a planning permit under Clause 34.01-1 (Table of Uses). While the residential frontage at ground floor level along Nicholson Street exceeds 2.0 metres in width, thereby requiring a planning permit, the residential lobby area and ground floor dwellings are acceptable as they front a side street and still allow for an active frontage along Fletcher Street. The location of the residential lobby area and ground floor dwellings also provide an appropriate transition between commercial and residential uses along the predominantly residential nature of Nicholson Street, thereby reducing potential amenity impacts on existing dwellings. The proposed office is an 'as-of-right' use within the Commercial 1 Zone. Therefore, the proposed dwelling and office uses accord with the objectives of State and Local Planning Policies within the Moonee Valley Planning Scheme, as discussed within Section 3.1 of this report.

The proposed development also requires a permit under Clause 34.01-4 (Buildings and Works). As discussed within Sections 3.1 and 3.3 of this report, and subject to modification, the proposal is considered to be a good design outcome for the site and surrounding area.

### 3.3 Does the proposal accord with the Essendon Junction Activity Centre Structure Plan?

The subject site is located within Precinct 3 (Core) of the Essendon Junction Structure Plan. The proposed part four, part five storey building generally accords with the preferred building height of four storeys, with four storeys presenting to Fletcher Street and five storeys presenting to the rear of the site due to the slope of the land. However, the additional roof top lobby enclosure and protruding roof structure adds an additional storey to the development and exceeds the preferred building height of four storeys. The recommendation provided by Council's Urban Designer to delete the roof deck and associated structures will reduce the visual impact of the building on the surrounding area and generally conform to the preferred building height within the Structure Plan.

The proposed development presents a three storey street wall to Fletcher Street, with the fourth storey set back 3.1 metres from this frontage. This provides a three storey podium to activate Fletcher Street, allows for a pedestrian-orientated streetscape and accords with the front height and setback requirements of the applicable 'infill interface' as stipulated within the Structure Plan.

The proposed development generally complies with the rear height and setback requirements of the applicable 'laneway interface' as stipulated within the Structure Plan. However, there are a number of encroachments with regard to the upper floor rear balconies and roof deck, as indicated with the red dashed line within Figure 3, which contribute to the overall scale and massing of the development presenting to the rear interface. Given the low scale fine grain nature of existing single storey dwellings abutting the rear laneway, the proposed development should be modified to reduce detrimental visual impacts presenting to this interface and the broader area. The recommendation provided by Council's Urban Designer to reduce the extent of the upper floor rear balconies, along with the deletion of the roof deck, will help reduce visual bulk and massing impacts on adjoining and surrounding residential properties. These changes, as outlined within Section 2.3 of this report, are to form conditions on any permit granted accordingly.

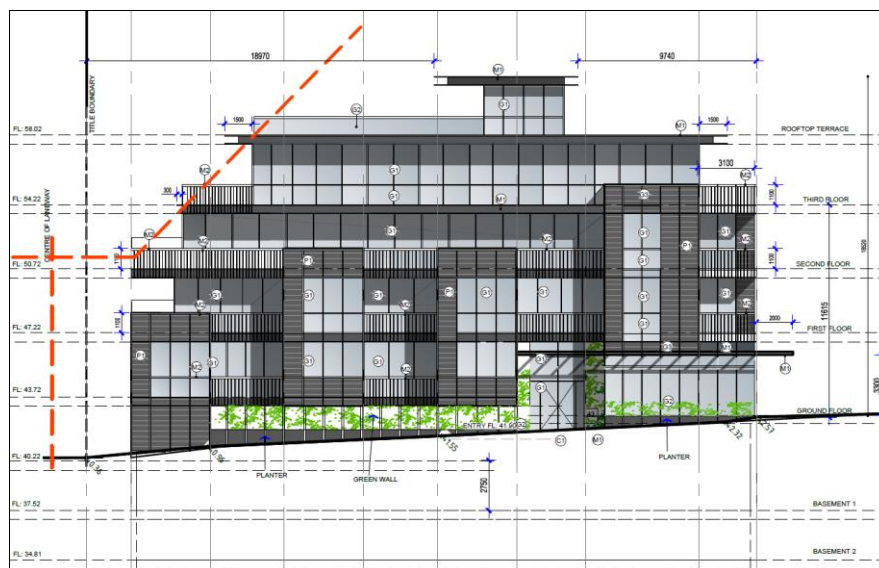


Figure 3 – East Elevation (Nicholson Street interface)

Therefore, subject to modification, the proposed development accords with the provisions and strategies of the Essendon Junction Structure Plan and will provide a positive urban design outcome for the site and surrounding area.

### 3.4 Is adequate car parking and vehicle access provided?

The proposal provides car parking as set out in the table below:

**Table 2**

Unit	Requires	Provides
Office (116.6m <sup>2</sup> )	4	2
7 Dwellings (7 x 3 bedrooms)	14	14
Residential visitors	1	0
<b>Total</b>	<b>19</b>	<b>16</b>

As referenced within Section 2.3 of this report, Council's traffic engineers have no objection to the number of car parking spaces provided on site.

While Council's traffic engineers have no objection to the use of a car lift to access the basement car parking levels, they prefer the car lift be relocated to the south-west of the site to avoid excessive vehicles queuing along Nicholson Street. It is noted that based on the car lift speed, average service time, number of car spaces provided on site and expected traffic movements during peak periods, the engineers agree there is only a 0.8% chance of a driver having to wait because the car lift is in use in a peak hour. Therefore, 99.2% of any peak hour there will be no queue of vehicles to use the lift. This is an acceptable outcome.

With regard to traffic generation, the proposed development is expected to generate approximately six vehicle trip ends during the AM and PM peak hours. Traffix Group Pty Ltd deem this level of traffic to be minor and easily accommodated along the Right of Way and within the surrounding road network. It is not anticipated that the proposed development will generate a cumulative impact or have an adverse effect on the local or arterial road network.

### 3.5 Are adequate bicycle spaces provided?

The proposal includes bicycle spaces, as set out in the table below:

**Table 3**

Unit	Requires	Provides
Office employees	0	0
Office visitors	0	0
Dwelling residents	1	2
Dwelling visitors	1	2
<b>Total</b>	<b>2</b>	<b>4</b>

As demonstrated in the table above, the proposed development complies with the requirements of Clause 52.34 (Bicycle Facilities).

### 3.6 Objections

A response to the objections is provided as follows:

**Table 4**

Issue	Officer Response
Neighbourhood character	This is considered acceptable, subject to a reduction in building height and increased upper floor rear setbacks, as discussed within Sections 3.1 and 3.3 of this report.
Architectural style/design	This is considered acceptable as discussed within Section 3.1 of this report. Council's Urban Designer has no objection to the architectural style or external design of the proposed development.
Building height / inadequate setbacks / visual bulk/massing	This is considered acceptable, subject to a reduction in building height and increased upper floor rear setbacks, as discussed within Sections 3.1 and 3.3 of this report.
Overdevelopment	This is considered acceptable as discussed within Sections 3.1 and 3.3 of this report.
Overshadowing / overlooking	The proposed development meets the requirements of Clauses 55.04-5 (Overshadowing Open Space) and 55.04-6 (Overlooking) as discussed within Section 3.1 of this report.
Car parking / traffic impacts	This is considered acceptable as discussed within Sections 2.3 and 3.4 of this report.
Internal amenity	This is considered acceptable as discussed within Section 3.1 of this report.
Noise	Noise impacts are to be mitigated through the inclusion of conditions on any permit granted, as discussed within Section 3.1 of this report.
Construction and excavation impacts	A Construction and Site Management Plan will be required as a condition on any permit granted to help mitigate any construction impacts on surrounding properties. However, any damage to adjoining properties during excavation and construction is to be appropriately managed under the relevant Building Regulations.
Stormwater impacts	Council's drainage engineers have no objection, subject to the inclusion of conditions on any permit granted, as outlined within Section 2.3 of this report.



Issue	Officer Response
Removal of street trees	All existing street trees abutting the subject site are to be retained as part of this proposal.
Precedence	This is not a valid planning consideration as every application is assessed on its own merits.
Property devaluation	This is not a valid planning consideration.
Errors within the plans/reports	These errors are noted and do not detrimentally affect the assessment of this application.

#### 4. General

The application was lodged prior to 13 April 2017 and is therefore exempt from the provisions of Clause 58 (Apartment Developments) within the Moonee Valley Planning Scheme.

#### 5. Human Rights

The application process and decision making is in line with the *Victorian Charter of Human Rights and Responsibilities 2006* (Section 18 – Taking part in public life).

#### 6. Conclusion

The application has been assessed against the relevant provisions of the State Planning Policy Framework, Local Planning Policy Framework, zoning controls, the relevant Particular and General Provisions, and the decision guidelines at Clause 65 of the Moonee Valley Planning Scheme. Additionally, consideration has been given to the requirements of Section 60(1B) of the *Planning and Environment Act 1987* with respect to the number of objections received, and it is determined that the proposal would not have a significant social effect.

It is considered the proposal demonstrates general compliance with the requirements of these provisions and policies. The application is supported as detailed above in the recommendation section.

### Appendices

Appendix A: Objectors [↓](#)

Appendix B: Advertised Plans (separately circulated).

**Location of Objector's Properties**

6 Nicholson Street, ESSENDON VIC 3040
16 Nicholson Street, ESSENDON VIC 3040
27 Nicholson Street, ESSENDON VIC 3040
15 Nicholson Street, ESSENDON VIC 3040
19 Nicholson Street, ESSENDON VIC 3040
17 Nicholson Street, ESSENDON VIC 3040
23 Nicholson Street, ESSENDON VIC 3040
4/48 Fletcher Street, ESSENDON VIC 3040
1/48 Fletcher Street, ESSENDON VIC 3040

**9.5                    7 Fisher Parade, Ascot Vale ( Lot 2 on PS 601617G) -  
Alteration and additions to existing building to allow for two  
dwellings and a fence in a Design and Development Overlay  
(DDO1 and DDO2) and a Public Acquisition Overlay (PAO2)**

**File No:** FOL/17/11

**Author:** Ersin Yuksel  
Statutory Planner

**Directorate:** Planning & Development

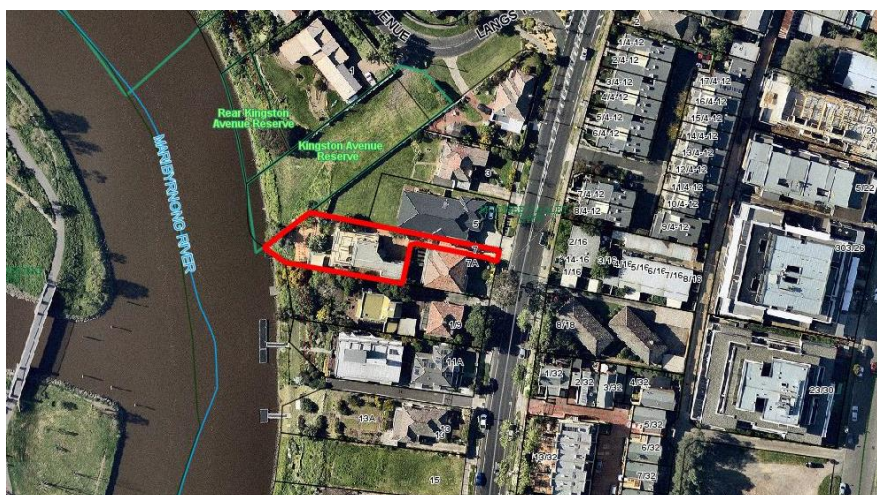
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<b>Planning File No.</b>	MV/979/2016
<b>Proposal</b>	<p>Alteration and additions to an existing building to allow for:</p> <ul style="list-style-type: none"><li>• two four storey dwellings and a fence in a Design and Development Overlay (DDO1 and DDO2) and a Public Acquisition Overlay (PAO2); and</li><li>• Two double garages</li></ul>
<b>Applicant</b>	David Pyo
<b>Owner</b>	Ms M S Pyo
<b>Planning Scheme Controls</b>	<p>General Residential Zone</p> <p>Design and Development Overlay (DDO1 and DDO2)</p> <p>Incorporated Plan Overlay (IPO1)</p> <p>Public Acquisition Overlay (PAO2)</p> <p>Land Subject to Inundation Overlay (LSIO)</p> <p>Abuts Road Zone Category 1</p>
<b>Planning Permit Requirement</b>	<p>Clause 32.08-4 – Construct two or more dwellings on a lot</p> <p>Clause 43.02 (DDO1) – Construct a building over 6m in height</p> <p>Clause 43.03 (IP01) – Construct a building or construct or carry out works and remove vegetation</p> <p>Clause 45.01 (PAO2) – Construct a building or construct or carry out works and remove vegetation</p>

<b>Car Parking Requirements (Clause 52.06)</b>	Required – 4 car spaces Proposed – 4 car spaces
<b>Bicycle Requirements</b>	N/A
<b>Restrictive Covenants</b>	None
<b>Easements</b>	Yes – Drainage and sewerage easement (E-1) within the rear setback and light and air easement along the northern title boundary towards the front of the site
<b>Site Area</b>	829.73 square metres
<b>Number Of Objections</b>	4
<b>Consultation Meeting</b>	N/A

### Executive Summary

- The application seeks approval for the construction of two, four storey dwellings on a lot.
- The site is approximately 830 square metres in extent and is located on the western side of Fisher Parade, Ascot Vale.
- The application was advertised with four objections received. Concerns were raised in relation to the existing building built without building permits, access to daylight, Public Acquisition Overlay, overlooking, visual bulk and massing, closeness to the Maribyrnong River, building height, Melbourne Water not being able to maintain and rehabilitate the riparian area and that the development is inconsistent with the Maribyrnong River Valley Design Guidelines.
- In accordance with the protocols, as the application received less than 10 objections, a Consultation Meeting was not required to be held.
- The proposal demonstrates an adequate level of compliance with the relevant policies and provisions of the Moonee Valley Planning Scheme. It proposes an appropriate intensification of residential development in a well-established area close to public open space areas and public transport. The architectural response is considered to be appropriate to the context of the site.
- The proposal achieves an acceptable level of compliance with the standards of ResCode, with two areas of non-compliance. The overlooking into the adjoining dwellings can be addressed via planning permit conditions and that a variation associated with the permeability of the site is considered acceptable. The proposed development depicts an appropriate built form that provides a high level of internal amenity, protects the amenity of the adjoining properties and responds to its site context.
- Overall, this assessment report finds that the proposal demonstrates an adequate level of compliance with the relevant policies and provision of the Moonee Valley Planning Scheme and recommends that the proposal be supported subject to conditions.



**Figure 1 – Aerial Photograph of the subject site and surrounds**

## **Recommendation**

That Council issue a Notice of Decision to Grant a Planning Permit in relation to Planning Permit Application Number MV/979/2016 for the Alteration and additions to an existing building to allow for two dwellings and a fence in a Design and Development Overlays (DDO1 and DDO2) and a Public Acquisition Overlay (PAO2) at 7 Fisher Parade, ASCOT VALE (Lot 2 on Plan of Subdivision 601617G), subject to the following conditions:

1. Before the development starts, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The amended plans must be drawn to scale with dimensions and an electronic copy must be provided. The amended plans must be generally in accordance with the plans submitted and assessed with the application but modified to show:
  - a) All new sections of Dwelling 2, except for the Master bedroom at the lower ground level, are to be set back outside of the Public Acquisition Overlay (PAO2);
  - b) Any internal modifications as a consequence of Condition 1 a);
  - c) An amended STORM report in accordance with Condition 4;
  - d) The maximum height of both side boundary fences within 30 metres of the Maribyrnong River, measured from the junction with the top of the bank of the Maribyrnong River to be 1.2 metres and be visually permeable;
  - e) All windows shown on elevation drawings to be consistent with floor plans;
  - f) A WSUD roof plan showing:
    - i. All WSUD treatment measures in accordance with Condition 4 of the Planning Permit;
    - ii. A prominent note on sheet TP05 referring to WSUD roof plan for WSUD treatment measures;

- iii. The raingarden to be graphically shown on sheet TP05 and on WSUD roof plan; and
- iv. For all remotely located raingardens, all downpipes and connectivity (with the exception of feeders) to be concealed.
- g) The northern and southern first floor habitable room windows and balconies are to demonstrate compliance with Standard B22 of Clause 55.04-6 (Overlooking) of the Moonee Valley Planning Scheme;
- h) The pedestrian visibility splays to be accurately delineated on the northern side of the accessways. The splay is to be in accordance with Clause 52.06 (Car Parking) of the Moonee Valley Planning Scheme;
- i) The existing crossover upgraded and constructed to a minimum of 3 metres in accordance with Council's Vehicle Crossing Policy;
- j) Details of the lift overrun on elevation drawings. The lift overrun must not exceed a maximum height of 11 metres from the Natural Ground Level;
- k) The provision of 300mm trench grates at the entrance of each garage;
- l) Pedestrian footpath and the grades along the footpath; and
- m) A landscape plan in accordance with Condition 14.

When approved, these plans will be endorsed and will form part of this permit.

2. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.
3. Before the buildings approved by this permit are occupied, all boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority if the owner of the adjoining land allows access for the purpose.
4. An amended STORM assessment report must be submitted simultaneously with the submission of amended plans in accordance with Condition 1. The STORM Assessment must obtain a minimum 100% to comply with Clause 22.03-4 (Stormwater Management) of the Moonee Valley Planning Scheme. Two STORM assessment reports are required, one for each Dwelling.
5. A minimum 30 days prior to any building or works commencing, all Water Sensitive Urban Design (WSUD) Design Details (relating to the WSUD treatment measures nominated in the approved and complying STORM report), such as cross sections and/or specifications, to assess the technical effectiveness of the proposed stormwater treatment measures, must be submitted for approval by the Responsible Authority.
6. A maximum 30 days following completion of the development, a WSUD Maintenance Program must be submitted to and approved by the Responsible Authority which sets out future operational and maintenance arrangements for all WSUD measures. The program must include, but is not limited to:
  - a) inspection frequency;
  - b) cleanout procedures;

- c) as installed design details/diagrams including a sketch of how the system operates; and
- d) a report confirming completion and commissioning of all WSUD Response initiatives by the author of the WSUD Response and STORM model approved pursuant to this permit, or similarly qualified person or company. This report must be to the satisfaction of the Responsible Authority and must confirm that all initiatives specified in the WSUD Response and STORM have been completed and implemented in accordance with the approved report.

The WSUD Maintenance Program may form part of a broader Maintenance Program that covers other aspects of maintenance such as a Builder's User's Guide or a Building Maintenance Guide.

7. A minimum 30 days prior to any building or works commencing, a Construction and Site Management Plan (CSMP) must be submitted to and be approved by the Responsible Authority detailing the construction activity proposed and the site and environmental management methods to be used. The CSMP must be in accordance with Moonee Valley City Council's CSMP's guideline and templates.

When approved, the CSMP will be endorsed and will form part of this permit.

The development must be carried out in accordance with the endorsed CSMP and the provisions, requirements and recommendations of the endorsed CSMP must be implemented and complied with to the satisfaction of the Responsible Authority.

8. Floor levels shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.
9. Provision must be made for the drainage of the land including landscaped and pavement areas. The discharge of water from the land must be controlled around its limits to prevent any discharge onto any adjoining or adjacent property or streets other than by means of an underground pipe drain which is discharged to an approved legal point of discharge to the satisfaction of the Responsible Authority.
10. Buildings or works must not be constructed over or adjacent to any easement or within one metre of an existing Council drainage asset without the prior written consent of Council (or of the authorities or agencies with an interest in the easement) to the satisfaction of the Responsible Authority.
11. Before the building approved by this permit is occupied, the areas set aside for the parking of vehicles, together with the associated driveways and access lanes as shown on the endorsed plans must be:
- a) constructed;
  - b) available for use in accordance with the endorsed plans;
  - c) properly formed to such levels and drained so that they can be used in accordance with the endorsed plans; and

- d) finished with a permanent trafficable surface (such as concrete, asphalt or paving), in accordance with the endorsed plans to the satisfaction of the Responsible Authority.

The area set aside for the parking of vehicles, together with the associated driveways and access lanes as shown on the endorsed plans must:

- e) be maintained and made available for such use; and
  - f) not be used for any other purpose,
- to the satisfaction of the Responsible Authority.

12. Before the building approved by this permit is occupied, concrete vehicular crossing(s) must be constructed to suit the proposed driveway(s) in accordance with the Responsible Authority's specification and any obsolete, disused or redundant vehicle crossing(s) must be removed and the area reinstated to footpath, nature strip and kerb and channel to the satisfaction of the Responsible Authority.

All vehicle access points must be located a minimum of 1.0 metre from any infrastructure including service pits. Alternatively, such assets may be incorporated into the crossover with the prior written consent of the responsible authority and the relevant servicing authority/agency. Subsequent works and costs in association with relocation and/or amendment must be incurred at the owner's cost, to the satisfaction of the relevant servicing authority/agency and the Responsible Authority.

13. Provision must be made for the drainage of the land including landscaped and pavement areas. The discharge of water from the land must be controlled around its limits to prevent any discharge onto any adjoining or adjacent property or streets other than by means of an underground pipe drain which is discharged to an approved legal point of discharge to the satisfaction of the Responsible Authority.
14. Before the development starts, and before any trees or vegetation are removed, a landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The amended landscape plan must be prepared by a person or firm with suitable qualifications to the satisfaction of the Responsible Authority, drawn to scale with dimensions and an electronic copy must be provided. The amended landscape plan must be generally in accordance with the landscape plan submitted with the application but modified to show:
  - a) Any changes required by Condition 1 of this permit;
  - b) A planting schedule of all proposed vegetation (trees, shrubs and ground covers) which includes, botanical names, common names, pot size, mature size and total quantities of each plant;
  - c) The use of drought tolerant species;
  - d) The use of non-invasive plant species within any easements which will ensure that existing infrastructure assets are not damaged by root systems;



- e) All planting abutting the accessway(s) and land frontage to have a maximum mature height of no more than 900mm in accordance with Clause 52.06-8 (Design Standards for car parking) of the Moonee Valley Planning Scheme; and
- f) An appropriate irrigation system.

When approved, the amended landscape plan will be endorsed and will form part of this permit.

Landscaping in accordance with the endorsed landscaping plan and schedule must be completed before the building is occupied.

- 15. The garden areas shown on the endorsed plan and schedule must only be used as gardens and must be constructed, completed and maintained in a proper, tidy and healthy condition to the satisfaction of the Responsible Authority. Any tree or shrub damaged, removed or destroyed must be replaced by a tree or shrub of similar size and variety to the satisfaction of the Responsible Authority.
- 16. This permit will expire if one of the following circumstances applies:
  - a) the development is not commenced within two (2) years from the date of issue of this permit; or
  - b) the development is not completed within four (4) years from the date of issue of this permit.

Before the permit expires, or within six (6) months afterwards, the owner or occupier of the land may make a written request to the Responsible Authority to extend the expiry date.

If the development commences before the permit expires, within twelve (12) months after the permit expires, the owner or occupier of the land may make a written request to the Responsible Authority to extend the expiry date.

**Permit Notes:**

- This is not a building permit under the *Building Act*. A separate building permit is required to be obtained for any demolition or building works.
- Before the development starts, the permit holder must contact Moonee Valley City Council on 9243 8888 regarding legal point of discharge, vehicular crossings, building over easements, asset protection, road consent/occupancy etc.
- All works undertaken within any existing road reserves must accord with the requirements of Stormwater Drainage Requirements for Development Works as prepared by the Moonee Valley City Council.
- Existing levels along the property line and easements must be maintained. All proposed levels must match to existing surface levels along the property boundary and or easement. Council will not accept any modifications to existing levels within any road reserve or easement.
- No on street parking permits will be provided to the occupiers of the subject site.

## 1. Introduction

### 1.1 Subject Site and Surrounds

The subject site is located on the western side of Fisher Parade and to the north of Flemington Racecourse in Ascot Vale. The original block of land of approximately 1,249 square metres has been subdivided into two (lots 1 and 2). The subject site, being lot 2 within the subdivision, is irregular in shape with an area of 829.73 square metres.

The lot fronting Fisher Parade contains a double storey rendered brick dwelling setback 8.8 metres from the front title boundary. The rear allotment contains an existing triple storey brick dwelling with flat roof that steps down the site towards the river.

A crossover and driveway aligned to the northern boundary provides access to existing double garage car parking. The land has a significant slope, falling approximately 12.06 metres from the Fisher Parade frontage to the Maribyrnong River.



**Figure 2 – Subject site (7 Fisher Parade, ASCOT VALE)**

The surrounding area is generally zoned residential and properties along the western side of Fisher Parade are largely covered by the same overlays as the subject site. The surrounding area includes a mix of dwelling styles. The older traditional style dwellings sit high on the site, similar to the existing dwelling at 7A Fisher Parade.

There is evidence of recent development along both sides of Fisher Parade which include multi-level dwellings of a modern and contemporary nature. Recent multi-level developments generally extend the built form into the site and either present as double or triple storey developments to the street and the 'riverscape of the Maribyrnong River.

New large developments are characterised by their setbacks from the Maribyrnong River and their recess with the hill face as the height of the development increases. However, proximate to the subject site are a number of

examples of two and three storey form along the river interface, with minimal break in form for the lower levels which are close to the Public Acquisition Overlay (PAO), or encroaching over it.

## **1.2 Proposal**

It is proposed to undertake alterations and additions to an existing building to allow for two dwellings and a fence in a Design and Development Overlays (DDO1 and DDO2) and a Public Acquisition Overlay (PAO2).

**Table 1**

No of dwellings	2 dwellings (3 bedrooms per dwelling)
No of car spaces	4 (2 resident spaces)
Max Building Height	10.095 metres
Site Coverage	41.5%
Permeability	15.4%

Refer **Appendix A** Plans (separately circulated).

## **2. Background**

### **2.1 Relevant Planning History**

The 'development of dual occupancy being a triple storey dwelling to rear of double storey house' was refused by Council on 13 December 2000 and was approved by VCAT on 22 January 2002.

A planning permit for the Construction of alterations and additions to the existing dwellings to incorporate two additional dwellings, including the removal of vegetation, in a Design and Development Overlay, Incorporated Plan Overlay and Public Acquisition Overlay area was refused by Council on 4 June 2015. The application was withdrawn from VCAT on 10 March 2016.

### **2.2 Planning Policies and Decision Guidelines**

#### **State Planning Policy Framework**

Clause 11	Settlement
Clause 12	Environmental and Landscape Values
Clause 13	Environmental Risks
Clause 14	Natural resource Management
Clause 15	Built Environment and Heritage
Clause 16	Housing
Clause 19	Infrastructure

Local Planning Policy Framework

Clause 21.01	Municipal Profile
Clause 21.03	Vision
Clause 21.04	Sustainable Environment
Clause 21.05	Housing
Clause 21.06	Built Environment
Clause 22.03	Stormwater Management (Water Sensitive Urban Design)

Zoning

Clause 32.08	General Residential Zone
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Overlays

Clause 43.02	Design and Development Overlay (DDO1 and DDO2)
Clause 43.03	Incorporated Plan Overlay (IPO1)
Clause 44.04	Land Subject to Inundation Overlay (LSIO)
Clause 45.01	Public Acquisition Overlay (PAO2)

Particular and General Provisions

Clause 52.06	Car parking
Clause 55	Two or More Dwellings on a Lot
Clause 65	Decision Guidelines

**2.3 Referrals**

External referrals

Referral Authority	Conditions
Melbourne Water (Section 52 only)	1. Objects to the proposal. It is noted that Melbourne Water's comments are made as an interested party via Section 52 of the Act.
Parks Victoria (Section 52 only)	No response
VicRoads	No objection

### Internal referrals

Department/Officer	Conditions
Environmental Sustainable Design (ESD) Officer	<p>The ground floor plans amended to:</p> <ul style="list-style-type: none"> <li>Graphically show the location of the raingarden.</li> <li>Include a separate roof plan showing the roof catchment areas and a prominent note on sheet TP05 referring to WSUD roof plan for WSUD treatment measures.</li> <li>Include a note stating that ‘for all remotely located raingardens, all downpipes and connectivity (with the exception of feeders) to be concealed’.</li> </ul>
Development Engineering (Traffic)	<p>The ground floor plans amended to include:</p> <ul style="list-style-type: none"> <li>Pedestrian visibility splays on the northern boundary; and</li> <li>The existing crossover upgraded and constructed to a minimum of 3 metres in accordance with Councils Vehicle Crossing Policy.</li> </ul>
Development Engineering (Drainage)	Standard easement and drainage conditions.
Property Services	No objection to the development
City Design	Objected to the development as the proposal encroaches the Public Acquisition Overlay (PAO2).

## **2.4 Public Notification of the Application**

Pursuant to Section 52 of the *Planning and Environment Act 1987*, the application was advertised by mail to adjoining and surrounding properties and two signs displayed on site for 14 days.

Four objections were received and identified within **Appendix B** of this report. The objections are discussed further in Section 3.11 of this report.

## **2.5 Consultation Meeting**

A Consultation Meeting was not held for this planning application as Council received less than 10 objections.

### **3. Discussion**

#### **3.1 Does the proposal comply with State Planning Policy Framework**

The relevant State Planning Policy Framework clauses are considered to be met.

Given the location of the development so proximate to the Maribyrnong River, the proposal was assessed against Clause 13.02-1 (Floodplain management) and Clause 13.03-2 (Erosion and landslip) to ensure a best practice environmental and risk management approach was proposed. It is considered that, subject to conditions, the proposal ensures the natural and existing character and integrity of this section of the river corridor is maintained and is not further degraded.

Pursuant to Clause 14.02-1 (Catchment Planning and Management), it is considered the proposal will continue to protect the Maribyrnong River water course and minimize the stormwater runoff from the subject site.

The proposal complies with the Municipal Strategic Statement and Vision for Moonee Valley by providing a development that responds to the natural features and environment of the Maribyrnong River as discussed below under Section 3.4 of this report.

#### **3.2 Does the proposal comply with Local Planning Policy Framework**

The proposal complies with the objectives and strategies of Clause 21.04 (Sustainable Environment) as the proposal ensures that the natural and existing character and integrity of this section of the river corridor is maintained and is not further degraded. As discussed below, the development, complies with the vision for this section of the Maribyrnong River environs as outlined in the Maribyrnong River Interface Guidelines 2001. Further, the proposal will allow for enhanced vegetation along the river corridor and will ensure an appropriate buffer is retained for future linear trails or parkland.

It is noted that the proposal does not include any new buildings or works within the applicable flooding overlay, and that efficient management of drainage and sewerage systems will ensure the health of the existing waterway is not corrupted by the proposed development. Sediment and mineral run-off can be minimised through conditions on any permit issued.

The Local Planning Policy Framework at Clause 21.04 (Housing) encourages in-fill residential development and a diversity of housing choices to meet the needs of an increasingly diverse range of households. One of the key strategies is to encourage a mix of dwelling sizes and types within residential areas to cater for lifestyle and generational change within the community. The proposal offers a moderate increase in housing intensification while ensuring a mix of dwelling styles and types are provided without detriment to existing neighbourhood character (discussed below).

The proposed development responds to the strategies of Clause 21.05-3 (Urban Design) as the development allows for a high quality architectural and urban design infill development outcome that respects the established and emerging streetscape along Fisher Parade. A number of the objectives and

strategies appear to overlap with those contained within neighbourhood character precinct profiles and ResCode and therefore the key concepts of Clause 21.05-3 (Urban Design) are discuss below in Sections 3.3, 3.4 and 3.10.

The proposal complies with the environmental sustainable design principles regarding STORM, subject to any conditions on permit.

### **3.3 Does the Development Proposal Accord with the Preferred Character of the Area?**

The subject land is identified as being within character area 'Garden Suburban 5' within the Moonee Valley Neighbourhood Precinct Profiles 2012. The development is considered a suitable response to the immediate context and the preferred character statement of the precinct as follows:

- The proposed development is within the existing footprint of the dwelling.
- The dwelling is being modified to include two dwellings at the rear of an existing dwelling (No. 7A Fisher Parade). Both No. 7 and 7a are on individual titles. The proposed built form is contemporary and consistent with the emerging character of the area.
- The flat roof form is consistent with the original built form. The proposed flat roof form is in keeping with the developments occurring throughout Fisher Parade, particularly No. 11A, 15 and 19 Fisher Parade, all of which have large upper levels presenting to the Maribyrnong River.
- The siting and massing of the development is consistent with the pattern of development that has occurred in the immediate and wider area.
- The presentation and setbacks of the development to the street and River frontage are generally consistent and responsive with nearby development. The development is confined to the boundaries of the site and will not encroach the existing building footprint, minimising its visual impact and increases the provision of landscaping on the site, especially along the River interface.
- The development is presented as being contemporary with a flat roof form. The uppermost level has been skewed from both side boundaries to provide visual interest from the Maribyrnong River frontage.
- The proposal will not be visible when viewed from Fisher Parade given the excessive site fall from the main road and that it is sited behind the existing dwelling which immediately fronts Fisher Parade.
- Sufficient areas within the rear setbacks are provided for a landscaping response, including canopy tree planting to contribute to the garden character of the area and to the Maribyrnong River frontage.
- The colours and material selection is in keeping with the existing and preferred character of Garden Suburban 5 and the Maribyrnong River Guidelines 2010.

### **3.4 Does the development comply with the Design and Development Overlay (DDO1 and DDO2)?**

The Design and Development Overlays identify areas which are affected by specific requirements relating to the design and built form of new development. Schedule 1 of this Overlay seeks to achieve the following design objectives:

- To protect areas along the Maribyrnong River from visual intrusion caused by inappropriate siting or appearance of buildings and works;
- To encourage development in keeping with the character and appearance of the area;
- To protect and enhance the skyline when viewed from its river or its banks; and
- To encourage development consistent with any concept plan approved by the Government for the area and the recommendations of the City of Moonee Valley Maribyrnong River Interface Urban Design Guidelines 2001.

In achieving the above mentioned objectives, the Maribyrnong River Interface Guidelines are of particular relevance. The subject site is located downstream from Steele Creek and is defined within the guidelines as an area in Ascot Vale where houses and developments located proximate to the water's edge have a greater intrusion on the river landscape corridor. It is considered that the siting, bulk and appearance of the proposal is in keeping with the look of development in the immediate area and in keeping with the new developments occurring within the 'riverscape' of the Maribyrnong River. Further to this, the development will ensure suitable setbacks from the river are maintained and the appearance of the building will be in keeping with the skyline when viewed from the river. The proposal meets the recommendations of the Maribyrnong River Interface Urban Design Guidelines by providing the following design responses:

#### **Parkland and River Interface**

The development is provided with natural surveillance of the river through the provision of balconies and windows. The development is designed in a layered form that is recessive and articulated; as the height of the building increases/the slope of the land falls to the Maribyrnong River. Further to this, the side setbacks of the building are responsive to increases in height to ensure the building provides a less dominant form in its uppermost levels.

#### **Viewlines, Skylines and Views Out**

The proposed development is in a location where development is clearly visible from the river interface. The proposal will be no different and the majority of the built form will be clearly visible when viewed from within the river and the opposite embankment. However the development incorporates a layered design response to ensure monolithic forms are avoided. The development is setback from both side boundaries and this in addition to the side setbacks applied to the adjoining sites will ensure views through the site are maintained. It is noted that the proposed development will impact on a portion of the northerly view of the adjoining property at 9 Fisher Parade, however the neighbouring property will continue to enjoy and share a wide array of views to the river corridor.



### **Vegetation and Habitat**

A detailed landscape plan identifying planting and landscaping which complements the landscape and environmental character of the natural river corridor has not been submitted with the application. A condition on any permit issued will require a landscape plans drawn by a suitable qualified Landscape Architect which includes appropriate plantings that respond to the site and its context. The site has adequate space for landscaping opportunities within side and rear setbacks.

### **Siting and Site Coverage**

The proposed development is incorporated into the existing built form, with no development extending into the rear setback. This maintains a favourable setback in keeping with dwellings in the immediate area. The rear setback will follow the established footprint of development to the south. As discussed previously, the building is provided with side setbacks which increase as the overall height increases. The proposed buildings and works do not encroach into any flood overlays and the development is setback from the top of the embankment to a similar distance of developments proximate to the site.

### **Built Form, Colours, Materials and Design Detail**

Overall it is considered the built form associated with the proposed development responds to its immediate context. It is acknowledged the overall height and scale of the development will result in the development being clearly visible from the river corridor. It is further noted that the development, featuring an overall height of approximately 10.995 metres, is slightly above the maximum height of 9 metres stipulated in the Maribyrnong River Valley Design Guidelines 2010. The height variation is considered to be acceptable given there are a number of taller developments within the Fisher Parade 'riverscape'.

Three storey developments proximate to the river, with limited setbacks are a common feature along this section of the river and therefore, the uppermost level becomes the most contentious area of built form which needs to further respond to the river corridor. The development is stepped with the land and the uppermost level employs a transition to provide a clearly visible recess from the river interface. The development incorporates natural finishes and colours which will also help to break up each level into articulated layers. Most importantly, while the development will result in an increase in height and scale, it is appropriate and in context with the existing and emerging built form and character in this immediate section of the river interface. It should be noted that in terms of built form, the proposal falls within the 11 metre height restriction of the Design and Development Overlay Schedule 2. This is further discussed below.

### **Vehicle Access and Parking**

The proposed area for parking is located within lower level garages which are suitably sited behind the existing dwelling and not visible from the street. Suitable conditions will be included on any permit issued to ensure the lower level garages are not affected by flooding with the provision of trench grates at the bottom of each garage.

## **Construction and Detailed Design Considerations**

A Construction Sustainability Management Plan will be required as a condition on any permit issued to ensure construction impacts on the river will be limited. Further, conditions will be included on any permit issued to ensure water sensitive urban design principles are incorporated to manage runoff. A STORM rating report submitted as part of this application was reviewed and noted that the application generally complies with the requirements of Clause 22.03 (Stormwater Management – Water Sensitive Urban Design) of the Moonee Valley Planning Scheme.

Overall, it is considered the proposal complies with the design objectives of Schedule 1 to the Design and Development Overlay and is consistent with the relevant urban design guidelines for development along the Maribyrnong River interface. The development reflects the emerging contemporary character of new developments along the river and parklands, enhances the skyline with its natural interface and generally protects views to and from the Maribyrnong River environs.

Design objectives of the Design and Development Overlay Schedule 2 (DDO2) identifies areas for strengthening Maribyrnong River Controls and seeks to achieve the following:

- To protect the significant features of the Maribyrnong River Valley from visual intrusion caused by the inappropriate bulk, outline, setbacks, height, siting and appearance of buildings and works;
- To encourage development that is in keeping with the landscape character and appearance of the Maribyrnong River Valley;
- To maintain publically accessible views into and along the Maribyrnong River Valley;
- To ensure buildings do not create dominant forms in the skyline when viewed from the river or parklands; and
- To preserve and reinforce the long views across the floodplain of the Maribyrnong River Valley.

One of the main requirements of this policy is to reinforce design controls along the Maribyrnong River interface and to set a maximum height limit of 11 metres for this particular section of the river. From elevation drawings submitted, it can be clearly seen that the proposed dwellings at no point encroaches above 11 metres from Natural Ground Level. The lift overrun has not been demonstrated on elevation drawings. To ensure the lift overrun does not protrude over 11 metres, and exceed the height limit set out within Schedule 2 of the Design and Development Overlay, it would be a requirement of any Planning Permit issued that the lift overrun does not exceed 11 metres.

In addition to the requirements of Schedule 2 of the Design and Development Overlay, the maximum height of a fence, where a permit is required must not exceed 1.2 metres within 30 metres of the River, measured from the junction with the top of the bank of the Maribyrnong River. The plans are to demonstrate compliance with this, and can be addressed via a condition to a planning permit.

### **Maribyrnong River Valley Design Guidelines (DPCD 2010)**

The subject site is located proximate to the Footscray length of the river, where the corridor transcends from river flats into an urban river with a mix of industrial and medium density housing. The character of this section of the river is clearly visible as being a section of the river which accommodates medium density urban development. It is considered the proposed development responds to the preferred character for the Racecourse/Footscray Length and is suitably setback from the river to ensure adequate planting can occur, any future linear parkland can be achieved and will allow a transition in the more robust built form found in the Footscray length to the lesser forms found upstream entering the river flats.

#### **3.5 Does the proposal comply with the Incorporated Plan Overlay (IPO)?**

The proposed development will not cause amenity impacts to the existing adjoining uses and development of the area. The proposed development will not affect the natural significance or the future use and enjoyment of the area by the community and is suitably setback from the river interface to ensure any future linear trail can be developed along the river boundary.

#### **3.6 Does the proposal comply with the Land Subject to Inundation Overlay (LSIO)?**

The proposal does not include works within the LSIO and therefore, it is considered the proposed works will not impact on the river health.

#### **3.7 Does the proposal comply with the Public Acquisition Overlay (PAO2)**

The proposal provides a suitable design response to the PAO, given the existing encroachment of buildings and works into the PAO in this section of the river. It is noted that the rear open spaces and master bedroom associated with Dwelling 2 (western elevation) will encroach into the PAO.

The application was internally referred to Council's Property Services who did not object to the proposal.

The application was also internally referred to City Design who objected to the development as a result of the encroachment of the Public Acquisition Overlay to maintain the integrity of the land for future use. Although 1.3 metres is considered a minor encroachment to the PAO2, the encroachment of the habitable room is an existing condition approved by the Tribunal (dated 22 January 2002). It is proposed to construct multiple habitable rooms above the PAO2. It is recommended that any new external buildings and works are made outside of the PAO2. To ensure that there is no more than one habitable room over the PAO2, all new sections of Dwelling 2, except for the master bedroom at the lower ground are setback outside the PAO2, and can be addressed via a condition to a planning permit.

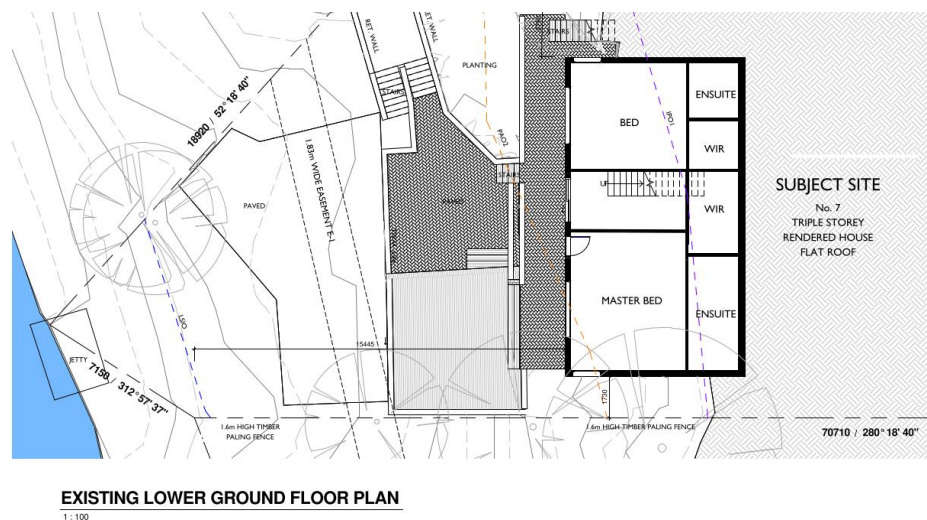
### 3.8 Planning History

As discussed above in Section 2.1 of this report, the site has history associated with the development of the land. Most notably, planning permit application MV/351/2014, which was for the construction of alterations and additions to the existing dwellings to incorporate two additional dwellings, including the removal of vegetation, in a Design and Development Overlay, Incorporated Plan Overlay and Public Acquisition Overlay area. The application was refused by Council for the following reasons:

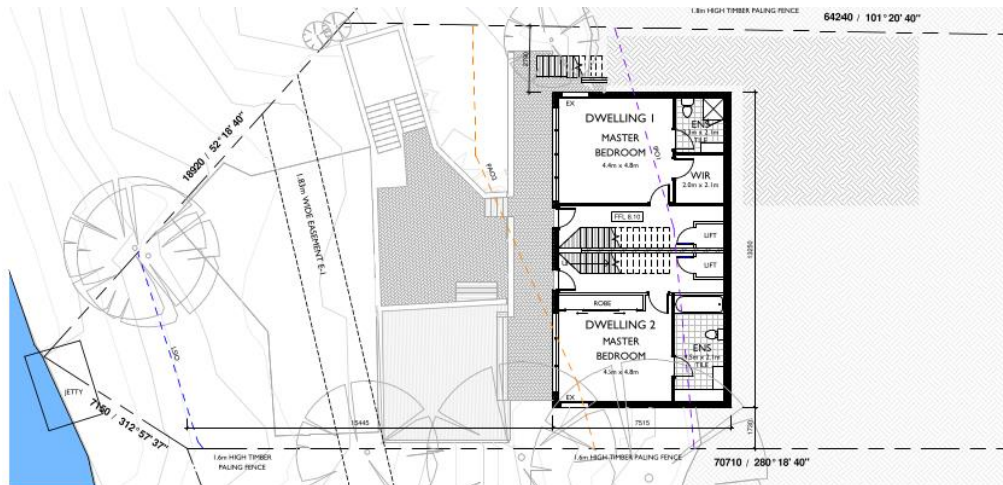
1. The proposal fails to meet the purpose of Clause 45.01 (Public Acquisition Overlay) to reserve land for a public purpose and to ensure that changes to the use or development of the land do not prejudice the purpose for which the land is to be acquired.
2. The proposal fails to meet the design objectives of Clause 43.02 (Schedule 1 to the Design and Development Overlay).

The application submitted on 14 December 2016 is considered to be similar in nature, however, proposes two side by side dwellings, within the original footprint of the existing dwelling.

As demonstrated below, there is a minor encroachment of 1.3 metres of the PAO at lower ground level and 1.195 metres of the balcony at ground floor level. It would be a requirement of a planning permit to set all new sections of Dwelling 2 back from the PAO2.



**Figure 3 – Subject site – Existing Lower Ground Floor Plan  
(7 Fisher Parade, ASCOT VALE)**



**Figure 4 – Subject site – Proposed Lower Ground Floor Plan  
(7 Fisher Parade, ASCOT VALE)**

The previous application submitted had an encroachment of more than 8.6 metres and multiple dwellings over the PAO2 which is considered to be significant, and it would not have allowed for future use of the land.

In response to Refusal Ground 2 of the decision to refuse the planning application, it is noted the development is fully compliant with the requirements of the Clause 43.02 (Design and Development Overlay – Schedule 1 and 2) of the Moonee Valley Planning Scheme, and is discussed above in detail in Section 3.4 and 3.5 of this report.

It is considered the changes sought for this particular application is in accordance with the Design and Development Overlay and will comply with the provisions of the PAO, subject to any planning permit conditions.

### 3.9 Does the proposal comply with Clause 52.06 (Car Parking)

The proposal provides car parking as set out in the table below:

**Table 2**

	Requires	Provides
Two four bedroom dwellings	4	4
<b>Total</b>	<b>4</b>	<b>4</b>

The design of car spaces and accessways generally complies with the requirements of Clause 52.06-8, with the exception of the following, which will be addressed as part of a condition to a planning permit, including the provisions of visibility splays on both sides of the accessway and the existing crossing upgraded and constructed to a minimum of 3 metres in accordance with Council's Vehicle Crossing Policy.

### 3.10 Does the proposal Comply with Clause 55 (ResCode)

The proposal is considered to generally comply with the provisions of Clause 55 as set out in the assessment table (refer to **Appendix C**). The following points of exception are assessed below:

**Table 3**

ResCode	Response
Clause 55.03-4 (Permeability – Standard B9)	The development does not comply with Standard B9 of Clause 55 of the Moonee Valley Planning Scheme as it is under 20% of the site. Although 15.4% permeability of the site is below what the standard allows, a minor reduction to this standard is acceptable given the existing site permeability is 15.8%. The variation to this standard is considered appropriate in this context.
Clause 55.04-6 (Standard B22 – Overlooking)	The northern and southern habitable room windows and balcony balustrades are considered to overlook to the adjoining properties. The development is to demonstrate compliance with overlooking requirements and this can be addressed via a condition to a planning permit.

### 3.11 Objections

The following table provides a discussion of the concerns raised by the objectors to the application:

**Table 4**

Issue	Officer Response
The owner built the rear unit without building permits	The rear dwelling was approved by VCAT on 22 January 2002. A building permit would have been required to construct the dwelling. This is not a planning consideration.
Obstruction of views and access to daylight	It is considered the development is not obtrusive and allows all adjoining dwellings with views of the Maribyrnong River. The development allows more than 5 hours of daylight to habitable room windows and secluded private open space areas, in accordance with Clause 54.04-3 (Daylight to Existing Windows) and Clause 55.04-5 (Overshadowing open space) of the Moonee Valley Planning Scheme.
The PAO2 should be considered	The built form is within the PAO2. Although a minor encroachment of the PAO2, the plans are to be setback a minimum of 1.5 metres. This is discussed above in Section 3.7 of this report.

Issue	Officer Response
Overlooking into private open space	It appears there is potential overlooking from the habitable room windows and balconies from the north and southern habitable room windows. These windows and balustrades are to be screened to 1.7 metres above finished floor level in accordance with Clause 55.04-6 (Overlooking) of the Moonee Valley Planning Scheme, and can be addressed via a condition to a planning permit.
Visual bulk and mass	As discussed above in Section 3.3 of this report, the development is consistent with the requirements of the Garden Suburban 5 Neighbourhood Character Guidelines and the objectives of the Maribyrnong River Valley Design Guidelines 2001 and the updated Guidelines of 2010.
Too close to the Maribyrnong River	The setbacks remain unaltered from ground floor level to the Maribyrnong River. The proposed works are limited to the existing built form footprint.
Western elevation measures at over 20 metres and will consist of 5 levels	<p>The dwellings measures 10.995 metres in height and has the appearance of a 4 storey built form from the east, west and southern elevations due to the slope of the land. The appearance of the proposal is in line with other developments approved by Council along the Maribyrnong River, river frontage and Fisher Parade.</p> <p>In addition, the proposed works are considered to be obscured by existing vegetation on the land.</p>
The natural ground level differ from original application	The levels have not changed from the application MV/351/2014, which was refused by Council.
The development does not achieve a sufficient setback from the Maribyrnong River and the river environs.	<p>In accordance with the objectives of DDO1 and DDO2, the proposed development will provide significant setbacks from the river corridor. The articulated built form will also step back from the river corridor to reduce visual bulk, whilst the overall building height is well within the 11.0 metre overall height required by the Overlay. When the addition is seen in context from the north, the impact on the skyline is minimal. The proposed development will sit comfortably in the “riverscape” and will reflect the scale of the surrounding development.</p> <p>It is noted for the decision made for 17 Fisher Parade, Ascot Vale (VCAT reference No.3563/2012 – Section 55 and 56, the Tribunal made the following comments to the development not being</p>

Issue	Officer Response
	<p>setback from the Maribyrnong River:</p> <p><i>55. First, the 20-metre figure is arbitrary. It may be an appropriate figure along other parts of the river where there are numerous properties awaiting redevelopment, but this site is sandwiched between properties that are either being redeveloped or have a development approval.</i></p> <p><i>56. Second, given the above, judgement is required as to what is an acceptable answer. That judgement call will need to take into account the nature of the proposal, the nature of the area between the building and riverbank (slope, width, stability etc), opportunities for the positioning of the shared pathway and the landscaping works.</i></p> <p>There is no written guide as to the setback that is actually required by Melbourne Water, and is only a guide which in reality, will not be able to be achieved on both sides of the river interface. The conditions of the site will still present the opportunity to provide access as a result of the setback of the building from the river. The river bank and riparian area can be improved via additional landscaping alongside the river, which form part of a landscaping condition.</p> <p>As stated above in the assessment, the proposed development is within the existing footprint of the dwelling with the dwelling to be modified to include two dwellings at the rear of the existing (No. 7A Fisher Parade). The proposed built form is in-line with what was issued by the tribunal, dated 22 January 2012.</p>
<p>The proposed development will limit Melbourne Water's current and future ability to maintain and rehabilitate the riparian area and bank of the Maribyrnong River.</p>	<p>The application follows the pattern of the existing built form on the land and will not result in a reduction in Melbourne Water's ability to maintain and rehabilitate the riparian area and bank of the Maribyrnong River. Melbourne Water's access to the site will remain unchanged as a result of the proposed development. The proposed development will not extend the building envelope towards the river as the development extends up rather than out. The conditions of the site will still present the opportunity to provide access as a result of the setback of the building from the river. The river bank and riparian area can be improved via additional landscaping alongside the river, which form part of a landscaping condition.</p>



Issue	Officer Response
<p>The development is inconsistent with State Planning Policy, including Clauses 12.04-1, 12.04-2, 12.05-1 which seek to protect and enhance the significant river corridors of Metropolitan Melbourne, recognise their environmental sensitive area and natural landscape values.</p>	<p>The development satisfies Clause 12.04 (Significant environments and landscapes) of the Moonee Valley Planning Scheme.</p>
<p>The proposed development is inconsistent with the strategic direction for the Maribyrnong River outlined in the Maribyrnong River Valley Design Guidelines (DPCD 2010), and the preferred character of the racecourse length (river flats).</p>	<p>The application will support the design guidelines detailed and the vision proposed for the racecourse length of the Maribyrnong River by providing a scale of development comparable to the existing development. Land opportunities are provided, ensuring the development will provide for an open river corridor.</p>

Issue	Officer Response
The proposed development fails to meet the design objectives of DDO1 (Skyline Area) and DDO2 (Maribyrnong River Protection) in relation to achieving appropriate siting, including the inadequate rear setback to the Maribyrnong River and visual bulk and intrusion of the proposed built form of the rear building.	It is considered the proposal complies with the design objectives of Schedule 1 and Schedule 2 to the Design and Development Overlay, and is consistent with the relevant urban design guidelines for development along the Maribyrnong River interface. The development reflects the emerging contemporary character of new developments along the river and parklands, enhances the skyline with its natural interface and generally protect views to and from the Maribyrnong River environs. The contemporary built form is consistent with the developments fronting the Maribyrnong River.

#### 4. Human Rights

The application process and decision making is in line with the *Victorian Charter of Human Rights and Responsibilities 2006* (Section 18 – Taking part in public life).

#### 5. Conclusion

The application has been assessed against the relevant provisions of the State Planning Policy Framework, Local Planning Policy Framework, Zoning Controls and relevant Particular and General Provisions, and the Decision Guidelines at Clause 65 of the Moonee Valley Planning Scheme.

Additionally, consideration has been given to the requirements of Section 60(1B) of the *Planning and Environment Act 1987* with respect to the number of objections received, and it is determined that the proposal would not have a significant impact on the area.

It is considered the proposal demonstrates general compliance with the requirements of these provisions and policies. The application is therefore supported, as detailed above in the recommendation section.

#### Appendices

Appendix A: Plans (separately circulated) [⇒](#)

Appendix B: Objector List [↓](#)

Appendix C: Clause 55 assessment.

<b>Objectors List for MV/979/2016 at 7 Fisher Parade, ASCOT VALE</b>
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**Objector's Mailing Address**

990 La Trobe Street, DOCKLANDS VIC 3008
5 Fisher Parade, ASCOT VALE VIC 3032
3 Fisher Parade, ASCOT VALE VIC 3032
3 Fisher Parade, ASCOT VALE VIC 3032

**APPENDIX C –**  
**MV/979/2016 – 7 Fisher Parade, Ascot Vae (Lot 2 on PS 601617G)**  
**Clause 55 (ResCode) of the Moonee Valley Planning Scheme**

Two or more dwellings on a lot and residential buildings (Clause 55 and Schedule to the General Residential Zone).

Where there is non-compliance, see main report.

<b>Title and Objective</b>	<b>Complies with Standard</b>	<b>Complies with Objective</b>
<i>B1 - Neighbourhood Character</i>	✓	✓
<i>B 2 - Residential Policy</i>	✓	✓
<i>B 3 - Dwelling Diversity</i>	N/A	N/A
<i>B 4 - Infrastructure Objectives</i>	✓	✓
<i>B 5- Integration with the Street Objective</i>	✓	✓
<i>B6 - Street Setback Objective</i>	N/A	N/A
<i>B7 - Building Height Objective</i>	X	✓
<i>B8- Site Coverage Objective.</i>	✓	✓
<i>B9- Permeability Objectives</i>	✓	✓
<i>B10 - Energy Efficiency Objectives</i>	✓	✓
<i>B 11 - Open Space Objective</i>	N/A	N/A
<i>B 12- Safety Objective</i>	✓	✓
<i>B 13 - Landscaping Objectives</i>	✓	✓
<i>B 14 - Access Objectives</i>	✓	✓
<i>B 15 - Parking Location Objectives</i>	✓	✓
<i>B16 – Parking Provision</i>	Deleted from Clause 55 on 5 June 2012 (VC90). Refer to Clause 52.06 for car parking requirements under Section 3.4 of the report.	
<i>B 17 - Side and Rear Setbacks Objective</i>	✓	✓
<i>B 18 - Walls on Boundaries Objective</i>	✓	✓
<i>B 19 - Daylight to Existing Windows Objective.</i>	✓	✓

<i>B 20 - North-facing Windows Objective</i>	✓	✓
<i>B 21 - Overshadowing Open Space Objective</i>	✓	✓
<i>B 22 - Overlooking Objective</i>	✓	✓
<i>B 23 - Internal Views Objective</i>	✓	✓
<i>B 24 - Noise Impacts Objectives</i>	✓	✓
<i>B 25 - Accessibility Objective</i>	✓	✓
<i>B 26 - Dwelling Entry Objective</i>	✓	✓
<i>B 27 - Daylight to New Windows Objective</i>	✓	✓
<i>B 28 - Private Open Space Objective</i>	✓	✓
<i>B 29 - Solar Access to Open Space Objective</i>	✓	✓
<i>B 30 - Storage Objective</i>	✓	✓
<i>B 31 - Design detail objective</i>	✓	✓
<i>B 32 - Front Fences Objective</i>	✓	✓
<i>B 33 - Common Property Objectives</i>	✓	✓
<i>B 34 - Site Services Objectives</i>	✓	✓
<b>Clause 55.07 – Apartment Developments</b>		
<i>B 35 – Energy Efficiency Objectives</i>	N/A	N/A
<i>B 36 – Communal Open Space Objective</i>	N/A	N/A
<i>B 37 – Solar Access to Communal Outdoor Space Objective</i>	N/A	N/A
<i>B 38 – Deep Soil Areas and Canopy Trees Objective</i>	N/A	N/A
<i>B 39 – Integrated Water and Stormwater Management Objectives</i>	N/A	N/A
<i>B 40 – Noise Impacts Objectives</i>	N/A	N/A
<i>B 41 – Accessibility Objective</i>	N/A	N/A
<i>B 42 – Building Entry and Circulation Objectives</i>	N/A	N/A
<i>B 43 – Private Open Space above Ground Floor Objective</i>	N/A	N/A
<i>B 44 – Storage Objective</i>	N/A	N/A
<i>B 45 – Waste and Recycling Objectives</i>	N/A	N/A

<i>B 46 – Functional Layout Objective</i>	N/A	N/A
<i>B 47 – Room Depth Objective</i>	N/A	N/A
<i>B 48 – Windows Objective</i>	N/A	N/A
<i>B 49 – Natural Ventilation Objectives</i>	N/A	N/A

✓ - complies, x – non-compliance, N/A- Not Applicable

**9.6**                      **17 Leake Street, Essendon (Lot 3 on LP 41248 and Lot 2 on TP 21043B) - Construction of a multi storey building within a Design and Development Overlay (DDO10), reduction in the car parking requirement and waiver of the loading bay requirement.**

**File No:**                FOL/17/11  
**Author:**             Lachlan Orr  
                              Senior Statutory Planner  
**Directorate:**        Planning & Development

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<b>Planning File No.</b>	MV/106/2017
<b>Proposal</b>	Four storey building, 14.95m max height Ground floor food and drink premises (68m <sup>2</sup> ) and first floor office (67m <sup>2</sup> ) Second and third levels each contain a one-bedroom dwelling No on-site car parking
<b>Applicant</b>	Carrick Family Super Fund
<b>Owner</b>	Peter and Patricia Anne Carrick
<b>Planning Scheme Controls</b>	Commercial 1 Zone Design and Development Overlay (Schedule 10)
<b>Planning Permit Requirement</b>	Clause 34.01-4 – Buildings and works Clause 43.02-2 – Buildings and works Clause 52.06-3 – Car parking Clause 52.07 – Loading and unloading
<b>Car Parking Requirements</b>	Required – 6 spaces Provided – 0 spaces
<b>Bicycle Requirements</b>	Required – 0 spaces Provided – 8 spaces
<b>Restrictive Covenants</b>	None
<b>Easements</b>	3.05 metre wide miscellaneous easement in favour of Council.
<b>Site Area</b>	129 square metres
<b>Number Of Objections</b>	3
<b>Consultation Meeting</b>	N/A

## Executive Summary

- The application seeks planning approval for the construction of a four storey mixed use building containing a food and drink premises at ground floor level, office at first floor level and two one-bedroom dwellings on the levels above. Permission is also sought for a reduction to the car parking requirement and waiver of the loading bay requirement.
- The site has an area of 129 square metres and is located on the southern side of Leake Street, Essendon, within a core commercial area of the North Essendon Activity Centre. The site is currently occupied by a single storey shop.
- The application was advertised and three objections were received. The concerns raised related to traffic and car parking impacts, overshadowing, visual bulk and construction impacts.
- A Consultation Meeting was not held as less than 10 objections were received.
- The proposal is an appropriate increase of housing in a location which has seen a consistent level of infill development, owing to its location within the North Essendon Activity Centre. It provides a small mixed use development on a site with limited opportunities, and makes efficient use of the land by providing appropriately modest commercial and residential occupancies.
- The development represents an acceptable built form outcome, and meets the design objectives of the Design and Development Overlay (Schedule 10) and the accompanying North Essendon Activity Centre Built Form Guidelines. The proposal features no on-site car parking, which is considered to be a positive outcome given the strategic context as well as the limited scale of the development. A Green Travel Plan and surplus of bicycle parking demonstrates a commitment to sustainable transport methods, which provides support for the waiver of the six required car spaces.
- This assessment report finds that the proposal demonstrates a high level of compliance with the relevant policies and provisions of the Moonee Valley Planning Scheme and recommends that a Notice of Decision to Grant a Permit be issued subject to conditions.





Figure 1 – Aerial view of the subject site and surrounds

## Recommendation

That Council issue a Notice of Decision to Grant a Permit in relation to Planning Permit Application No. MV/106/2017 for the construction of a multi storey building within a Design and Development Overlay (DDO10), waiver of the loading bay requirement and reduction in the car parking requirement at 17 Leake Street, Essendon (Lot 3 on LP 41248 and Lot 2 on TP 21043B), subject to the following conditions:

1. Before the development starts, amended plans must be submitted to and approved to the satisfaction of the Responsible Authority. The amended plans must be drawn to scale and an electronic copy must be provided. The plans must be generally in accordance with the plans submitted and assessed with the application but modified to show:
  - a) Provide roof/sky lights to the kitchen/dining area of Dwelling 2;
  - b) The street canopy clearly shown on the Ground Floor Plan including setback from the street tree and kerb;
  - c) The privacy screening provided to the south-facing balconies noted as having a maximum transparency of 25%;
  - d) A notation on the plans that all services on the roof of the building will be concealed from view both to the street and from neighbouring properties; and
  - e) Any changes as a result of Condition 5.

When approved these plans become the endorsed plans of this permit.

2. The development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.

3. A minimum 30 days prior to any building or works commencing, a Construction and Site Management Plan (CSMP) must be submitted to and be approved by the Responsible Authority detailing the construction activity proposed and the site and environmental management methods to be used. The CSMP must be in accordance with Moonee Valley City Council's CSMP's guideline and templates.

When approved, the CSMP will be endorsed and will form part of this permit.

The development must be carried out in accordance with the endorsed CSMP and the provisions, requirements and recommendations of the endorsed CSMP must be implemented and complied with to the satisfaction of the Responsible Authority.

4. A maximum 30 days following completion of the building or works, a Water Sensitive Urban Design (WSUD) Maintenance Program must be submitted to and approved by the Responsible Authority which sets out future operational and maintenance arrangements for all WSUD measures. The program must include, but is not limited to:

- a) Inspection frequency;
- b) Cleanout procedures;
- c) As installed design details/diagrams including a sketch of how the system operates; and
- d) A report confirming completion and commissioning of all WSUD Response initiatives by the author of the WSUD Response and STORM or MUSIC model approved pursuant to this permit, or similarly qualified person or company. This report must be to the satisfaction of the Responsible Authority and must confirm that all initiatives specified in the WSUD Response and STORM or MUSIC model have been completed and implemented in accordance with the approved report.

The WSUD Maintenance Program may form part of a broader Maintenance Program that covers other aspects of maintenance such as a Builder's User Guide or a Building Maintenance Guide.

5. Before the development commences, an amended Sustainable Design Assessment (SDA) that outlines proposed design initiatives must be submitted to and approved by the Responsible Authority. The amended SDA shall refer to the endorsed plans. Upon approval the SDA will be endorsed as part of this planning permit and the development must incorporate the sustainable design initiatives outlined in the endorsed SDA to the satisfaction of the Responsible Authority. The SDA must be generally in accordance with the SDA prepared by Northern Environmental Design dated 26 May 2017, but modified as follows:

- a) Any changes as a result of Condition 1;
- b) Preliminary NatHERS assessments as indicated in the BESS report;
- c) BESS report amended to provide details of the water fixtures, fittings and connections for Dwelling 2; and

- d) Provide manufacturer specifications for the solar hot water system providing a contribution of 70%, or details of an alternative system.

The development must incorporate the sustainable design initiatives outlined in the endorsed Sustainable Design Assessment (SDA) to the satisfaction of the Responsible Authority.

- 6. Before the development starts, a Green Travel Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The Green Travel Plan must be generally in accordance with the plan prepared by Northern Environmental Design dated 26 May 2017.

When approved, the Green Travel Plan will be endorsed and will form part of this permit. The provisions, recommendations and requirements (including any ongoing management actions) of the endorsed Green Travel Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

- 7. Before the development starts, a Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The Waste Management Plan must be generally in accordance with the plan prepared by Northern Environmental Design dated 26 May 2017.

When approved, the Waste Management Plan will be endorsed and will form part of this permit. The provisions, recommendations and requirements of the endorsed Waste Management Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

- 8. Prior to the issue of an Occupancy Permit, all boundary walls must be cleaned and finished to the satisfaction of the Responsible Authority if the owner of the adjoining land allows access for the purpose.
- 9. Floor levels shown on the endorsed plan(s) must not be altered or modified without written consent of the Responsible Authority.
- 10. All pipes, fixtures, fittings, ducts and vents servicing any building on the land, other than gutters above the ground floor storey of the building, must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.
- 11. The existing street tree must not be removed or damaged as a result of the permitted development, to the satisfaction of the Responsible Authority.
- 12. Provision must be made for the drainage of the land including landscaped and pavement areas. The discharge of water from the land must be controlled around its limits to prevent any discharge onto any adjoining or adjacent property or streets other than by means of an underground pipe drain which is discharged to an approved legal point of discharge to the satisfaction of the Responsible Authority.
- 13. The development must be provided with external lighting capable of illuminating access to each pedestrian access point. Lighting must be located, directed and shielded and of limited intensity so that no nuisance or loss of amenity is caused to any person within or beyond the site to the satisfaction of the Responsible Authority.

14. This permit will expire if:

- a) The development does not start within two (2) years of the date of issue of this permit, or
- b) The development is not completed within four (4) years of the date of issue of this permit.

Before the permit expires or within six (6) months afterwards the owner or occupier of the land may in writing request the Responsible Authority to extend the expiry date.

Once the development has commenced the owner or occupier of the land may in writing request the Responsible Authority to extend the expiry date within twelve (12) months of the lapse date.

#### **Permit Notes**

- This is not a building permit under the *Building Act*. A separate building permit is required to be obtained for any demolition or building works.
- Before commencement of the development occurs, the applicant should contact Moonee Valley City Council on 9243 8888 regarding legal point of discharge, new crossings, building over easements, etc.
- No on-street parking permits will be provided to occupiers of the subject site.
- All drainage works undertaken must be in accordance with the requirements of Stormwater Drainage Requirements for Development Works as prepared by Moonee Valley City Council.
- All works undertaken within any existing road reserves must accord with the requirements of Moonee Valley City Council and be to the satisfaction of the Responsible Authority.
- Existing levels along the property line must be maintained. All proposed levels must match to existing surface levels along the property boundary. Council will not accept any modifications to existing levels within any road reserve.

### **1. Introduction**

#### **1.1 Subject Site and Surrounds**

The subject site is located on the southern side of Leake Street, approximately 35 metres east of the intersection with Richardson Street/Lincoln Road and 65 metres west of the intersection with Mt Alexander Road. The site is rectangular in shape with a frontage of 6.4 metres, depth of 20.12 metres and a total site area of approximately 129 square metres. The land is generally flat, and is affected by a 3.05 metre wide miscellaneous easement in favour of Council, which was formerly a disused Right of Way recently dispensed by Council. No covenants or other restrictions affect the site. The subject site currently contains a single storey brick retail premises.

Leake Street is composed of commercial land and is identified as being within a core retail precinct within the North Essendon Activity Centre. Land has been developed for primarily commercial purposes, with infill development occurring directly opposite the site in the form of five storey mixed use buildings.

The surrounding area has been developed in a manner which reflects its shared zoning and location within an activity centre. There is a strong emerging character of higher density developments highlighted immediately to the north of the site as mentioned above, as well as in the surrounding residential streets such as the three storey townhouse development to the south.

The area is well serviced by commercial and community amenities, with public transport readily available through the Route 59 tram along Mt Alexander Road, as well as various bus routes in the surrounding road network. The Keilor Road Activity Centre is located approximately 280 metres to the north-west and the Essendon Junction Activity Centre, surrounding the Essendon Railway Station, is located 500 metres to the south.



Figure 2 – Subject Site (17 Leake Street, Essendon)

## 1.2 Proposal

It is proposed to construct a four storey mixed-use building summarised as follows:

**Table 1**

Commercial	Ground floor Food and drink premises (68m <sup>2</sup> ) First floor Office (67m <sup>2</sup> )
Dwellings	2 one-bedroom Dwellings, one each on second and third floors
Car spaces	0
Bicycle spaces	8
Max building height	14.95 metres

Refer **Appendix A** - Plans (separately circulated).

## **2. Background**

### **2.1 Relevant Planning History**

There are no historical planning applications for the subject land.

### **2.2 Planning Policies and Decision Guidelines**

#### State Planning Policy Framework

- Clause 11 Settlement
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 17 Economic Development
- Clause 18 Transport
- Clause 19 Infrastructure

#### Local Planning Policy Framework

- Clause 21.01 Municipal Profile
- Clause 21.03 Vision
- Clause 21.04 Sustainable Environment
- Clause 21.05 Housing
- Clause 21.06 Built Environment
- Clause 21.07 Activity Centres
- Clause 21.08 Economic Development
- Clause 22.03 Stormwater Management (Water Sensitive Urban Design)

#### Zoning and Overlays

- Clause 34.01 Commercial 1 Zone
- Clause 43.02 Design and Development Overlay (Schedule 10)

#### Particular and General Provisions

- Clause 52.06 Car Parking



- Clause 52.07 Loading and Unloading of Vehicles  
Clause 52.34 Bicycle Facilities  
Clause 65 Decision Guidelines

## 2.3 Referrals

No external referrals were required for this application.

The following internal referrals were undertaken:

**Table 2**

Internal Referrals	Comments/Conditions
Development Engineering (Traffic)	Concern to lack of parking for dwellings and office. Waiver of parking and loading requirement for shop is acceptable.
Development Engineering (Drainage)	Standard conditions.
Environmentally Sustainable Design (ESD) Officer	STORM assessment complies. Amended BESS report required, annotations on plan. Recommendation to include skylight for dwelling on top level.
Waste Projects Officer	Waste Management Plan is acceptable.

## 2.4 Public Notification of the Application

Pursuant to Section 52 of the *Planning and Environment Act 1987*, the application was advertised by mail to adjoining and surrounding properties, and a notice displayed on site for 14 days.

A total of 3 objections were received from the following properties:

- 19 and 311/24 Leake Street, Essendon; and
- 6/82 Richardson Street, Essendon.

The objections are discussed at Section 3.7 of this report.

## 2.5 Consultation Meeting

Pursuant to the Councils *Statutory Planning Protocols 2011*, a Consultation meeting was not required as less than 10 objections were received through the notification process.

As the proposal is categorised as a major project under Section 5.3.2 of the Protocols, the application must be determined by Council at an Ordinary Council Meeting.

### **3. Discussion**

#### **3.1 Does the proposal address the relevant State and Local Planning Policies?**

The relevant State and Local Planning Policy Framework clauses are considered to be met. For the large part state planning objectives seek to encourage urban consolidation in locations which take advantage of existing commercial and community services and public transport.

The subject site is located within the North Essendon Activity Centre, and is well serviced by community and commercial amenities. The location of the subject site is considered to lend support for an intensification of commercial residential development such as that proposed, with policy providing encouragement for substantial housing and economic growth within activity centres. The proposal contributes to the objective of housing diversity by providing alternative dwelling sizes and types to cater for the increasingly diverse needs of future residents. The provision of a modest food and drink premises and office component achieves the policy goals for such uses within the commercial zone.

The proposal is considered to be capable of compliance with Clause 21.04 (Sustainable Environment), through the submission of an amended Sustainable Design Assessment (SDA) assessment.

The development complies with Clause 21.04-7 (Waste), through the submission of an acceptable Waste Management Plan.

Clause 21.06-4 (Urban Design) contains objectives and strategies to ensure appropriate built form outcomes throughout the municipality. The proposal is considered to accord with the objectives and strategies of this clause, for the reasons discussed in greater detail in the assessment against the DDO below.

The proposal generally complies with Clause 22.03 (Stormwater Management – Water Sensitive Urban Design) by providing adequate on-site stormwater treatment through the submission of a compliant STORM assessment achieving a minimum 100% rating.

#### **3.2 Does the development comply with the Commercial 1 Zone?**

The proposal is considered to meet the decision guidelines at Clause 31.04-8 of the Moonee Valley Planning Scheme, as they relate to buildings and works, as discussed in greater detail against the requirements of the Design and Development Overlay.

It is noted that the uses of the land for a food and drink premises and an office are both a Section 1 (Permit not required) land use. Similarly, as the residential entry porch is less than 2 metres in width at the street frontage, the use of the land for dwellings also falls under Section 1.



### 3.3 Does the development comply with the Design and Development Overlay (DDO10)?

The subject site is located within the Design and Development Overlay (Schedule 10) which applies to land within and around the North Essendon Activity Centre. The overlay implements design objectives for new development, and sets out preferred heights and setbacks for certain areas. The North Essendon Activity Centre Built Form Guidelines 2012 are incorporated as a reference document and form part of the decision guidelines of the overlay.

The land is subject to the preferred heights and setbacks for commercial areas as set out in the table below:

**Table 3**

Requirement	DDO10	Proposed
<b>Height</b>	4 storeys, 15m	Complies – 4 storeys (14.95m)
<b>Ground Level Setback</b>		
<b>Front</b>	Zero to street	Complies - Zero
<b>Rear</b>	3m to rear	Complies – 3.05m
<b>Upper Level Setback</b>		
<b>Front</b>	Zero for first two levels	Complies – Zero
	3m for levels 3 and 4	Variation – Zero, gradually increasing to 3m at top of facade
<b>Rear</b>	3m for first two levels	Complies – 3.05m
	4.5m for levels 3 and 4	Variation at the fourth level – 4.5m setback to wall, balcony and third floor staircase partially encroaches at 3.05m

The proposed development meets the general design objectives of the overlay and the Keilor Road Built Form Guidelines by achieving the following outcomes:

- The contemporary built form of the development is consistent with both the emerging character of the area, realising the high degree of change expected by policy. The proposal has a well-resolved architectural theme which will positively contribute to the built form character of the area, whilst also achieving a respectful and site responsive design outcome. This meets the design objective of the overlay which seeks to achieve excellence and diversity in architecture.

- The overall siting and massing of the development generally provides an appropriate response to the opportunities and constraints of the site. The upper floors are appropriately graduated to the front and rear. Whilst the angled framing to the two upper levels does not numerically meet the preferred setback, it does achieve the intent which is to provide a recessive built form above the second storey. This approach also has support within the built form guidelines, which seek to discourage 'wedding cake' building configurations caused by harsh incremental setbacks.
- The rear setbacks largely comply with the preferred setbacks, with the two south-facing balconies encroaching by 1.5 metres, for a width of 3.2 metres. The third floor staircase also encroaches into the setback, however the fourth level section is setback to comply with the requirement of the overlay. This encroachment is considered to be acceptable as there are no unreasonable visual or amenity impacts caused, and they provide an improved level of internal amenity to the proposed dwellings. They are also sensitively designed with lightweight cladding to minimise their visual impact.
- Primary visual and physical links are to the east (front) of the site. The development includes an appropriate level of glazing and street facing balconies within the building façade. The proposal introduces a good mix of commercial and residential occupancies to the site, which would significantly enhance interactions, visual interest and passive surveillance to the streetscape. The residential and commercial entry points are readily identified within the ground floor façade of the building, providing visual cues for both residential and commercial users. An appropriate level of shelter and passive surveillance is achieved.
- External finishes of the proposed development predominantly comprise of selected render and metal cladding of complementary tones. This is considered to complement the existing and emerging character of the area, and would integrate the proposed development with its surroundings while creating an attractive and interesting built form. The proposed development would be a well-integrated building with a clearly articulated facade and sense of address to Leake Street.
- The proposal achieves an urban design benefit through a considered and responsive design and an attractive, legible architectural theme.

Overall, the proposed development is considered to be an appropriate design response to the opportunities and constraints of the site and the character of the area. It proposes an effective utilisation of the site, taking advantage of its location in proximity to public transport and services. The area is currently undergoing a transition to both medium and higher density development which is foreseen by the relevant policy guidelines and the North Essendon Activity Centre Structure Plan. The proposed development is considered to be aligned with the vision for the area.

### 3.4 Is it appropriate to provide no on-site car parking?

The requirements for car parking under Clause 52.06-5 are set out in the table below:

**Table 4**

	Requires	Provides
Food and drink premises (68m <sup>2</sup> )	2	0
Office (67m <sup>2</sup> )	2	0
Two one-bedroom dwellings	2	0
Total	6	0

It is noted that the site is occupied by a 65m<sup>2</sup> shop with no on-site car parking, providing an existing 'credit' of two spaces.

The reduction to the car parking requirement is considered acceptable, notwithstanding the concerns raised by Council's Development Engineering (Traffic) Unit in relation to the office and residential component. Due to its location, the site is provided with excellent access to a range of public transport options by train, tram and bus. The site is ideally located within North Essendon Activity Centre, and within 500 metres of two other major activity centres (Keilor Road and Essendon Junction).

This was evidenced by a traffic impact assessment provided by Traffix Group, assessing supply through surveys and demand based on car ownership rates within the 2011 Census for the Essendon area. The Car Parking Demand Assessment estimates that the proposed development will generate a maximum overflow car parking demand of 4 spaces associated with the commercial component, based on ABS data which calculates the likelihood of each component having ownership of a vehicle or relying on vehicles to visit/work on site. Provision of on-street car parking in the immediate area is shown to be capable of accommodating the shortfall associated with the proposed development. The impact assessment also demonstrates that there is substantial demand for residential accommodation with no on-site car parking in the Essendon area.

The development represents a modest mixed use inclusion into a core commercial area within the North Essendon Activity Centre. The proposal for two small commercial tenancies and two small one-bedroom dwellings will make a positive contribution to the strategic aims for the area, at an incremental degree that would have no unreasonable impact on the supply of car parking nearby. Rather, by providing no car parking, the development will have a reduced impact on the movement of vehicles into the area and will assist in encouraging the use of alternative modes of transportation. This will also alleviate any potential vehicle congestion in the surrounding road network.

The proposal includes the provision of eight bicycle spaces on site, despite there being no planning scheme requirement to provide any. This encourages the use of alternative and more sustainable modes of transport. It is also noted that the subject site achieves a 'walk score' of 89 out of 100, gaining the second highest classification 'Very Walkable' that indicates building occupants can accomplish most errands on foot based on nearby amenities.

Importantly, a Green Travel Plan has been submitted with the application, which demonstrates a commitment to the provision and ongoing management of sustainable transport within the building. This would be incorporated as a condition of any permit issued.

Finally, the decision guidelines of Clause 52.06 require consideration of whether it is practical to provide on-site car parking. Given the limited dimensions of the land and the lack of adequate vehicle access to the rear, the constraints of the site lend support to a waiver of the parking requirement.

Overall, it is not considered that the supply of on-street car parking would be unreasonably affected, and that the residential and office car spaces could be accommodated. It is not anticipated that the proposed development will generate a cumulative impact or have an adverse effect on the local road network. The proposal is considered to be an acceptable and well-balanced outcome that will help reduce the dominance of private motor vehicles and traffic issues within North Essendon Activity Centre.

### **3.5 Is it appropriate to waive the loading bay requirement?**

It is considered appropriate to waive the loading bay requirements in this case, as required for any proposed shop (food and drink premises). The premises is comparable in size to other commercial premises throughout Leake Street, and it is generally accepted that deliveries to premises of this scale are delivered by a small truck, van or car. Such vehicles would utilise available kerbside areas or on-street parking nearby for short periods of time. Council's Development Engineering (Traffic) Unit has no objection to this arrangement. It is noted that VCAT commonly waive loading and unloading requirements for small commercial premises similar to that contained within the proposed development.

### **3.6 Does the proposal comply with the objectives of ResCode?**

Whilst the requirements of Clause 55 do not formally apply to developments the Commercial 1 Zone, they are a broader consideration within the decision guidelines.

The proposal is considered to generally comply with the provisions as set out in the assessment table (refer to **Appendix B**). Clauses where the standard has not been met are discussed below:

**Table 5**

<b>ResCode Standard</b>	<b>Response</b>
Clause 55.03-2 Standard B7 Building Height	The standard states that a development should not exceed a maximum building height of 9 metres. The development has a maximum height of 14.95 metres. This is considered to be an appropriate outcome as the area of non-compliance is minor, and contained centrally within the site where there would be no unreasonable visual or amenity impact. It is also noted that the preferred maximum building height under the DDO10 is 15 metres, or four storeys.
Clause 55.03-3 Standard B8 Site Coverage	Site coverage is 85%, exceeding the maximum of 60% under the standard. This is an appropriate outcome given the commercial zoning of the site, where such an intensity of built form is expected and encouraged.
Clause 55.03-4 Standard B9 Permeability	The permeable site coverage of the site will be zero, below the 20% required by the standard. This is also considered appropriate due to the commercial classification of the site, also noting that appropriate stormwater treatment measures will be incorporated into the development as discussed under Section 3.1.
Clause 55.04-1 Standard B17 Side and Rear Setbacks	The development falls short of the standard at second and third floor level from the southern boundary. This is acceptable given the strategic context of the site, and further so in light of the compliance with the DDO10 design objectives.
Clause 55.04-2 Standard B18 Walls on Boundaries	The development is built to both side boundaries at each level, exceeding the height and length requirements of the standard. This is considered to be an acceptable variation and is an expected outcome in this context. These walls abut neighbouring commercial interfaces, and are also largely opposite existing built form.
Clause 55.04-4 Standard B20 North-facing Windows	The proposal falls short of the standard setback for the two north-facing habitable room windows in proximity to the site. The shortfall is considered to be acceptable in this instance, noting the preferred rear setback under the DDO is met. The affected windows sit at three storeys in height, and the vertical shadow diagrams submitted demonstrate that the shadow impact caused will not be unreasonable.

ResCode Standard	Response
Clause 55.04-5 Standard B21 Overshadowing	The submitted shadow diagrams show that the development will cast some additional shadow over the balcony of one of the dwellings within the recently constructed townhouse development to the south. This additional shadow is quite minor, and only occurs during two hours between 9am and 3pm on the equinox. Given the minor impact and the strategic context of the site, a variation is considered acceptable.
Clause 55.04-6 Standard B22 Overlooking	A condition of permit will ensure the privacy screening provided to the south-facing balconies has a maximum transparency of 25%.
Clause 55.05-6 (Standard B30) Storage	The 6 cubic metres of external storage is not provided, which is acceptable given the nature of dwelling proposed. There is ample space internally for the storage needs of occupants of the one-bedroom apartments.

### 3.7 Objections (Discussion)

The following table provides a discussion of the concerns raised within the objections to the application:

**Table 4**

Issue	Officer Response
Traffic and parking impacts	The traffic and car parking implications of the proposal are considered acceptable as discussed under Section 3.4 of this report.
Visual bulk and scale	As discussed under Section 3 of this report, the development is considered to be an appropriate design response and responds to the opportunities and constraints of the site.
Overshadowing	The proposal achieves an acceptable level of compliance with the relevant objectives of ResCode including noise, overshadowing, daylight to habitable rooms and overlooking subject to conditions, where necessary.
Construction impacts	A condition of any permit issued will require the submission and endorsement of a Construction Management Plan, which will manage impacts during the construction phase.

#### **4. Human Rights**

The application process and decision making is in line with the *Victorian Charter of Human Rights and Responsibilities 2006* (Section 18 – Taking part in public life).

#### **5. Conclusion**

The application has been assessed against the relevant provisions of the State Planning Policy Framework, Local Planning Policy Framework, zoning controls, the relevant Particular and General Provisions, and the decision guidelines at Clause 65 of the Moonee Valley Planning Scheme.

Consideration has also been given to the requirements of Section 60(1B) of the *Planning and Environment Act 1987* with respect to the number of objections received. It is determined that the proposal would not have a significant social effect.

It is recommended that Council issue a Notice of Decision to Grant a Planning Permit in accordance with the conditions contained within the recommendation section.

#### **Appendices**

Appendix A: Plans (separately circulated) ➡

Appendix B: ResCode Assessment.

## APPENDIX B

### Clause 55 of the Moonee Valley Planning Scheme

Two or more dwellings on a lot and residential buildings (Clause 55 and Schedule to the General Residential Zone).

Where there is non-compliance, see Section 3.6 in report.

<b>Title and Objective</b>	<b>Compliance with Standard</b>	<b>Compliance with Objective</b>
<i>B1 - Neighbourhood Character Objectives</i>	✓	✓
<i>B2 - Residential Policy Objectives</i>	✓	✓
<i>B3 - Dwelling Diversity Objective</i>	N/A	N/A
<i>B4 - Infrastructure Objectives</i>	✓	✓
<i>B5 - Integration with the Street Objective</i>	✓	✓
<i>B6 - Street Setback Objective</i>	✓	✓
<i>B7 - Building Height Objective</i>	X	✓
<i>B8 - Site Coverage Objective</i>	X	✓
<i>B9 - Permeability Objectives</i>	X	✓
<i>B10 - Energy Efficiency Objectives</i>	✓	✓
<i>B11 - Open Space Objective</i>	N/A	N/A
<i>B12 - Safety Objective</i>	✓	✓
<i>B13 - Landscaping Objectives</i>	✓	✓
<i>B14 - Access Objectives</i>	N/A	N/A
<i>B15 - Parking Location Objectives</i>	N/A	N/A
<i>B16 - Parking Provision Objectives</i>	Deleted from Clause 55 on 5 June 2012 (VC90). Refer to Clause 52.06 for car parking requirements under Section 3.4 of the report.	
<i>B17 - Side and Rear Setbacks Objective</i>	X	✓
<i>B18 - Walls on Boundaries Objective</i>	X	✓
<i>B19 - Daylight to Existing Windows Objective</i>	N/A	N/A
<i>B20 - North-facing Windows Objective</i>	X	✓
<i>B21 - Overshadowing Open Space Objective</i>	X	✓
<i>B22 - Overlooking Objective</i>	✓	✓



<i>B23 - Internal Views Objective</i>	✓ Condition	✓
<i>B24 - Noise Impacts Objectives</i>	✓	✓
<i>B25 - Accessibility Objective</i>	✓	✓
<i>B26 - Dwelling Entry Objective</i>	✓	✓
<i>B27 - Daylight to New Windows Objective</i>	✓	✓
<i>B28 - Private Open Space Objective</i>	✓	✓
<i>B29 - Solar Access to Open Space Objective</i>	✓	✓
<i>B30 - Storage Objective</i>	X	✓
<i>B31 - Design Detail Objective</i>	✓	✓
<i>B32 - Front Fences Objective</i>	✓	✓
<i>B33 - Common Property Objectives</i>	✓	✓
<i>B34 - Site Services Objectives</i>	✓	✓

✓ – Complies

x – Non-compliance

N/A – Not applicable

**9.7                      34 Bulla Road, Strathmore (Lot 4 LP10839) - Construction of six dwellings in a Design and Development Overlay (DDO3), a reduction in car parking requirements and alteration of access to a road in a Road Zone, Category 1**

**File No:** FOL/17/11  
**Author:** William Wheeler  
Principal Statutory Planner  
**Directorate:** Planning & Development

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### **Purpose**

The purpose of this report is to seek Council's consent to various modifications as shown on amended plans circulated to all parties prior to the VCAT Hearing to be held on 20 October 2017.

The matter relates to Planning Application MV/512/2016, which seeks planning approval for the construction of six dwellings.

### **Executive Summary**

- A decision on the application was made by Council at a Development Assessment Panel (DAP) Meeting held on 2 March 2017. This report should be read in conjunction with the report presented to Council's DAP Meeting and the subsequent minutes from that meeting. Refer to **Appendix A** – DAP Meeting Report (separately circulated) and **Appendix B** – DAP Meeting Minutes (separately circulated).
- At the DAP Meeting, Council resolved to refuse the granting of a permit for the construction of eight dwellings in a Design and Development Overlay (DDO3), a reduction in car parking requirements and alteration of access to a road in a Road Zone, Category 1. Refer to **Appendix C** – Original Advertised Plans (separately circulated).
- The development was refused on a number of grounds including neighbourhood character, built form, adverse amenity impacts, failure to comply with the DDO3 requirements, failure to satisfy a number of ResCode standards and being an overdevelopment of the site.
- In response, the permit applicant lodged an 'application for review' with VCAT on 18 April 2017 against Council's refusal to grant a planning permit.
- Upon receipt of the application for review, VCAT scheduled a hearing for the matter on 20 October 2017.
- In accordance with VCAT Practice Note PNPE9 'Amendment of Plans and Applications', the permit applicant circulated amended plans to all parties prior to the hearing with changes aimed at reducing visual bulk/massing, reducing site coverage, reducing building heights, increasing the street setback, increasing landscaping opportunities, reducing overshadowing impacts and

improving the external design. Refer to **Appendix D** – Amended Plans (separately circulated).

- In accordance with VCAT procedures, Council is required to advise the Tribunal and other parties to the proceeding whether or not it accepts the modifications shown on the amended plans and whether it supports the proposal as a result of these changes.

### **Recommendation**

That Council, with respect to an Application for Review against Council's refusal to grant a planning permit, resolves to advise the Victorian Civil and Administrative Tribunal (VCAT) and other parties to the application that it accepts the modifications shown on amended plans contained within **Appendix D** (separately circulated) and that it now supports the proposal as a result of these changes.

### **Background**

At the Development Assessment Panel (DAP) Meeting held on 2 March 2017, an officer recommendation to refuse Planning Application MV/512/2016 on a number of grounds was considered. Accordingly, Council resolved to refuse the proposal on the following grounds:

1. The proposal fails to meet the overarching objective and strategies of Clause 15.01-5 (Cultural Identity and Neighbourhood Character) of the Moonee Valley Planning Scheme and would result in a development that fails to appropriately respond and contribute to neighbourhood character.
2. The proposal fails to meet the objectives and strategies of Clause 21.06-1 (Neighbourhood Character) and Clause 21.06-4 (Urban Design) as it does not respect or contribute to the preferred character of the 'Garden Suburban 6' precinct and fails to appropriately respond to its location and surrounding context.
3. The development would present a visually dominant and unsympathetic built form character to the area and will have an adverse effect on the residential amenity of neighbouring land.
4. The proposed development fails to adequately comply with the design objectives and requirements of Schedule 3 to the Design and Development Overlay (DDO3).
5. The proposal fails to satisfy the following standards contained within Clause 55 (Two or More Dwellings on a Lot) of the Moonee Valley Planning Scheme, and does not achieve an acceptable outcome in terms of the following objectives:
  - a) Clause 55.02-1 (Neighbourhood Character Objectives);
  - b) Clause 55.02-2 (Residential Policy Objectives);
  - c) Clause 55.03-1 (Street Setback);
  - d) Clause 55.03-5 (Energy Efficiency);
  - e) Clause 55.03-8 (Landscaping Objectives);
  - f) Clause 55.04-1 (Side and Rear Setbacks);

- g) Clause 55.04-5 (Overshadowing Open Space Objective); and
  - h) Clause 55.06-1 (Design Detail Objective).
6. The proposal represents an overdevelopment of the site.

### Discussion

The permit applicant has put forward a number of modifications aimed at addressing the concerns raised by Council and the objecting parties. While the application initially received 18 objections, only two objectors intend to participate in the hearing and will be parties to the proceeding. In essence, the modifications relate to the following:

- Reduction in the number of dwellings from eight to six;
- Reduction in site coverage from 59.42% to 52%;
- Increased excavation of the site with a reduction in overall building heights (maximum height of 9.40 metres at the front of the site and 5.33 metres at the rear of the site);
- Increase in the minimum street setback from 5.68 metres to 7.61 metres;
- Increase in the number of car spaces on site from eight to eleven.
- Relocation of the vehicle crossover and driveway from the north-western to the south-eastern property boundary; and
- Internal layout and external design changes as a result of the above.

These amendments are to be formally substituted and adopted by the Victorian Civil and Administrative Tribunal (VCAT) at the upcoming hearing to be held on 20 October 2017.

### Response to Council's Refusal Grounds

To assist with the decision making, the following discussion is provided in response to Council's original refusal grounds:

1. ***The proposal fails to meet the overarching objective and strategies of Clause 15.01-5 (Cultural Identity and Neighbourhood Character) of the Moonee Valley Planning Scheme and would result in a development that fails to appropriately respond and contribute to neighbourhood character.***

The reduction in the number of dwellings, reduced site coverage, reduced building heights, increased street setback and increased landscaping opportunities all respond and contribute to neighbourhood character.

2. ***The proposal fails to meet the objectives and strategies of Clause 21.06-1 (Neighbourhood Character) and Clause 21.06-4 (Urban Design) as it does not respect or contribute to the preferred character of the 'Garden Suburban 6' precinct and fails to appropriately respond to its location and surrounding context.***

The reduction in the number of dwellings, reduced site coverage, reduced building heights, increased street setback and increased landscaping opportunities respect and contribute to the preferred character of the 'Garden

Suburban 6' precinct and appropriately respond to the site's location and context. In particular, the increased street setback and increased landscaping opportunities respect the garden suburban character evident within the residential hinterland areas to the north of Woodland Street and east of Bulla Road. The reduced number of dwellings from eight to six responds to the siting of other similar developments nearby (i.e. the five dwelling development on a smaller site to the south at 28 Bulla Road) whilst also acknowledging there is strategic support and an impetus for higher densities on this site. Specifically, the site directly abuts the Principal Public Transport Network (PPTN) under *Plan Melbourne 2017-2050*, given the 'Smart Bus' runs along this section of Bulla Road. The site is also located within 145 metres of North Essendon Activity Centre, and the provisions of the DDO3 along this corridor allow for three storey developments up to 10 metres in height.

3. ***The development would present a visually dominant and unsympathetic built form character to the area and will have an adverse effect on the residential amenity of neighbouring land.***

As discussed above, the reduction in the number of dwellings, reduced site coverage, reduced building heights, increased street setback and increased landscaping opportunities result in a more sympathetic built form to the streetscape and adjoining properties. The reduction in built form, particularly towards the front and rear of the site, with increased side setbacks from the south-eastern property boundary and increased separation between dwellings at the first and second floor levels will mitigate visual and amenity impacts on adjoining properties. Significantly, the proposed changes result in less overshadowing of existing dwellings and secluded private open space areas directly to the south-east, which accords with the provisions of Clause 55 (ResCode).

4. ***The proposed development fails to adequately comply with the design objectives and requirements of Schedule 3 to the Design and Development Overlay (DDO3).***

The reduced maximum building height of 9.40 metres (previously 9.50 metres) continues to comply with the 10 metre preferred maximum height under the DDO3. The rear setback of 4.0 metres at ground floor level and rear setback of 4.86 metres at first floor level (to walls with a height of 4.92-5.33 metres) continue to comply with the rear setback requirements under the DDO3. Importantly, the increased street setbacks of 7.61 metres and 7.76 metres at ground and first floor levels respectively, with a street setback of 9.61 metres at second floor level, result in full compliance with the front setback requirements under the DDO3. Therefore, the amended plans now accord with the design objectives and requirements of the DDO3.

5. ***The proposal fails to satisfy the following standards contained within Clause 55 (Two or More Dwellings on a Lot) of the Moonee Valley Planning Scheme, and does not achieve an acceptable outcome in terms of the following objectives:***

- a) ***Clause 55.02-1 (Neighbourhood Character Objectives);***
- b) ***Clause 55.02-2 (Residential Policy Objectives);***

- c) **Clause 55.03-1 (Street Setback);**
- d) **Clause 55.03-5 (Energy Efficiency);**
- e) **Clause 55.03-8 (Landscaping Objectives);**
- f) **Clause 55.04-1 (Side and Rear Setbacks);**
- g) **Clause 55.04-5 (Overshadowing Open Space Objective); and**
- h) **Clause 55.06-1 (Design Detail Objective).**

As discussed earlier, the proposed changes adequately address the above non-compliances of Clause 55 and result in an acceptable outcome for the site and surrounding area. The reduction in built form, reduced site coverage, reduced building heights, increased street setback and increased landscaping opportunities satisfy Grounds 5.a), b), c), e) and h).

With regard to overshadowing open space, the proposed development does not result in any additional overshadowing of existing private open space areas directly to the south-east from 9am to 1pm. There would also be no additional overshadowing of private open space for No.1/32 and 2/32 Bulla Road at 2pm, with at least 40m<sup>2</sup> of private open space for No.3/32 Bulla Road not affected by additional overshadowing at 2pm. This complies with the requirements of Clause 55.04-5 (Overshadowing Open Space).

With regard to Clause 55.03-5 (Energy Efficiency), the modified development has now been sited and designed to ensure the energy efficiency of existing dwellings directly to the south-east is not unreasonably reduced. Specifically, the reduced building heights and increased setbacks along this interface do not result in a significant loss of daylight or solar energy to No.1/32, 2/32 and 3/32 Bulla Road, as demonstrated with amended shadow diagrams at **Appendix D** (separately circulated).

With regard to Clause 55.04-1 (Side and Rear Setbacks), the reduced building footprint, increased excavation of the site and reduced building heights throughout the site result in an acceptable design response that respects the existing and preferred neighbourhood character while mitigating amenity impacts on existing dwellings. It is also noted that the increased separation of the dwellings at the first and second floor levels, towards the rear of the site, further minimises visual and amenity impacts on existing dwellings directly to the north-west and south-east of the site.

**6. *The proposal represents an overdevelopment of the site.***

As discussed, the amended design response is appropriate to the subject site and consistent with the 'garden suburban' character of the area. The proposed development provides adequate landscaping opportunities, does not adversely impact the amenity of adjoining properties and complies with the ResCode standards outlined above, which demonstrates an appropriate design response to the site and surrounding area.

## Implications

### 1. Legislative

The application process and decision making is in line with the *Victorian Charter of Human Rights and Responsibilities 2006* (Section 18 – Taking part in public life).

### 2. Council Plan / Policy

In presenting this report to Council, it is achieving its strategic objective to ensure that growth and development is well managed in accordance with 'Council Plan 2017-2021' Theme 3: Sustainable Living – Connected, well designed municipality, thriving neighbourhoods, accessible places and spaces.

### 3. Financial

There are no financial implications as a result of presenting this report. There are, however, financial implications associated with the VCAT hearing if it is to proceed. Any representation costs will have to be accounted for in the Statutory Planning's operational budget.

### 4. Environmental

There are no environmental implications as a result of presenting this report.

## Conclusion

For the reasons outlined within this report, it is recommended that Council accepts the modifications shown on amended plans contained within **Appendix D** (separately circulated) and advise all parties that it now supports the proposal.

## Appendices

Appendix A: DAP Meeting Report (separately circulated) ➡

Appendix B: DAP Meeting Minutes (separately circulated) ➡

Appendix C: Original Advertised Plans (separately circulated) ➡

Appendix D: Amended Plans (separately circulated).

## **9.8 Update on Notice of Motion No 2017/22 - Footpath Trading**

**File No:** FOL/17/11  
**Author:** Brooke Ranken  
Coordinator City Compliance  
**Directorate:** City Services

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### **Purpose**

The purpose of this report is to provide an update to Council regarding the outcomes of the Footpath Trading Survey conducted as a result of Notice of Motion (NoM) No. 2017/22 on 25 July 2017. The NoM called for an updated policy to be brought before Council by October, however this timeframe was unachievable as community consultations ended on 28 August 2017.

This report provides an update on work undertaken to date and includes some early findings. A final report with a revised policy will be put before Council by January 2018.

### **Executive Summary**

- Council adopted the Footpath Trading Policy in May 2015 and the policy is due for review in May 2018.
- Concerns have been raised regarding the cost of the permits, the types of materials that are allowed to be displayed, congestion of the footpath areas, and ensuring safe pedestrian access is maintained through the area.
- Council's Economic Development and City Compliance units undertook a study of Footpath Trading in Moonee Valley. The aim of the study was to obtain feedback regarding the application of the current Footpath Trading Policy and areas for improvement / refinement, some of which include:
  - Measurement of interest regarding what stock should be displayed on the footpath other than what is currently permitted.
  - Gauge community views on whether existing footpaths are clear, safe and unobstructed for pedestrians.

### **Recommendation**

That Council note the status report provided in relation to the work undertaken to date on NoM No. 2017/22 Footpath Trading.



## Background

Council's current Footpath Trading Policy was introduced in May 2015 and was scheduled for review in May 2018.

At the Council meeting on 25 July 2017 Cr Cusack moved a NoM, (2017/22)

*"That Council provide a report for the Ordinary Meeting of Council on 10 October 2017 that addresses existing and potential anomalies out of the application of the Councils Footpath Trading Policy."*

In order to undertake this process, the community and local traders needed to be consulted to determine any areas of concern. The first step in undertaking the review was to conduct a survey on a number of elements of the existing policy as well as to seek feedback on other issues such as fees and charges, pop up retailers, and benchmarking against other councils.

Due to the timeframes required to construct and undertake the consultation process with the traders and the public, it is only possible to provide a brief analysis of the responses received from the survey / consultation process at this time.

## Discussion

The aim of the review was to gather feedback on the current Footpath Trading Policy and to obtain ideas for potential growth and improvement.

The study also included the community views and expectations on whether existing footpaths were clear, safe and unobstructed for pedestrians, as providing such is a key role of Council.

In addition, a footpath trading fee benchmarking study was conducted across five inner city councils to establish an appropriate fee model. The fee models varied significantly across all councils and its content is currently being considered by officers.

In response to the public consultation, Council received feedback from 124 parties.

- Total respondents were equally weighted between business and community/residents of Moonee Valley.
- Businesses responding (87%) were from Ascot Vale and Moonee Ponds.
- More than 50% of respondents stated that they were food and beverage or retail businesses.
- Further to this 60% stated they were not current permit holders.
- The majority of businesses (91.7%) held advertising or outdoor dining permits in the municipality.
- Only 33% of responding businesses indicated interest in the display of goods other than what is already permitted. Other responders indicated that they would not like to display goods.
- A strong response (82.1%) supported the activation of laneways for events, markets and trading promotions.

Some of the key issues raised were:

- Concerns with mobility access for pedestrians generally;
- Obstructions caused by movement of tables and chairs, and the quality of these tables and chairs;
- Congestion of footpaths during weekend periods;
- Uneven footpath surfaces; and
- Concerns with obstructions to the pedestrian zone as a result of businesses who serve from windows adjacent to the footpath.

The results for the following statement, 'Footpaths in Moonee Valley are clear, safe and unobstructed for pedestrians' are as follows:

- More than 50% of respondents agreed with the above statement.
- A further 17.7% neither agreed nor disagreed.

Other general written comments indicated the following:

- Difficulty in navigation;
- Quantity of tables and chairs; and
- A lack of enforcement by Council.

### **Consultation**

Consultation to this point has occurred via the following:

- A survey on Council's website which was promoted to businesses within the municipality via Council's Economic Development team
- Discussions with Councillors about issues raised with them
- Meetings with traders who have provided feedback during the life of the current policy to councillors and or officers

Once the policy has been updated it will be brought to Council for review and adoption for the purposes of public consultation. The consultation will include a 28 day exhibition period during which residents and/or businesses will be able to make submissions / comment on the draft for Council to consider prior to adoption of the final policy.

## **Implications**

### **1. Legislative**

There are statutory considerations as a result of this report, Council has a responsibility to regulate the use of public space. Therefore is it necessary to adhere to the following legislation, the *Commonwealth Disability Discrimination Act 1992*, *Charter of Human Rights and Responsibilities Act 2006*, *Liquor Control Reform Act 1998*, *Tobacco Act 1987* and the *Planning and Environment Act 1987*. With regard to the *Charter of Human Rights and Responsibilities Act 2006*, the category of 'Freedom' and 'Freedom of Movement' is relevant to this report.

### **2. Council Plan / Policy**

Council Plan Strategic Theme 1: Friendly and Safe focusses on a city providing the community with high quality natural and built environment while ensuring and maximising community participation in, and awareness of environmental initiatives and activities. Outcomes associated with the improvement of accessibility have strong links with the Footpath Trading Policy.

### **3. Financial**

There are no direct financial implications flowing from the preparation and the adoption of this report. Future initiatives requiring new or additional funding will be considered as part of the annual budget process.

### **4. Environmental**

There are no direct environmental implications associated with the preparation and reception of this report.

## **Conclusion**

Council staff will continue with the investigation of the issues raised in the consultation with a revised policy developed and brought to Council by January 2018.

## **Appendices**

Nil.

**9.8                      Airport West Activity Centre Structure Plan Review - Key  
Directions and Preferred Options Report**

**File No:** FOL/17/11  
**Author:** Edward Crossland  
Senior Strategic Planner  
**Directorate:** Planning & Development

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**Purpose**

This report seeks endorsement of the Airport West Activity Centre Structure Plan Review - Key Directions and Preferred Options Report for the purpose of consultation.

**Executive Summary**

- Council committed to undertake a review of the existing *Airport West Activity Centre Structure Plan* in 2014, following a State Government announcement that the then Metropolitan Planning Authority (MPA) (now VPA) would prepare a new framework plan for Airport West and Essendon Fields to support its transition into a new aviation and employment precinct.
- To establish the foundation for the structure plan review, a number of background research and analysis reports were undertaken, including the Draft Urban Design & Built Form Analysis, the Draft Transport, Access & Mobility Assessment, and the Draft Economic Analysis & Market Feasibility Assessment. These reports ultimately informed the development of the draft Issues and Opportunities Report.
- The draft Issues and Opportunities Report was exhibited for community consultation between 15 August and 17 September 2015. Council undertook a comprehensive consultation program of community engagement, resulting in feedback from over 500 Airport West residents, landowners, stakeholders, community groups and other members of the public.
- After reviewing the community consultation feedback received, the Issues and Opportunities Report was updated, and adopted by Council in March 2016.
- Further to the findings of the Issues and Opportunities Report, preparation of two studies was undertaken; a Draft Open Space Analysis for the whole of Airport West, and Public Transport Interchange Design Concepts for the Dromana Avenue tram terminus and bus interchange.
- Council have since prepared a number of additional supportive background reports, including a Draft Urban Design Report and Urban Design and Built Form Guidelines, Draft Transport, Access and Mobility Report, and an Economic Analysis and Market Feasibility Report.

- The Key Directions and Preferred Options Report (Report) consolidates existing analysis and recommendations provided in the background documents that have most recently been undertaken; building on the learnings of the Issues and Opportunities Report. Overall, the Report seeks to establish a sound framework on which to base the Draft Airport West Structure Plan.
- The four key themes covered in the Report are:
  - Land Use and Activity;
  - Built Form and Urban Design;
  - Open Space and Public Realm; and
  - Movement and Access.
- Endorsement is now sought for the Report to progress to consultation; to attain further community feedback, and ensure that the direction of the structure plan review adequately considers the community aspirations and input thus far.

### **Recommendation**

That Council:

1. Acknowledge the contents of this report and associated appendices; and
2. Endorse the Airport West Activity Centre Structure Plan Review - Key Directions and Preferred Options Report (**Appendix A** – separately circulated) for public exhibition for a period of four weeks. *NB: Graphical content and images to be finalised and inserted into the document by Council officers following endorsement.*

### **Background**

In 2002, Airport West was identified as a Principal Activity Centre in the former metropolitan planning strategy, *Melbourne 2030*, and is now referred to as an Activity Centre under the current planning strategy, *Plan Melbourne* (2017 – 2050).

A Structure Plan for the centre was prepared with extensive input from the community and adopted by Council in 2008. However, following a State Government announcement in 2014 that the Metropolitan Planning Authority (now Victorian Planning Authority) will prepare a new framework plan for Airport West and Essendon Fields to support its transition into a new aviation and employment precinct, Council committed to undertake a review of the existing Structure Plan.

In addition, Council's 2014 Planning Scheme Review and Municipal Strategic Statement both identify the need for built form guidelines for the Airport West Activity Centre. The review process therefore includes the preparation of design guidelines. It is considered these guidelines will provide greater certainty for Council, the community and developers in the consideration of new development within the centre.

Project staging for the Review of the Structure Plan is as follows:

- Background Research and Analysis;
  - Draft Urban Design & Built Form Analysis (**Appendix B** – separately circulated)
  - Draft Transport, Access & Mobility Assessment (**Appendix C** – separately circulated)
  - Draft Economic Analysis & Market Feasibility Assessment (**Appendix D** – separately circulated)
- Issues and Opportunities Report (**Appendix E** – separately circulated);
- Preparation of Additional Studies Following Community Consultation;
  - Draft Open Space Analysis (**Appendix F** – separately circulated) (confidential)
  - Public Transport Interchange Design Concepts (**Appendix G** – separately circulated)
- Preparation of Background Reports;
  - Draft Urban Design and Built Form Guidelines (**Appendix H** – separately circulated)
  - Draft Transport, Access and Mobility Assessment (**Appendix I** – separately circulated)
  - Final Economic Analysis and Market Feasibility Report (**Appendix J** – separately circulated)
- Key Directions and Preferred Options Report – Current Stage (**Appendix A** – separately circulated);
- Draft Airport West Structure Plan; and
- Final Airport West Structure Plan.

Following the finalisation of the Issues and Opportunities Report, Council officers have since prepared and undertaken relevant staging and tasks to establish the Report.

### **Discussion**

Council officers have undertaken the Report to support and inform a comprehensive review of the Airport West Activity Centre Structure Plan. The Report consolidates existing analysis and recommendations provided in the background documents, and the prior work that has been consulted on as outlined in the Issues and Opportunities Report.

The purpose of the Report is to allow stakeholders and the wider Airport West community to express their thoughts in relation to the key ideas that are likely to underpin the revised Structure Plan before work on that document begins. The Report is also intended to inform the community as to the likely initiatives that could be implemented to achieve the key directions. Receiving feedback at this stage of the process allows Council to identify key concerns within the community and obtain indicative support or otherwise of particular initiatives.

Based on the exiting analysis and recommendations, the four key themes covered in the Report are;

- Land Use and Activity;
- Built Form and Urban Design;
- Open Space and Public Realm; and
- Movement and Access.

#### Land Use and Activity

The land use and activity chapter details the future directions and preferred options for the study area in relation to retail, commercial and industrial land uses – the local economy, housing, community services and facilities, and the rezoning of land.

#### Built Form and Urban Design

The built form and urban design chapter details the future directions and preferred options for the study area in relation to buildings, heritage and environmental sustainability.

#### Open Space and Public Realm

The open space and public realm chapter details the future directions and preferred options for the study area in relation to open space and streets.

#### Movement and Access

The movement and access chapter details the future directions and preferred options for the study area in relation to the walking, cycling, public transport and road networks.

Further to the key themes, four precincts have been identified within the Centre to reflect the different land use and character of each precinct, and how the application of the key themes will be realised. The precincts include:

- Technology and Enterprise Precinct (refer to page 16 of **Appendix A** – separately circulated);
- Core Retail Precinct (refer to page 18 of **Appendix A** – separately circulated);
- McNamara Avenue Precinct (refer to page 20 of **Appendix A** – separately circulated); and
- Supporting Residential Precinct (refer to page 22 of **Appendix A** – separately circulated).

#### Technology and Enterprise Precinct

The Technology and Enterprise Precinct has been identified to accommodate an eclectic mix of businesses which will generate significant employment growth. It will be characterised by achieving synergies through and physical connections with the land use and form in adjoining Essendon Fields.

New development will allow the continuation of the existing industrial uses that have historically defined the area, whilst the precinct street network's public and private realms will create an inviting, landscaped environment for workers and visitors.

### Core Retail Precinct

The northern gateway to the Activity Centre will be developed into a bustling and varied retail centre, attracting visitors and workers from the surrounding regions. The public realm will be transformed by attractive open space, an activated public plaza and an integrated public transport interchange.

Beyond the larger retail sites, the area will be characterised by a network of mixed use boulevard style streets featuring housing, niche retail and outside dining options. The precinct will be fully connected to the local area by new walking and cycling links from the extended Green Spine.

### McNamara Avenue Precinct

Two possible scenarios have been developed for the Future Land Use and Activities of the McNamara Avenue Precinct: Option A: Business as Usual, or Option B: McNamara Avenue Revitalise.

**Option A:** Business as Usual, would maintain McNamara Avenue's role as a small local shopping strip and the existing pattern of townhouse and unit developments up to 3 storeys, with limited change in retail activity or service provision.

**Option B:** McNamara Avenue Revitalise, would rejuvenate the McNamara Avenue Neighbourhood Centre through minor changes to the zoning, resulting in enhanced community activities and retail offerings including a full-line supermarket, a diversified range of housing options up to 4 storeys, with more private open space than can be achieved under Option A. Overall, Option B would achieve the objectives of a 20 minute neighbourhood as outlined in Moonee Valley 2040 Visioning Paper.

More broadly, the public realm will be enhanced by streetscape improvements, and walking and cycling connections to the Green Spine and surrounding residential areas will be established or enhanced to encourage walking and cycling trips to this local destination.

### Supporting Residential Precinct

The supporting residential precincts of the Activity Centre will transition to highly accessible residential communities with excellent access to employment opportunities, open space, and retail options.

Future development will be guided by the identified preferred neighbourhood character for these areas, and will be characterised by a mix of housing densities and increased housing diversity.

The public realm will be enhanced by street tree planting and improved built form outcomes. The precincts will be fully connected to the local area by new walking and cycling links from the extended Green Spine.

### **Consultation**

The preparation of the Report was undertaken by external consultants Ethos Urban (formerly Planisphere), with review and input from Strategic Planning, Strategic Transport, and Urban Design.

Building on the learnings of the Issues and Opportunities Report, which underwent extensive consultation, the Report draws upon numerous background reports; all of which were undertaken by external consultants, with Council officer review and input.



- Key Directions and Preferred Options Report – Ethos Urban
- Public Transport Interchange Design Concepts - Planisphere
- Draft Urban Design Report and Urban Design and Built Form Guidelines – Ethos Urban
- Draft Transport, Access and Mobility Report - GHD
- Final Economic Analysis and Market Feasibility Report – Charter Keck Cramer.

The consultation to be undertaken for the Report will include:

- Exhibition: Four week public exhibition period.
- Public notification: Information will be published in Council's Valley Life in the Moonee Valley Leader and the Moonee Valley Weekly Review to advise the community of the consultation period.
- Social media: Updates on the project and promotion of the survey will be made via Council's social media accounts.
- Website: Availability of the Report as adjusted for public consultation, plus all relevant background reports and the survey, on Council's website.
- Professionally designed collateral:
  - The Report, as adjusted for public consultation, will include numerous questions to prompt consideration, generate discussion and encourage a considered written response. It will be circulated throughout Airport West with the survey.
  - A3 posters; to be circulated throughout the municipality in municipal buildings, and at key locations throughout Airport West, to promote the consultation.
- Information at Council facilities: Copies of the Report as adjusted for public consultation, the survey, and all relevant background reports will be available to view or collection at Council's Civic Centre, Niddrie and Sam Merrifield Libraries, as well as Bowes Avenue Community Centre.
- Drop-in sessions: Two drop-in sessions with interpreters for the two largest culturally and linguistically diverse (CALD) communities in Airport West; Greek and Italian.
  - Weekend drop-in session with Ethos Urban and relevant Council officers in attendance, at a time and location in Airport West to be confirmed.
  - Evening drop-in session with Ethos Urban and relevant Council officers in attendance, at a time and location in Airport West to be confirmed.
- Discussions with Key Stakeholders including Department of Land, Environment, Water and Planning (DELWP) and Essendon Fields.

## **Implications**

### **1. Legislative**

There are no legislative or human rights implications associate with this report.

## **2. Council Plan / Policy**

In presenting this report to council, council is achieving its Strategic Objective to Ensure there is clear direction for growth and proactive management of development in the city in accordance with Council Plan 2017-2021 Theme 3: Sustainable living - Clear direction for growth and development of the city; Growth and development is well managed.

## **3. Financial**

Funding for the community consultation collateral, design work and overall preparation of the Report and associated background studies has been accommodated within the Strategic Planning unit's operational budget for this project.

## **4. Environmental**

The Report identifies a range of opportunities which Council could consider to improve the environmental sustainability of the Airport West Activity Centre. The community feedback received on these options will help inform revised Structure Plan which will feature Open Space and Public Realm as a key theme to inform the future development of the area.

## **Conclusion**

The Airport West Activity Centre Structure Plan Review - Key Directions and Preferred Options Report consolidates recently undertaken background reports and analysis in response to and building on the learnings of the Issues and Opportunities Report. Covering four key themes, and precinct guidance and objectives, the Report seeks to establish a framework on which to base the Draft Airport West Structure Plan.

Endorsement is now sought for the Report to progress to consultation; to attain further community feedback, and ensure as per previous comments that the direction of the structure plan review adequately considers the communities' aspirations and inputs thus far.

## **Appendices**

Appendix A: Airport West Activity Centre Structure Plan Review - Key Directions and Preferred Options Report (separately circulated) ➡

Appendix B: Draft Urban Design & Built Form Analysis (separately circulated) ➡

Appendix C: Draft Transport, Access & Mobility Assessment (separately circulated) ➡

Appendix D: Draft Economic Analysis & Market Feasibility Assessment (separately circulated) ➡

Appendix E: Issues and Opportunities Report (separately circulated) ➡

Appendix F: Draft Open Space Analysis (separately circulated) (confidential)

Appendix G: Public Transport Interchange Design Concepts (separately circulated) ➡

Appendix H: Draft Urban Design and Built Form Guidelines (separately circulated) ➡

Appendix I: Draft Transport, Access and Mobility Assessment (separately circulated) ➡

Appendix J: Final Economic Analysis and Market Feasibility Report (separately circulated).

## **9.10 Settlers' Cottage Conservation Management Plan**

**File No:** FOL/17/11  
**Author:** Josh Gould  
Senior Strategic Planner  
**Directorate:** Planning & Development

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### **Purpose**

To present the recommendations of the *Settlers' Cottage Conservation Management Plan* (CMP) and provide Council with options for the permanent location and use of the Settlers' Cottage.

### **Executive Summary**

- At its Ordinary Meeting on 4 December 2015, Council resolved to issue Planning Permit MV/942/2014 for the construction of a five storey development on the land located at 1070 Mt Alexander Road, Essendon, including the demolition of the Settlers' Cottage on the site.
- At its Special Meeting on 22 December 2015, Council resolved to:
  - Pursue options to temporarily relocate the 'Settlers' Cottage' located from 1070 Mt Alexander Road, Essendon.
  - Examine options to find a permanent location for 'Settlers' Cottage' in an appropriate setting.
  - Receive a further report detailing options for permanently relocating 'Settlers' Cottage', ongoing maintenance costs and options to refurbish Settlers' Cottage.
- At its Special Meeting on 2 February 2016, Council resolved to:
  - Temporarily relocate the 'Settlers' Cottage' located at 1070 Mt Alexander Road, Essendon, to the Council Depot in Holmes Road, Moonee Ponds.
  - Undertake refurbishment works to the 'Settlers' Cottage' in accordance with a Conservation Management Plan to ensure the Cottage is preserved for the enjoyment of Moonee Valley residents into the future.
  - Authorises the allocation of funds up to \$100,000 in the current financial year.
  - Receive a further report once a Conservation Management Plan is prepared and the Cottage is refurbished on options for a permanent location and use for the Cottage.
- The Settlers' Cottage was removed from the original site in April 2016 and relocated to the Holmes Road Council Depot for temporary storage and refurbishment.

- The *Settlers' Cottage CMP* (**Appendix A** – separately circulated) was finalised on 17 January 2017 and provides guidance for the conservation and management of the cottage.
- The CMP includes conservation policies which provide guidance for determining a permanent location and use for the building, and for protecting and maintaining it in the future.
- At its 23 May 2017 Ordinary Meeting, Council resolved to endorse a number of draft park master plans for consultation, including the *Draft Woodlands Park and Salmon Reserve Master Plan* and receive a further report following the completion of community consultation. The *Draft Woodlands Park and Salmon Reserve Master Plan* identified a potential future location for the Settlers' Cottage adjacent to the existing Woodlands Park House, which is located in the southeast corner of Woodlands Park.
- A report summarising the community consultation findings and proposing the endorsement of the *Woodlands Park and Salmon Reserve Master Plan* was presented at the Ordinary Council Meeting on 26 September 2017. The final Master Plan identifies a potential future location for the Settlers Cottage adjacent to the existing Woodlands Park House.

### Recommendation

That Council:

1. Endorse the *Settlers' Cottage Conservation Management Plan* (**Appendix A** – separately circulated) as the guiding document for the conservation and management of the cottage;
2. Use the *Settlers' Cottage Conservation Management Plan* as a guide for determining a permanent location and use for the cottage;
3. Note the feedback received as part of community consultation on the *Draft Woodlands Park and Salmon Reserve Draft Master Plan* regarding the site's suitability as a preferred location for the Settlers' Cottage;
4. Select Woodlands Park as the preferred site for the relocation of the Settlers' Cottage;
5. Note the estimated costs associated with the relocation and refurbishment of the Settlers' Cottage (**Appendix B**), and the need for a full quotation to be obtained once the use and site design are finalised;
6. Delegate Council Officers to develop a plan for the ongoing maintenance and use of the Settlers' Cottage in accordance with the *Settlers' Cottage Conservation Management Plan*; and
7. Delegate Council's Strategic Planning Officers to prepare an amendment to the Moonee Valley Planning Scheme (once the relocation and refurbishment is complete), to ensure the heritage overlay applies to the new location of Settlers' Cottage, and to activate 'internal alteration controls' in the schedule to the heritage overlay.

## Background

At its Ordinary Meeting on 4 December 2015, Council resolved to issue Planning Permit MV/942/2014 for the construction of a five storey development on the land located at 1070 Mt Alexander Road, Essendon, including the demolition of the Settlers' Cottage on the site. The subject land is affected by both Schedule 3 to the Design and Development Overlay (DDO3) and Schedule 137 to the Heritage Overlay (HO137).

At its Special Meeting on 22 December 2015, Council resolved to:

1. Pursue options to temporarily relocate the 'Settlers' Cottage' located from 1070 Mt Alexander Road, Essendon;
2. Examine options to find a permanent location for 'Settlers' Cottage' in an appropriate setting; and
3. Receive a further report detailing options for permanently relocating the Settlers' Cottage, on-going maintenance costs and options to refurbish the Settlers' Cottage.

Further work was undertaken to action the December 2015 resolution, and a report was presented to Council at the Special Meeting on 2 February 2016 at which Council resolved to:

1. Temporarily relocate the 'Settlers' Cottage' located at 1070 Mt Alexander Road, Essendon, to the Council Depot in Holmes Road, Moonee Ponds;
2. Undertake refurbishment works to the 'Settlers' Cottage' in accordance with a Conservation Management Plan to ensure the Cottage is preserved for the enjoyment of Moonee Valley residents into the future;
3. Authorises the allocation of funds up to \$100,000 in the current financial year; and
4. Receive a further report once a Conservation Management Plan is prepared and the Cottage is refurbished on options for a permanent location and use for the Cottage.

As per the Council resolution on 2 February 2016, a Conservation Management Plan (CMP) for the relocation and refurbishment of the Settlers' Cottage (**Appendix A** – separately circulated) was prepared by David Helms in association with Context Pty Ltd. The CMP was undertaken in two stages.

Stage 1 of the CMP (**Appendix C**) was completed in February 2016 and served to guide the relocation of the cottage, and the partial disassembly required as part of this process. It identified the significant fabric of the cottage that should be retained and treated with particular care during the move, as well as identifying areas of little or no significance that could be demolished. It also provided general guidelines for the relocation to ensure it had a minimal negative impact on the building. The partial disassembly of the cottage (the roof structure) was carried out in April 2016. The roof was removed with the removed components labelled and stored with the potential for re-erection.

In April 2016, Council removed the Settlers' Cottage from the original site and relocated to the Holmes Road Council Depot for temporary storage and refurbishment. This was undertaken in accordance with the recommendations of Stage 1 of the CMP. The required refurbishment will need to occur 'in-situ' once a permanent location is established, due to transportation size restrictions.

Stage 2 of the CMP was written post the temporary relocation of the cottage to Council's depot. It focuses on understanding the building fabric and providing recommendations for its conservation and repair when it is moved to a permanent site. The CMP also investigates which requirements should be met to best retain the heritage significance of the cottage, including guidelines for determining an appropriate use and permanent location.

## **Discussion**

### Findings and recommendations of the CMP

#### Heritage Significance

The heritage significance of the 'Settlers' Cottage' was first assessed as part of *Essendon Conservation Study* in 1985, which resulted in the Heritage Overlay being applied to the subject property located at 1070 Mt Alexander Road, Essendon (HO137).

According to the findings of the CMP, the Settlers' Cottage is considered to have heritage significance for the following reasons:

- Provides an example of the proliferation of prefabricated building components and sawn lumber imported to meet the demand for accommodation in the rapidly expanding colony of gold rush era Victoria;
- Is a rare surviving example of a timber cottage clad with flush horizontal boards, and early form of cladding seen in the 1840s and 1850s, which is sometimes covered in oilcloth for greater weatherproofing. It is the only known surviving example within the municipality and predates most of Essendon's built environment; and
- Provides an example of an early timber cottage through its simple gabled form and siting close to the street frontage.

Based on further research since the preparation of the *Essendon Conservation Study* in 1985, the CMP informs a revised statement of significance as well as conservation policies to provide guidance for determining a new location and use for the building, and for protecting and managing it in the future.

The CMP includes seven conservation policies, which can be summarised as follows:

#### Relocation and Adaptive Use Considerations

- Relocation of the building is a high priority.
- The future location and siting should reference the original location on Mt Alexander Road and links to the early development of Essendon and the Gold Rush route along Mt Alexander Road.

- The location should be consistent with the preferred use of the building, and should be located in an area where it is likely to be noticed and appreciated by the community.
- The new use for the building should be based on community needs and Council resources.
- The new use should protect the heritage fabric of the building.
- Original building fabric and elements should be retained in their original location.
- There are currently no amenities in the building and it is not recommended the building be altered to provide them. As such the building should preferably be located close to publicly accessible amenities, or provided with a separate amenities block (integration between the building and amenities block is of high importance and would require input from a suitably qualified heritage professional).
- In determining the new use, consideration should be given to the lack of amenities discussed above.
- Consideration should be given to opening the interior of the building to public one or two times a year – Melbourne Open House (July) and the National Trust Heritage Festival (April) are suggested as good options to attract a state wide audience.
- Appropriate use options will: enable the conservation of culturally significant fabric of the building; ensure that the building is occupied or used frequently; and encourage a community connection with the building and its history.
- Appropriate uses would therefore include meetings/offices for community organisations or Council. Commercial uses could be considered if they met all objectives of this policy and have a public benefit. The use of the building as a house museum is not seen as practical at this stage.

#### Interpretation

- A series of interpretive measures that facilitate a greater understanding of the building and its place in the history of Essendon and Victoria are required for the site.
- Original fabric to be prioritised for interpretation/interpretive measures include:
  - Roof shingles;
  - Internal teak panelling;
  - External horizontal tongue-and-groove cladding boards; and
  - Nails.
- Interpretive materials should provide details of the original site, explain the significance of the site and explain the background to the partial deconstruction, relocation and relocation of the building.



### Alterations and Additions

- The existing three rooms and central corridor should remain intact, including all wall panelling with no new openings made. Kitchen and toilet facilities should not be fitted within these rooms, but rather provided in a new building attached to or adjacent to the rear of the cottage.
- The rear wall of the building is the least intact and therefore any required additions should be restricted to this interface.
- It is believed that at one stage, the window currently located at the front of the cottage (to the larger room) was located on the rear wall of that same room. It would be appropriate to reinstate a window on this rear wall within the original framing.

### Protection of Significant Building Fabric

- Elements of the building that are connected to the early history of the building, particularly those that are now rare in Victoria, are of most significance and should be protected.
- These include the roof cladding (timber shingles), wall cladding (timber tongue and groove boards), internal wall panelling (timber panels), attic windows, floorboards and the internal floor plan which is believed to be the original arrangement.
- Elements of late nineteenth century alterations, such as weatherboard cladding and outline of the chimney are also of significance but are not rare.

### Management and maintenance

- Once use and site location has been established, a plan for the ongoing management of the building should be developed by Council. The plan should ensure the building is used in accordance with the CMP.
- It is recommended a budget is allocated for the regular upkeep of the building.
- The Moonee Valley Planning Scheme will need to be amended to cover the new location within the Heritage Overlay. Council should also activate 'internal controls' within the Schedule to the Heritage Overlay to protect internal elements of very high significance, such as the teak wall panelling.

### Artefacts and Significant Items

- Some materials described in the CMP as significant may not be used in the re-building/restoration process, such as nails, original timber shingles and some timber panels.
- A representative selection of these items should be either stored and displayed in the cottage or stored within Council premises.

### Adoption, implementation and review of CMP

- The CMP should be reviewed once the building has been relocated and a new use determined. Following this, the CMP should be reviewed at 10 yearly intervals.

### Proposed Use for Settlers' Cottage

In accordance with the recommendations of the CMP, Council officers consider that, once relocated, the Settlers' Cottage should be used for meeting spaces/offices for community organisations or Council.

This would allow the cottage to be used on an ongoing basis without requiring significant amenities to be provided either within the structure or as an annex. Therefore the cottage would be maintained on an ongoing basis and the significant heritage elements wouldn't be impacted, such as the external cladding.

The hiring of the cottage to community organisations would be facilitated through Council's existing booking processes, with the aim of ensuring the regular hire of the cottage rather than for casual use. This would allow the community organisation(s) to have ownership over the maintenance of the cottage in coordination with Council.

### Site Selection for Relocation

The Settlers' Cottage will need to be relocated to an appropriate site within the municipality, which is to be determined based on a number relevant factors.

Table 1 provides a comparison of all relocation options, taking into consideration the applicable conservation policies of the CMP and Council's current strategic direction relating to the potential relocation sites (e.g. existing master plans). It is noted that the cottage will need to be relocated to public land and managed by Council, as Council is the owner of the building and should be responsible for its ongoing management.

**Table 1 – Comparison of Shortlisted Locations**

Potential Location	Site Criteria						
	Access to public amenities	Located on Mt Alexander Road and located in Essendon	Annex required	Setback from the street / visibility	Open Space Impacts	Existing Master Plan	Consultation/ Timeframes
Lincoln Park	Yes/ Potentially– there are existing public toilets at the northern end of the park, but limited space to locate the cottage in their vicinity. Likely that the cottage would have to be placed	Approx. 130m west of Mt Alexander Road.  Located in Essendon	Yes - as major alterations to the interior of the cottage are to be avoided, kitchenette facilities would be required external to the building.	Potential for street frontage location which is visible from nearby homes	May encroach on open space and require tree removal.	Yes – would require an amendment. Lincoln Park Master Plan was adopted by Council in 2007	Would be an additional 1-2 years depending on City Design work program

Potential Location	Site Criteria						
	Access to public amenities	Located on Mt Alexander Road and located in Essendon	Annex required	Setback from the street / visibility	Open Space Impacts	Existing Master Plan	Consultation/ Timeframes
	more towards the southern end with inadequate access to amenities.						
Woodlands Park	Yes – adjacent to Woodlands Park House	Approx. 190m east of Bulla Road (extension of Mt Alexander Road).  Located in Essendon	No – could utilise kitchenette facilities in the adjacent Woodlands Park House.	Not visible from a major street as proposed to be located in southeast corner of park.	Proposed location has minimal impact on open space	Yes - Draft Master Plan includes potential provision for Settlers' Cottage to be located adjacent to the Woodlands Park House	Consultation undertaken in May/ June 2017
Cliff Allison Reserve	No – amenities would need to be provided	Approx. 28-115m east of Mt Alexander Road.  Located in Essendon	Yes - as major alterations to the interior of the cottage are to be avoided, kitchenette facilities would be required external to the building.	No street frontages	May encroach on open space	No	Would be an additional 1-2 years depending on City Design work program

Potential Location	Site Criteria						
	Access to public amenities	Located on Mt Alexander Road and located in Essendon	Annex required	Setback from the street / visibility	Open Space Impacts	Existing Master Plan	Consultation/ Timeframes
Queens Park	Potentially – could be located in close proximity to existing public toilets	Located on Mt Alexander Road (western frontage of park)  Not located in Essendon	Yes - as major alterations to the interior of the cottage are to be avoided, kitchenette facilities would be required external to the building.	Potential for street frontage location which is visible from nearby homes as well as Category 1 Road (Mt Alexander Road)	May encroach on open space and require tree removals	Yes – would require an amendment  Queens Park Master Plan was adopted by Council in 2008	Would be an additional 1-2 years depending on City Design work program

Table 1 demonstrates that none of the shortlisted locations are able to meet all of the stated criteria.

In determining an appropriate relocation site and future use for the Settlers' Cottage, it was important for the community to be provided with an opportunity to provide feedback on any proposal. This was achieved through consultation on a revised Woodlands Park Master Plan. Considering the recommended urgency of the Settlers' Cottage relocation (Policy 1.1 within the CMP, pp. 39), it is noted that only the Woodlands Park option has a draft master plan which includes a potential location for the Settlers' Cottage. Therefore all other options would require additional funding within Council's City Design budget to prepare a master plan or undertake a review of an existing master plan. This process could take 1-2 years longer than the Woodlands Park option, which could be resolved by late 2017.

#### Woodlands Park and Salmon Reserve Master Plan

At its 23 May 2017 Ordinary Meeting, Council resolved to endorse the *Woodlands Park and Salmon Reserve Draft Master Plan* for consultation and receive a further report following the completion of community consultation.

The *Draft Woodlands Park and Salmon Reserve Master Plan* was prepared to guide the future development, improvement and management of Woodlands Park and Salmon Reserve over the next 15 years. The draft plan identified a potential future location for the Settlers' Cottage adjacent to the existing Woodlands Park House, which is located in the southeast corner of Woodlands Park. The cottage could integrate with the Woodlands Park House to provide an enhanced community facility available for hire.

Consultation on the *Draft Woodlands Park and Salmon Reserve Master Plan* took place from 24 May to 23 June 2017 and provided opportunities for the community to comment on the potential future location and use of the Settlers' Cottage. A report summarising the community consultation findings and proposing the endorsement of the *Woodlands Park and Salmon Reserve Master Plan* is to be considered at the Ordinary Council Meeting this evening (26 September 2017). The final Master Plan identifies a potential future location for the Settlers Cottage adjacent to the existing Woodlands Park House.

Advantages of this proposal include:

- The proposed location of the cottage adjacent to Woodlands Park House provides opportunities for the cottage to be used in accordance with the Conservation Policies specified within the CMP, including:
  - Meeting spaces/offices for community organisations or Council; and
  - Commercial uses if they provide a public benefit (e.g. keeping the building occupied and maintained).
- The proposed location adjacent to an existing community facility would allow for an integration of the two facilities, with opportunities to share access to resources and infrastructure, particularly toilets (as recommended in Policy 1.1.2 of the CMP, pp. 39) and kitchenette facilities.

Disadvantages of this proposal include:

- The proposed location of the cottage would be on public open space and is expected to involve the removal of one small tree.
- It does not address the following site selection criteria as identified in Table 2 above including:
  - Located on Mt Alexander Road. The building would not be located on Mt Alexander Road, as Woodlands Park is roughly 190m east of Bulla Road (extension of Mt Alexander Road); and
  - Setback from the street/visibility: The building would not be visible from a major street as it is proposed to be located in southeast corner of park.

#### Woodlands Park Crown Land Designation

Woodlands Park is permanently reserved for a 'public park and other purposes of public recreation' under the *Crown Land (Reserves) Act 1978* pursuant to the Government Gazette dated 7 December 1910. Council is the committee of management for the park, meaning that Council is authorised by the Minister for Environment and Climate Change to make decisions regarding the management of the land.

In order to demonstrate consistency with the park's purpose of 'public park and other purposes of public recreation' it is considered that, should the Settlers' Cottage be relocated to Woodlands Park, the future use of the cottage should:

- Encourage public use of the park;
- Not prohibit public access to the land; and
- Not be for commercial profit or have a commercial nature.

Should Council's preferred use for the Settlers' Cottage not be consistent with the purpose of the Reservation, Council, as committee of management, may grant a license for a purpose other than that for which the land is reserved under Section 17B of the *Crown Land (Reserves) Act 1978*.

In order to grant a license under Section 17B, the following must apply:

- The term must not exceed 10 years;
- The Minister for Planning must be satisfied that the purpose for which the license is to be granted is not detrimental to the purpose for which the land is reserved; and
- The Minister for Planning must be satisfied that there are special reasons which make the granting of the license reasonable and appropriate in the particular circumstances and that this will not be substantially detrimental to the use and enjoyment of any adjacent reserved land.

Ministerial approval for a license under Section 17B is usually given in two stages:

- 'grant and purpose' approval – i.e. whether a use of the kind proposed is acceptable; and
- 'terms and conditions' approval – i.e. whether the actual terms and conditions of the proposed license are acceptable.

Any decision regarding the future use of the Settlers' Cottage will need to take into account the above legislative requirements.

#### Cost Estimates

Council officers have estimated the potential costs associated with refurbishment and relocation of the Settlers' Cottage at Woodlands Park, Lincoln Park and Queens Park (**Appendix B**), taking into account the recommended restorative actions outlined in the CMP. A cost estimate was not undertaken for Cliff Allison Reserve as the reserve does not have a master plan prepared, and was also considered the least viable of the four options when measured against the site selection criteria.

A breakdown of costs for the refurbishment and relocation of the Settlers' Cottage at Woodlands Park is provided in Table 2 below.

**Table 2 – Estimated Cost Breakdown**

Works	Estimated Cost in \$AUD
Site Preliminaries	\$6,000
Transport Relocation Works (cottage & roof structure components)	\$25,000
Construction of new veranda structure	\$9,000
Subfloor construction works (concrete pad footings and timber stumps)	\$10,000
Remedial works to existing floorboards	\$4,600

Works		Estimated Cost in \$AUD
New Roof Structure		\$9,000
Roof cladding works	Option A – New Shingles (26,000)	\$9,000 - \$26,000
	Option B – Corrugated Iron (9,000)	
Roof Plumbing Works (gutters, down pipes)		\$2,000
Connection of SWD to legal point of discharge (Note: variable price until location of LPD is confirmed on site)		\$3,000
Remedial works to external timber cladding		\$17,600
Chimney Outline		\$1,800
Supply & installation of new entrance doors (x2)		\$4,000
Supply & installation of new internal doors (x2)		\$2,000
New Salto door hardware throughout		\$4,000
Remedial works to all existing window frames (including reglazing)		\$13,000
Rewire throughout including supply/ installation of new light fittings, switches & power points (Note: variable price until location of power supply connection is confirmed on site)		\$10,000
Supply and install 'split systems' @ 2,500 per unit		\$5,000
Remedial works to existing internal timber wall panelling (including all other wall surfaces)		\$10,000
Remedial works to all existing Ceiling lining boards		\$3,000
Remedial works to all existing skirting boards and architraves		\$4,000
Remedial works to all existing fireplace		\$2,000
Painting works throughout		\$15,000
Fittings & Fixtures (including blinds, rugs, etc.)		\$4,000

Works		Estimated Cost in \$AUD
Construction of new accessible ramp to main entrance and steps to rear entrance (timber construction)		\$9,000
Paving & landscaping works		\$5,000
Site Fencing		\$5,000
Interpretive Signage	Signage Design including research	\$14,800
	Manufacture of 6 lecterns @ \$4785 each	\$28,710
	Installation of 6 lecterns @ \$550 each	\$3,300
Disability Consultant Fee (DDA Compliance Report)		\$4,000
Building Permit (Building Surveyor Fee)		\$3,000
<b>Total estimated costs:</b>		<b>\$245,810 - \$262,810</b>

The costs outlined in Table 2 do not include future maintenance costs.

**Appendix B** includes estimated future maintenance costs (over a 20 year period) for the three potential locations.

The total cost of relocation to Woodlands Park is lower than Lincoln Park and Queens Park due to the additional costs associated with construction of associated amenities ('new annex facility') at Lincoln Park and Queens Park, and consequently the need for only two split system units under the Woodlands Park proposal.

The works outlined in **Appendix B** would restore the building's identified heritage fabric (as specified in Appendix D of the CMP), as well as retrofit it to allow for ongoing use. Appendix D of the CMP specifies the elements of the cottage which relate to the original design (circa 1860s) and for which works should be prioritised, identified as 'Significant (High)'. The remainder of the works are for elements that relate to the early history (pre-1920) of the cottage or are works which are required to ensure the structure is safe for occupation.

For the reasons outlined in the discussion section of this report, Woodlands Park is considered to be the most appropriate site for the relocation of the Settlers' Cottage.



## Consultation

Community consultation regarding the *Draft Woodlands Park and Salmon Reserve Master Plan*, occurred from 24 May – 23 June 2017. This draft master plan identified an opportunity to relocate the Settlers' Cottage adjacent to Woodlands Park House to enable activation and share toilet and kitchen amenities.

The draft Master Plan included the following statement:

*'A Settlers' Cottage of historical significance (c 1800's) to the local area is to be relocated from a site on Mount Alexander Road. Woodlands Park is a potential site given its proximity to Mount Alexander Road. The future use of the cottage is to be determined and in line with the Conservation Management Plan. The cottage is shown in this Draft Master Plan adjacent to Woodlands Park House. There is an opportunity to better integrate the house and cottage into the open space through a landscaped entry courtyard.'*

A workshop was held with the community and stakeholders on 17 June 2017 and all residents within 500m of the site were sent a copy of the draft Master Plan and advised of the workshop.

Alternative feedback options were provided to community members if they were unable to attend the workshop, through information on Council's website and contact information.

In addition, the workshop was advertised on Council's website and publications. Feedback from the community has further assisted Council in the development of the Master Plan.

As a result of the consultation process on the draft Master Plan, four comments out of a total of 66 written responses received from residents specifically related to the Settlers' Cottage being located in Woodlands Park. Two residents did not support the proposal, one resident supported the proposal and one resident did not state a preference but requested more detail about the proposal. The comments were recorded as follows:

1. Preference for the cottage not to be placed in the park – little value, little use and will take up space.
2. Concerned with how useful and aesthetic it would be – how often would it be used by U3A etc. Prefer it not to be here.
3. I applaud the idea of locating the Settlers' Cottage (10) in Woodlands Park, but hope that it will not necessitate the removal of current trees in the proposed area.
4. Want to know where it is going, don't want to lose trees and how will it be managed – like Cook's Cottage?

## Implications

### 1. Legislative

There are no legislative implications as a result of this report.

### 2. Council Plan / Policy

In presenting this report to council, Council is achieving its Strategic Objective to Ensure there is clear direction for growth and proactive management of development in the city in accordance with Council Plan 2013-2017 Theme 1: Sustainable living - Clear direction for growth and development of the city.

### 3. Financial

In Council's 17/18 budget, \$90,000 is provided to pay for the relocation or refurbishment costs of the Settlers' Cottage.

The temporary relocation to the Depot, including dismantling of roof and documentation as per the Stage 1 CMP recommendations amounts to \$91,152.30.

The proposed relocation and refurbishment of the Settlers' Cottage is estimated to cost a minimum of approximately \$245,810 - \$262,810 (ex GST), which includes restoring the heritage fabric as well as retrofitting the structure for ongoing use. These costs do not include future maintenance costs, which are estimated to be approximately \$93,010 (ex GST) over a 20 year period.

NB: As these costs are estimates only, a full quotation for the relocation and refurbishment of the Settlers' Cottage will be obtained once the use and site design are finalised.

### 4. Environmental

In accordance with the guiding principles of the *City Sustainability Policy*, Council would seek to apply the most effective environmental design solutions throughout the relocation and refurbishment of the Settlers' Cottage.

## Conclusion

The *Settlers' Cottage Conservation Management Plan* provides detailed guidance for the conservation and management of the cottage. Considering the conservation policies specified within the CMP, including the recommended urgency of its permanent relocation and the other site selection criteria outlined in this report, it is considered that Woodlands Park is the most appropriate site for the relocation of the Settlers' Cottage. The inclusion of this proposal within the *Woodlands Park and Salmon Reserve Master Plan*, which had a consultation period from 24 May – 23 June 2017, allowed the community to provide feedback on the proposed location and use of the cottage.

Through following the recommendations of the CMP and relocating the Settlers' Cottage to an appropriate site, undertaking its refurbishment and facilitating an ongoing community use, Council are demonstrating a commitment to preserving a key example of Victoria's housing during the gold rush era.

## Appendices

Appendix A: Settlers Cottage Conservation Management Plan (separately circulated)

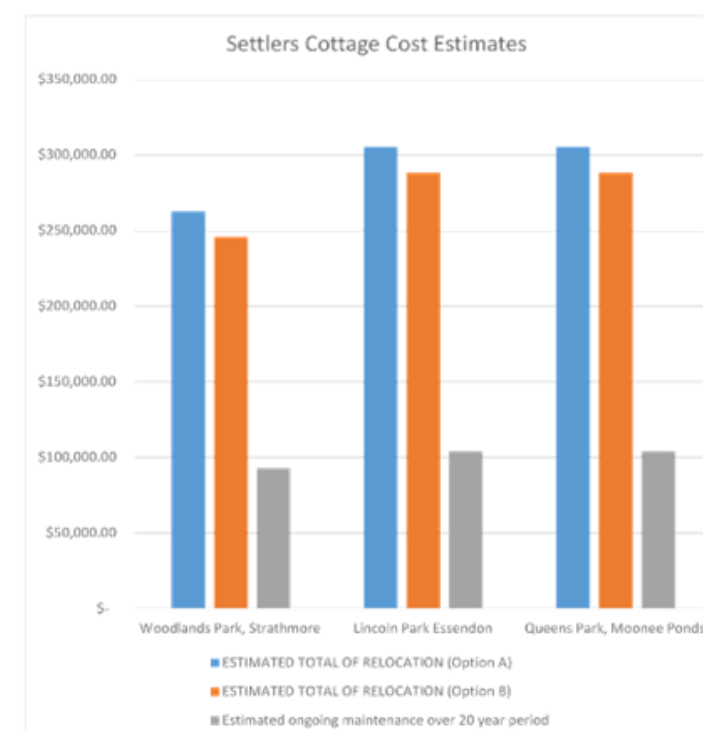


Appendix B: Settlers Cottage Relocation and Refurbishment Estimated Costs [↓](#)

Appendix C: Settler's Cottage Stage 1 Conservation Management Plan.

Settlers Cottage Relocation Estimates

RELOCATION COSTS	Woodlands Park, Essendon	Lincoln Park Essendon	Queens Park, Moonee Ponds
Site Preliminaries	\$ 6,000.00	\$ 6,000.00	\$ 6,000.00
Transport Relocation Works cottage & roof structure components)	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00
Construction of new veranda structure	\$ 9,000.00	\$ 9,000.00	\$ 9,000.00
Subfloor construction works (concrete pad footings & timber stumps	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00
Remedial works to existing floorboards	\$ 4,600.00	\$ 4,600.00	\$ 4,600.00
New roof structure	\$ 9,000.00	\$ 9,000.00	\$ 9,000.00
Roof cladding works - new shingles)(option A)	\$ 26,000.00	\$ 26,000.00	\$ 26,000.00
OR Corrugated Iron (Option B)	\$ 9,000.00	\$ 9,000.00	\$ 9,000.00
Roof plumbing works (gutters, down pipes)	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00
Connection of SWD to legal point of discharge - <u>Note: Variable price until location of LPD is confirmed on site</u>	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00
Remedial works to external timber cladding	\$ 17,600.00	\$ 17,600.00	\$ 17,600.00
Chimney Outline	\$ 1,800.00	\$ 1,800.00	\$ 1,800.00
Supply & installation of new entrance doors (x2)	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00
Supply & installation of new internal doors (x2)	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00
New Salto door hardware throughout	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00
Remedial works to all existing window frames incl reglazing	\$ 13,000.00	\$ 13,000.00	\$ 13,000.00
Rewire throughout incl supply/ installation of new light fittings, switches & power points - <u>Note: Variable price until location of power supply connection is confirmed on site</u>	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00
Supply and install split systems \$2,500 per unit	\$ 5,000.00	\$ 7,500.00	\$ 7,500.00
Remedial works to existing internal timber wall panelling incl all other wall surfaces	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00
Remedial works to all existing Ceiling lining boards	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00
Remedial works to all existing skirting boards and architraves	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00
Remedial works to existing fireplace	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00
Painting works throughout	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00
Fittings & Fixtures (incl blinds, rugs etc)	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00
Construction of new accessible ramp to main entrance and steps to rear entrance (timber construction	\$ 9,000.00	\$ 9,000.00	\$ 9,000.00
Paving & landscaping works	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00
Site Fencing	\$ 5,000.00	\$ 5,000.00	\$ 5,000.00
Construction of new annex kitchen facility (4.0x3.0) interpretive signage including design (≥14,800), manufacture (6 @ \$4785 each) and Installation (6 @ \$550 each) of lecterns	\$ 46,810.00	\$ 46,810.00	\$ 46,810.00
Building Surveyor Fee (Building Permit)	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00
Disability Consultant Fee (DDA Compliance Report)	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00
Consultant fees	excluded	excluded	excluded
Authority connection fees	excluded	excluded	excluded
Latent conditions/contingency	excluded	excluded	excluded
<b>ESTIMATED TOTAL OF RELOCATION (option A)</b>	<b>\$ 262,810.00</b>	<b>\$ 305,310.00</b>	<b>\$ 305,310.00</b>
<b>ESTIMATED TOTAL OF RELOCATION (option B)</b>	<b>\$ 245,810.00</b>	<b>\$ 288,310.00</b>	<b>\$ 288,310.00</b>
ONGOING MAINTENANCE	Woodlands Park, Essendon	Lincoln Park Essendon	Queens Park, Moonee Ponds
Annual maintenance (e.g. lighting, split system maintenance, gutter cleaning and other misc.)	\$ 2,000.00	\$ 2,400.00	\$ 2,400.00
10 year replacement of split systems	\$ 6,000.00	\$ 9,000.00	\$ 9,000.00
15 year Painting internal and external areas	\$ 15,000.00	\$ 15,000.00	\$ 15,000.00
20 year replacement of interpretive signage	\$ 32,010.00	\$ 32,010.00	\$ 32,010.00
<b>Estimated ongoing maintenance over 20 year period</b>	<b>\$ 93,010.00</b>	<b>\$ 104,010.00</b>	<b>\$ 104,010.00</b>



**David Helms**  
HERITAGE PLANNING

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8 February 2016

Christina Collia  
Senior Strategic Planner  
City of Moonee Valley  
PO Box 126  
MOONEE PONDS VIC 3039

Dear Christina

**Stage 1 preliminary findings - 1070 Mt Alexander Road Conservation Management Plan**

Following our meeting on site, this letter and the attached table sets out our preliminary findings for Stage 1 of this project.

The purpose of Stage 1 is to:

- ▶ Identify the significant fabric that should be conserved and protected during the move of the cottage to the Council depot;
- ▶ Provide guidelines to ensure that the relocation of the cottage is carried out in a way that (as far as is possible given its age and condition) results in minimal damage/disturbance; and
- ▶ Develop a better understanding of the scope of the project, in order to refine the approach to Stage 2, which may involve reviewing the indicative budget.

**Significant fabric**

Table 1 (attached to this letter) provides a summary of the significant fabric of the cottage. In summary, our inspection has found:

- ▶ The cottage demonstrates several stages of development dating from the mid-nineteenth to the mid-twentieth century. At this stage, the sequence of development is not entirely clear and further detailed investigation is required in Stage 2;
- ▶ However, what is clear is the rear section of the house (under the skillion roof) containing the kitchen, bathroom and a 'storage room' is not significant. This is clearly a much later addition and contains no significant fabric, apart from the adjoining parts of the rear wall of the original cottage;
- ▶ It is evident that some parts of the original cottage have been constructed using salvaged materials (e.g. wall panelling, windows); and
- ▶ While some of the later accretions (i.e., added materials) are clearly not significant (e.g. linoleum or carpet floor coverings, textured wall covering in living room), other elements (e.g. door and window surrounds) are of indeterminate age and it is difficult, at this stage, to ascribe a level of significance. Broadly speaking, however, the significant fabric includes:

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**Conservation Management Plan: Stage 1 findings**

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- The internal walls of the original cottage. Of note is the panelling used in all rooms, which has been (somewhat crudely) cut down to fit the wall sections. In the hallway and living room this is now concealed behind textured board. An exposed section of the panelling, visible in the rear bedroom, shows that this was dark stained originally and has been over-painted. The rear of the panelling is visible above the door to the kitchen where its construction with very traditional 'trenails' (timber pegs) is visible;
- The external walls of the original cottage. Unusually, there appear to be two outer wall layers: An inner layer of flush tongue and groove boards laid horizontally, and a visible outer layer of tapered weatherboards. Both are fastened with early rose-head nails. The outer weatherboards are a later (though early) addition to the cottage. This is indicated by the multiple layers of paint on the inner tongue-and-groove boards and by the presence of a six-pane window (2 panes wide, 3 deep) in the north gable end that is visible from within the roof space, but has been covered over by the outer weatherboards;
- The roof frame and, in particular, the timber shingles that survive on the rear (east) side of the roof underneath the iron. No brands were observed on the underside of the roof iron visible on the front (west) side so its age is unknown;
- The floor framing, which is constructed of pit-sawn timbers. The wall framing was not visible but is likely of similar material;
- The softwood floors in all rooms and the hallway, the beaded lining boards used in the ceiling in all rooms and the hallway and the doors from the hall to the bedrooms and kitchen. The door to the two bedrooms are of particular interest as they were cut down from the same timber panelling as is used to line the rooms;
- The timber mantelpiece and slate hearth in the living room;
- The three visible windows: two in the front elevation and one in the north side elevation that appear to be constructed using salvaged materials from the 19<sup>th</sup> century.
- The now concealed six-pane (two wide, three deep) timber frame window in the north gable, as noted above.

At this stage, the fabric forming part of the original cottage that is clearly not significant includes:

- ▶ The metal security frames to the windows and the metal screen door to the front door;
- ▶ The skillion hood above the front door;
- ▶ The non-timber floor coverings throughout the house;
- ▶ The textured board on walls in the hallway and living room;
- ▶ The door frame inserted into the opening between the hallway and living room; and
- ▶ The skirting boards in the hallway and living room, and the cornice board in the living room.

**Cottage, 1070 Mt Alexander Road**

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**Guidelines**

The following guidelines are recommended to ensure the relocation of the cottage is carried out in a way that (as far as is possible given its age and condition) results in minimal damage/disturbance:

- ▶ The rear skillion section, which is not significant may be demolished and removed. However, care should be taken when demolishing that part of the addition adjoining the original cottage to ensure that the original fabric (i.e., external weatherboards) that survive are not damaged or inadvertently removed. For this reason, it would be desirable for either Bernadette De Corte or Natica Schmeder to be present when this is done.
- ▶ As discussed on site, it may be beneficial to engage Vince from Council's building department to provide advice about the structural condition of the house and to liaise, as required, with Bernadette or Natica and the house-moving company about the approach to the relocation;
- ▶ Given the potential significance of much of the fabric of the original cottage, as little as possible should be removed to enable relocation. Again, it would be desirable for either Bernadette or Natica to be present when such material is removed to ensure that significant fabric is not inadvertently lost, in case other hidden potentially significant fabric is revealed, and so they can document where the removal has occurred and tag that material (to help with later reinstatement);
- ▶ I understand that initial advice provided to Council by the house-moving company has indicated that the roofing iron and some weatherboards could require removal in order to relocate the house. Because of the presence of the original timber shingles under the rear section of roof, particular care should be taken when removing the iron to minimise potential damage or loss of these shingles and appropriate measures should be taken to protect them during removal and after the cottage is stored;
- ▶ Particular care also needs to be taken to ensure the survival of the six-pane window in the north gable end during the relocation process. The presence of this window should be specifically identified to the removal company and a strategy put in place to ensure that it is not damaged. Potentially, one option could be removing this window before relocation;
- ▶ All fabric removed from the original cottage should be retained, tagged with information regarding its original location, relocated to the depot and stored with the cottage. The only exceptions are the Non-significant elements specified above; and
- ▶ A suitable method for identifying the original location of removed fabric (so that it can be reinstated later) should be determined with the house-moving company prior to any removal. Preferably, this should be indicated on a plan of the cottage to assist with later re-instatement.

**Refinements to study methodology and budget**

Separate fee estimates were provided for Stages 1 and 2. The Stage 1 estimate of \$2,452.00 [ex GST] is a fixed fee, which allows for the inspection of the cottage carried out jointly by David and Natica and the preparation of this letter. This fee did not include the preparation of plans of the cottage, which are included in the Stage 2 estimate. However, it is suggested that this task is brought forward to form part of Stage 1 so the plans and elevations can be prepared prior to removal to assist with identification and

**Conservation Management Plan: Stage 1 findings**

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removal of significant fabric, as noted above. The cost to prepare these plans is \$1,400 [ex GST]. This includes time for two people to visit the site and measure up and document (photographs, as required), and to prepare a floor plan and four elevations.

Accordingly, including this task increases the Stage 1 fee to \$3,852.00 [ex GST].

In accordance with our original quote the initial Stage 2 estimate of \$8,665.00 [ex GST] is an indicative amount that is to be reviewed once the cottage has been relocated. Moving the plan preparation to Stage 1 reduces this amount to \$7,265.00 [ex GST]. Potential additional inclusions are:

- ▶ An archaeological survey of the site, once the cottage has been removed and prior to development commencing (however, investigation of the broader site could commence prior to relocate). Given the early date of this cottage, such a survey could reveal further information about its occupation. A quote is being sought for this.
- ▶ Monitoring of demolition and removal, as noted above. This could be charged on an hourly rates basis.

The budget for Stage 2 only includes the preparation of the CMP and doesn't include any time for meeting with the 'Mens Shed' group, which will be undertaking the conservation works on the cottage. A separate Stage 3 budget to implement the CMP and potentially direct and oversee the conservation works may also be desirable.

Please contact me if you have any questions.

Fond regards



**David Helms**



**Cottage, 1070 Mt Alexander Road**

**Schedule of significant fabric**

The following table refers to elements forming the original cottage under the gabled roof only. The rear section containing the kitchen, bathroom and storeroom is not significant. At this stage, there are four broad levels of significance:

- ▶ *Significant*: all original or early fabric that contributes to significance of the cottage.
- ▶ *Significant\**: fabric of special interest.
- ▶ *Significant?*: fabric that is of probable significance, but requires further investigation.
- ▶ Not significant: fabric that does not contribute to the significance of the cottage.

**Exterior**

Item	Description	Notes on significance
<b>SOUTH WALL</b>		
Wall	This wall is divided by the outline of the chimney breast once located here, which exposes the inner construction of the wall. Unusually, there appear to be two outer wall layers: An inner layer of horizontal Tongue & Groove (T&G) boards, and the visible outer layer of tapered weatherboards. Both are fastened with early rose-head nails. There are at least two layers of paint on each layer of cladding.	Significant. The outline of the chimney created by the pattern of weatherboards is also important as evidence of its form.
<b>WEST (MT ALEX RD) WALL</b>		
Wall	Presumed same construction as south wall (inner layer is visible in left bottom corner). The outer layer of this wall is clad in several different types of weatherboard. What may be one original beaded board survives just below the eave, extending across the door and living room window. There are also a section of notched weatherboards that are commonly associated with Federation architecture and likely date to the early twentieth century renovation when the bay windows shown on MMBW plans were replaced with the present windows. At each end of the wall there is a vertical row of narrow weatherboards that presumably show the location of the now removed verandah posts.	Inner wall: Significant Outer wall: Significant?
Windows	Although added in the early twentieth century the style and detailing (e.g., the lambs tongue profile of the muntins) of these timber two over two pane double hung sash windows suggest they are nineteenth century in origin. Metal security screens have been added.	Timber windows and frame: Significant Metal screens: Not significant.
Door and door frame	The timber door has a multi-paned window. Above it is a top light, now filled with what appear to be notched weatherboards. The door frame has a very simple profile. There is a recent	Timber door and door frame: Significant? Metal screen door: Not significant

**Conservation Management Plan: Stage 1 findings**

Item	Description	Notes on significance
	metal screen door	
Door hood	Above the door is a small skillion hood that is clearly a more recent addition.	Not significant
<b>NORTH WALL</b>		
Wall	Presumed same construction as south wall (inner wall is visible in parts). The outer weatherboards, which have been more exposed to weather than on the south, are in poor condition.	Significant
Bedroom 2 window	Double hung timber frame sash, altered. Window surround appears to be late Victorian.	Significant
Gable window	6 pane (2 wide, 3 deep) timber frame, visible from internal roof space but externally hidden by weatherboards	Significant*
<b>EAST (REAR) WALL</b>		
Wall	Mostly covered by rear addition, however presumed same construction as south wall. Visible section in 'storeroom' off kitchen has what appear to be early beaded lining boards.	Significant
<b>ROOF</b>	Clad in short sheet corrugated iron. Rear roof more rusted than front. No visible brands or maker's marks. Timber shingles survive under rear section of roof.	Roof iron: Significant? Timber shingles: Significant*
<b>SUBFLOOR</b>	The house is set very low to the ground on timber joists that have been pit sawn. It is difficult to see what supports the joists, but bricks are visible in some locations	Significant.

**Interior**

Item	Description	Notes on significance
<b>HALLWAY</b>		
Walls	Covered in textured sheets. Through a crack, what appears to be the same timber panelling visible in the bedrooms can be seen. There is also timber framing associated with the panelling above the Living Room doorway	Panelling under wallpaper: Significant Outer textured sheets and skirting: Not significant
Floor	Softwood floors under linoleum	Linoleum: Not significant Softwood floors: Significant
Ceiling	Beaded lining boards	Significant
Front door	See description above.	Significant?
Bedroom 1 door	A typical Victorian four-panel timber door, possibly part of the panelling. Simple door frame with square profile edged with quarter round moulding added later	Door: Significant Door frame: Significant?
Bedroom 2 door	A four-panel timber door of odd proportions that suggests it has been cut down to fit the opening. Same or similar moulding profile to the wall	Door: Significant Door frame: Significant?

**Cottage, 1070 Mt Alexander Road**

Item	Description	Notes on significance
	panelling. Simple door frame, same or similar to Bedroom 1.	
Living room doorway	Door removed. Insert to door frame is post-World War II	Not significant
Kitchen door	A typical Victorian four-panel timber door.	Significant
<b>LIVING</b>	<i>Room at right off hallway, runs full depth of cottage.</i>	
Walls	Here, the original timber panelling (visible from the outside south wall) has been covered in sheets of textured board. At the top of the wall the cornice is a scotia moulding on three sides and a quarter-round moulding on the south side. The skirting boards date from the 1950s	Timber panelling: Significant Cornice: Significant? Wall sheets & skirting: Not significant
Floor	Softwood boards with evidence of early twentieth century Black Japan finish around the edges. A small section has been cut out showing the underfloor structure. Has been covered by carpet, which remains in part	Softwood boards: Significant Carpet: Not significant.
Ceiling	Beaded lining boards to which textured paint has been applied.	Significant
Window	Although added in the early twentieth century the style and detailing (e.g., the lambs tongue profile of the muntins) of this timber two over two pane double hung sash windows suggests it is nineteenth century in origin. The window frame, however, which is built out from the wall appears early twentieth century. There is a pelmet above	Window and window frame: Significant Pelmet: Not significant.
Door	Door has been removed and door frame dates from post-World War II.	Not significant
Fireplace	A typical Victorian timber mantle with a slate hearth. The fire surround has been removed and covered over.	Timber mantle and slate hearth: Significant Material covering hole under mantle: Not significant
<b>BEDROOM 1</b>	<i>First (front) room at left off hallway</i>	
Walls	All walls appear to be clad in timber panelling, cut down (somewhat crudely) to fit. Vertical lining boards under window. No skirting except under window (panelling otherwise appears to continue below floor level). Scotia board used as cornice along south wall, other cornices use different mouldings that are not typically used	Significant

**Conservation Management Plan: Stage 1 findings**

Item	Description	Notes on significance
	for cornices	
Floor	Softwood boards with evidence of early twentieth century Black Japan finish around the edges	Significant
Ceiling	Beaded lining boards	Significant
Door	A typical Victorian four-panel timber door (or cut down from panelling?). Simple door frame	Significant
<b>BEDROOM 2</b>	<i>Second room at left off hallway</i>	
Walls	Same timber panelling as for Bedroom 1 covers most of the walls. The exception is about half of the west wall, which is clad in vertical beaded lining boards. Also on the west wall, a continuous timber rail at dado height extends across both the panelling and the boards. No skirting (panelling appears to continue below floor level).	Significant
Floor	Softwood boards with evidence of early twentieth century Black Japan finish around the edges	Significant
Ceiling	Beaded lining boards. There is an early (interwar) light fitting. A small hole has been created for roof access.	Significant
Door	A four-panel timber door of odd proportions that suggests it has been cut down to fit the opening. Same or similar moulding profile to the wall panelling.	Significant
Window	Like the other windows, this window is built out from the wall, possibly from salvaged material. It has been altered.	Significant?
<b>ROOF SPACE</b>	<i>Visible through the hole cut in the Bedroom 2 ceiling.</i>	
East (rear) roof	Timber frame with timber shingles retained under the corrugated iron.	Significant*
West (Mt Alex Rd) roof	Timber frame with corrugated iron (no brands could be seen). No shingles remain	Significant?
North gable end	Contains a six pane (2 wide, 3 deep) timber frame window. Inner face of T&G cladding visible.	Significant*
South gable end	Inner face of T&G cladding visible. Patching where chimney was.	Significant

**9.11 Moonee Valley Planning Scheme Amendment C169 -  
Anomalies - Adoption and Approval Request**

**File No:** FOL/17/11  
**Author:** Justin Scriha  
Strategic Planner  
**Directorate:** Planning & Development

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**Purpose**

This report confirms the public exhibition of proposed Moonee Valley Planning Scheme Amendment C169 has concluded and that no opposing submissions were received. This report recommends Council adopt C169 as exhibited and submit it to the Minister for Planning for approval.

**Executive Summary**

- At its meeting held on 11 April 2017, Council resolved to seek Ministerial authorisation to prepare Moonee Valley Planning Scheme Amendment C169 to correct minor planning scheme anomalies.
- At its meeting, Council also resolved to seek that Amendment C169 proceed in accordance with Section 20(2) of the *Planning and Environment Act 1987* which exempts the Amendment from public exhibition.
- Amendment C169 seeks to correct a number of errors and anomalies in the ordinance and the zone and overlay maps.
- The Amendment affects 434 properties across the municipality in the suburbs of Aberfeldie, Ascot Vale, Essendon, North Essendon, Flemington, Kensington, Moonee Ponds, and Travancore.
- A table of the affected properties and proposed changes for this Amendment can be found at **Appendix A**.
- The Amendment was authorised on 24 May 2017 and was not granted an exemption from the requirements of Section 19(1)(b) of the *Planning and Environment Act 1987*. As such, the Amendment was required to be publically exhibited to all property owners and occupiers affected by a change to the planning control on their property.
- Amendment C169 was publically exhibited from 6 July to 3 August 2017. Two submissions were received, with both being in support of the Amendment. The submissions can be found at **Appendix B**.
- This report recommends Council adopts the Amendment as exhibited and submit to the Minister for Planning for approval.
- A copy of the explanatory report and amendment documentation for Amendment C169 can be found at **Appendix C** (separately circulated).

## Recommendation

That Council:

1. Having complied with Part 3, Division 1 and 2 of the *Planning and Environment Act 1987* in accordance with Section 29 (1), adopt Moonee Valley Planning Scheme Amendment C169 as exhibited; and
2. Submit Moonee Valley Planning Scheme Amendment C169 to the Minister for Planning for approval pursuant to Section 31(1) of the *Planning and Environmental Act 1987*.

## Background

As part of the ongoing use of the Moonee Valley Planning Scheme, a number of minor mapping inconsistencies and anomalies have been identified. They have been informed by both internal departments and the community, and have been assessed by Council's Strategic Planning Unit.

In order to make changes to the Moonee Valley Planning Scheme to correct these errors and anomalies, a Planning Scheme Amendment must first be prepared. This report provides the basis for Moonee Valley Planning Scheme Amendment C169.

Key changes proposed by the Amendment include:

- Correcting Heritage Overlay controls (to confirm existing permit exemptions) for three heritage precincts (HO2, HO16, and HO25) affecting 395 properties by introducing reference to the *City of Moonee Valley Permit exemptions policy – Heritage Overlay Precincts – March 2014* in the Schedule to Clause 43.01 (Heritage Overlay) which is already an Incorporated Plan listed in the Schedule to Clause 81.01 of the Planning Scheme.
- Amending ten Planning Scheme Maps to correct a number of minor mapping errors and anomalies regarding the application of zones and overlays and to ensure that title and mapping boundaries align.
- Improving the legibility of three ordinance maps in Schedule 3 (Mt Alexander Road Corridor) and Schedule 7 (Keilor Road Major Activity Centre) of the Design and Development Overlay.
- Correcting the status of two properties in the ordinance map in Schedule 10 (North Essendon Major Activity Centre) of the Design and Development Overlay.
- Removing the 'Existing Landmark Building' status' from the property at 345-349 Ascot Vale, Road Moonee Ponds by amending the map at Clause 21.07-1 (Moonee Ponds Activity Centre).
- Removing the 'Existing Landmark Building' status' from the property at 345-349 Ascot Vale Road Moonee Ponds by amending four maps in Schedule 1 (Moonee Ponds Activity Centre) to the Activity Centre Zone as the building is not considered a landmark nor was it designated as one in the Moonee Ponds Urban Design Framework Plan (adopted April 2003). In support of this change, though not part of Amendment C169, the Moonee Ponds Activity Centre Structure Plan 2010 also needs to be updated to correct the same error.

- Amending Schedule 1 to Clause 37.08 (Activity Centre Zone) to show the Heritage Overlay which applies to the Clocktower Centre at 750 Mt Alexander Rd Moonee Ponds on the Precinct Map at Clause 5.1-1 of the Schedule.

A full list of the affected properties and proposed changes for this Amendment can be found at **Appendix A**.

### **Discussion**

At its meeting held on 11 April 2017, Council resolved to pursue authorisation from the Minister for Planning to prepare Moonee Valley Planning Scheme Amendment C169, and to seek that Amendment C169 proceed in accordance with Section 20(2) of the *Planning and Environment Act 1987* (the Act) which exempts the Amendment from public exhibition. The request for authorisation was subsequently submitted to the Department of Environment, Land, Water and Planning on 12 May 2017.

The Amendment was granted authorisation subject to conditions on 24 May 2017, however the request for exemption from the notice requirements of Section 19(1)(b) of the Act was not approved. Council was advised that notification was required to occur for all owners and occupiers of properties affected by a change to a planning control on their land.

Amendment C169 was placed on public exhibition from 6 July to 3 August with notices placed in the Moonee Valley Leader, the Moonee Valley Weekly and Community News. Letters were sent to 92 owners and occupiers of affected properties and to all Ministers prescribed under the *Planning and Environment Act 1987*. Two submissions of support were received during the public exhibition period. The submissions were from the property at No. 50 Baroda Street, Travancore, and from VicRoads who is affected by the proposed change to the zoning of the property at No. 46 Birdwood Street, North Essendon.

It should be noted that letters were not sent to the 395 properties within HO2, HO16 and HO25 as the proposed change to include these precincts in the *City of Moonee Valley Permit exemptions policy – Heritage Overlay Precincts – March 2014* will have no material impact on the properties. This was discussed with and agreed to by the Department of Environment, Land, Water and Planning. Letters were also not sent for any Council owned properties.

Planning Panels Victoria has been advised that there are no unresolved submissions and a Planning Panel is not required.

It is therefore recommended that Council adopt the amendment as exhibited and submit to the Minister for Planning for approval.

## Consultation

Notice of the amendment was given to 92 owners and occupiers of affected properties, and Prescribed Ministers as per the conditions of the authorisation received from the Department of Environment, Land, Water and Planning on 24 May 2017. The notice was also published in the local Leader newspaper, The Moonee Valley Weekly and Community News on 5 July 2017 and the Government Gazette on 6 July 2017. There was an error in the initial notices published in the local Leader newspaper, The Moonee Valley Weekly and Community News in which the closing date for the Amendment was incorrect. A correction was subsequently published in the following week clarifying the end date for submissions.

Two submissions of support were received and can be found at **Appendix B**. The explanatory report and amendment documentation which was exhibited can be found at **Appendix C** (separately circulated).

## Implications

### 1. Legislative

Planning Scheme Amendment C169 is consistent with Ministerial Direction relating to the form and content of Planning Schemes under Section 7(5) of the *Planning and Environment Act 1987*. The preparation of the amendment is also in accordance with Section 4 of the *Planning and Environment Act 1987*.

There are no human rights implications as a result of this report.

### 2. Council Plan / Policy

In presenting this report to Council, Council is achieving its desire for Strategic Objective to ensure that Growth and development is well managed in accordance with Council Plan 2017-2011 Theme 3: Sustainable Living – Connected, well-designed municipality, thriving neighbourhoods, accessible places and spaces.

### 3. Financial

The cost associated with the amendment will be borne by Council through the 2017/18 Strategic Planning budget.

### 4. Environmental

There are no environmental implications associated with the amendment.

## Conclusion

The public exhibition period of Amendment C169 has concluded with two submissions of support received. It is now recommended that Council resolve to adopt Amendment C169 as exhibited and submit it to the Minister for Planning for approval.

## Appendices

Appendix A: List of changes to attached properties [↓](#)

Appendix B: Submissions of support [↓](#)

Appendix C: C169 amendment documentation (separately circulated).



MOONEE VALLEY PLANNING SCHEME AMENDMENT C169 - LIST OF CHANGES TO AFFECTED PROPERTIES				
ADDRESS / PRECINCT	ZONE / OVERLAY	TYPE	ACTION	PLANNING SCHEME MAP NO.
<b>ABERFELDIE</b>				
1/319 Buckley Street	Overlay	HO5	Delete the Heritage Overlay (HO5) from the rear of this property as this is a mapping error.	Part of 11HO
2/319 Buckley Street	Overlay	HO5	Delete the Heritage Overlay (HO5) from the rear of this property as this is a mapping error.	Part of 11HO
3/319 Buckley Street	Overlay	HO5	Delete the Heritage Overlay (HO5) from the rear of this property as this is a mapping error.	Part of 11HO
4/319 Buckley Street	Overlay	HO5	Delete the Heritage Overlay (HO5) from the rear of this property as this is a mapping error.	Part of 11HO
5/319 Buckley Street	Overlay	HO5	Delete the Heritage Overlay (HO5) from the rear of this property as this is a mapping error.	Part of 11HO
6/319 Buckley Street	Overlay	HO5	Delete the Heritage Overlay (HO5) from the rear of this property as this is a mapping error.	Part of 11HO
<b>ESSENDON</b>				
118 Glass Street	Overlay	DDO3, DDO10	Delete the Design and Development Overlay (DDO10) from this property as DDO3 is the appropriate control.	Part of 7DDO
1071 Mt Alexander Road	Overlay	DDO3, DDO10	Delete the Design and Development Overlay (DDO10) from this property as DDO3 is the appropriate control.	Part of 7DDO
30 Raleigh Street	Overlay	HO301	Delete the Heritage Overlay (HO301) from the side and rear of this property as this is a mapping error.	Part of 8HO & 12HO
32 Raleigh Street	Overlay	HO301	Delete the Heritage Overlay (HO301) from rear of this property as this is a mapping error.	Part of 8HO & 12HO
33 Raleigh Street	Overlay	HO105	Delete the Heritage Overlay (HO105) from this property as it is no longer of heritage significance.	Part of 8HO & 12HO
1/35 Raleigh Street	Overlay	HO105	Delete the Heritage Overlay (HO105) from this property as it is no longer of heritage significance.	Part of 8HO & 12HO
2/35 Raleigh Street	Overlay	HO105	Delete the Heritage Overlay (HO105) from this property as it is no longer of heritage significance.	Part of 8HO & 12HO
8 Shaftesbury Street	Overlay	HO301	Delete the Heritage Overlay (HO301) from the rear of this property as this is a mapping error.	Part of 8HO & 12HO
10 Shaftesbury Street	Overlay	HO301	Delete the Heritage Overlay (HO301) from the rear of this property as this is a mapping error.	Part of 8HO & 12HO

12 Shaftesbury Street	Overlay	HO301	Delete the Heritage Overlay (HO301) from the rear of this property as this is a mapping error.	Part of 8HO & 12HO
14 Shaftesbury Street	Overlay	HO301	Delete the Heritage Overlay (HO301) from the rear of this property as this is a mapping error.	Part of 8HO & 12HO
16 Shaftesbury Street	Overlay	HO301	Delete the Heritage Overlay (HO301) from the rear of this property as this is a mapping error.	Part of 8HO & 12HO
1/18 Shaftesbury Street	Overlay	HO301	Delete the Heritage Overlay (HO301) from the rear of this property as this is a mapping error.	Part of 8HO & 12HO
2/18 Shaftesbury Street	Overlay	HO301	Delete the Heritage Overlay (HO301) from the rear of this property as this is a mapping error.	Part of 8HO & 12HO
3/18 Shaftesbury Street	Overlay	HO301	Delete the Heritage Overlay (HO301) from the rear of this property as this is a mapping error.	Part of 8HO & 12HO
4/18 Shaftesbury Street	Overlay	HO301	Delete the Heritage Overlay (HO301) from the rear of this property as this is a mapping error.	Part of 8HO & 12HO
5/18 Shaftesbury Street	Overlay	HO301	Delete the Heritage Overlay (HO301) from the rear of this property as this is a mapping error.	Part of 8HO & 12HO
6/18 Shaftesbury Street	Overlay	HO301	Delete the Heritage Overlay (HO301) from the rear of this property as this is a mapping error.	Part of 8HO & 12HO
7/18 Shaftesbury Street	Overlay	HO301	Delete the Heritage Overlay (HO301) from the rear of this property as this is a mapping error.	Part of 8HO & 12HO
8/18 Shaftesbury Street	Overlay	HO301	Delete the Heritage Overlay (HO301) from the rear of this property as this is a mapping error.	Part of 8HO & 12HO
9/18 Shaftesbury Street	Overlay	HO301	Delete the Heritage Overlay (HO301) from the rear of this property as this is a mapping error.	Part of 8HO & 12HO
10/18 Shaftesbury Street	Overlay	HO301	Delete the Heritage Overlay (HO301) from the rear of this property as this is a mapping error.	Part of 8HO & 12HO
11/18 Shaftesbury Street	Overlay	HO301	Delete the Heritage Overlay (HO301) from the rear of this property as this is a mapping error.	Part of 8HO & 12HO
12/18 Shaftesbury Street	Overlay	HO301	Delete the Heritage Overlay (HO301) from the rear of this property as this is a mapping error.	Part of 8HO & 12HO
20 Shaftesbury Street	Overlay	HO301	Delete the Heritage Overlay (HO301) from the rear of this property as this is a mapping error.	Part of 8HO & 12HO
22 Shaftesbury Street	Overlay	HO301	Delete the Heritage Overlay (HO301) from the rear of this property as this is a mapping error.	Part of 8HO & 12HO
1/17 Winifred Street	Overlay	DDO3, DDO10	Delete the Design and Development Overlay (DDO3) from this property as DDO10 is the appropriate control.	Part of 7DDO
2/17 Winifred Street	Overlay	DDO3, DDO10	Delete the Design and Development Overlay (DDO3) from this property as DDO10 is the appropriate control.	Part of 7DDO

3/17 Winifred Street	Overlay	DDO3, DDO10	Delete the Design and Development Overlay (DDO3) from this property as DDO10 is the appropriate control.	Part of 7DDO
Road reserve – Wiseman Court	Zone	GRZ, PPRZ	Delete the Public Park and Recreation Zone (PPRZ) where it overlaps with the Wiseman Court road reserve and replace it with the General Residential Zone (GRZ). This section of the court is used as a road and therefore PPRZ is inappropriately applied. This change will not impact on the existing parkland along Moonee Ponds Creek.	Part of 8
Road reserve – Eric Street	Zone	GRZ, PPRZ	Delete the Public Park and Recreation Zone (PPRZ) where it overlaps with the Eric Street road reserve and replace it with the General Residential Zone (GRZ). This section of the court is used as a road and therefore PPRZ is inappropriately applied. This change will not impact on the existing parkland along Moonee Ponds Creek.	Part of 12
All land within HO2 – Glass Street precinct	Overlay	HO2	Include the <i>Moonee Valley Permit Exemptions Policy</i> as an incorporated document to Heritage Overlay Schedule 2 (HO2 – Glass Street precinct). This will give effect to the <i>Moonee Valley Permit Exemptions Policy</i> to all land included within this precinct which is consistent with other Heritage Overlay schedules in the Planning Scheme.	N/A
<b>FLEMINGTON</b>				
177A Mt Alexander Road and the adjacent road reserve on Wellington Street	Overlay	ESO2	Delete the Environmental Significance Overlay (ESO2) from the west of the property as there are no significant trees adjoining this interface.	Part of 15ESO
<b>MOONEE PONDS</b>				
343 Ascot Vale Road	Zone	ACZ1	Remove the 'existing landmark building' designation of this property from the Activity Centre Zone (ACZ1) as this is an error and the building is not considered a landmark.	N/A
345 Ascot Vale Road	Zone	ACZ1	Remove the 'existing landmark building' designation of this property from the Activity Centre Zone (ACZ1) as this is an error and the building is not considered a landmark.	N/A
347 Ascot Vale Road	Zone	ACZ1	Remove the 'existing landmark building' designation of this property from the Activity Centre Zone (ACZ1) as	N/A

			this is an error and the building is not considered a landmark.	
349 Ascot Vale Road	Zone	ACZ1	Remove the 'existing landmark building' designation of this property from the Activity Centre Zone (ACZ1) as this is an error and the building is not considered a landmark.	N/A
3 Crawford Street	Overlay	HO10	Delete the Heritage Overlay (HO10) from the rear of this property as this is a mapping error.	Part of 12HO
1A Darling Street	Overlay	HO254	Delete the Heritage Overlay (HO254) from this property as it is not of heritage significance.	Part of 11HO
1B Darling Street	Overlay	HO254	Delete the Heritage Overlay (HO254) from this property as it is not of heritage significance.	Part of 11HO
750 Mt Alexander Road	Zone	ACZ1	Amend the Activity Centre Zone (ACZ1) at Clause 37.08 of the Moonee Valley Planning Scheme to show the Clocktower Centre (750 Mt Alexander Road) as being within a Heritage Overlay on the Precinct Map at Clause 5.1-1 of the Schedule. This is to ensure that maps within the ACZ1 Schedule are reflective of all current planning controls.	N/A
<b>NORTH ESSENDON</b>				
46 Birdwood Street	Zone	GRZ, RDZ1	Delete the Road Zone, Category 1 (RDZ1) from this property and apply the General Residential Zone (GRZ) in its place as this is a residential property.	Part of 7
<b>TRAVANCORE</b>				
18-20 Baroda Street	Overlay	HO23	Extend the Heritage Overlay (HO23) to align with the rear property boundary as this is a mapping error.	Part of 15HO
22 Baroda Street	Overlay	HO23	Extend the Heritage Overlay (HO23) to align with the rear property boundary as this is a mapping error.	Part of 15HO
26 Baroda Street	Overlay	HO23	Extend the Heritage Overlay (HO23) to align with the rear property boundary as this is a mapping error.	Part of 15HO
30 Baroda Street	Overlay	HO23	Extend the Heritage Overlay (HO23) to align with the rear property boundary as this is a mapping error.	Part of 15HO
34 Baroda Street	Overlay	HO23	Extend the Heritage Overlay (HO23) to align with the rear property boundary as this is a mapping error.	Part of 15HO
40 Baroda Street	Overlay	HO23	Extend the Heritage Overlay (HO23) to align with the rear property boundary as this is a mapping error.	Part of 15HO
42 Baroda Street	Overlay	HO23	Extend the Heritage Overlay (HO23) to align with the rear property boundary as this is a mapping error.	Part of 15HO

46 Baroda Street	Overlay	HO23	Extend the Heritage Overlay (HO23) to align with the rear property boundary as this is a mapping error.	Part of 15HO
50 Baroda Street	Overlay	HO23	Extend the Heritage Overlay (HO23) to align with the rear property boundary as this is a mapping error.	Part of 15HO
54 Baroda Street	Overlay	HO23	Extend the Heritage Overlay (HO23) to align with the rear property boundary as this is a mapping error.	Part of 15HO
62 Baroda Street	Overlay	HO23	Extend the Heritage Overlay (HO23) to align with the rear property boundary as this is a mapping error.	Part of 15HO
66 Baroda Street	Overlay	HO23	Extend the Heritage Overlay (HO23) to align with the rear property boundary as this is a mapping error.	Part of 15HO
72 Baroda Street	Overlay	HO23	Extend the Heritage Overlay (HO23) to align with the rear property boundary as this is a mapping error.	Part of 15HO
56 Baroda Street	Overlay	HO35	Extend the Heritage Overlay (HO35) to align with the rear property boundary as this is a mapping error.	Part of 15HO
260 Mt Alexander Road	Overlay	HO141	Delete the Heritage Overlay (HO141) from this property as it is not of heritage significance. HO141 refers to the Essendon Tramway Depot which is located at 318 Mt Alexander Road.	Part of 15HO
280 Mt Alexander Road	Overlay	HO141	Delete the Heritage Overlay (HO141) from this property as it is not of heritage significance. HO141 refers to the Essendon Tramway Depot which is located at 318 Mt Alexander Road.	Part of 15HO
<b>OTHER</b>				
All land within HO16 – Ascot Vale Road and Maribyrnong Road precinct (Ascot Vale Estate) – Moonee Ponds & Ascot Vale	Overlay	HO16	Include the <i>Moonee Valley Permit Exemptions Policy</i> as an incorporated document to Heritage Overlay Schedule 16 (HO16 – Ascot Vale Road and Maribyrnong Road precinct (Ascot Vale Estate)). This will give effect to the <i>Moonee Valley Permit Exemptions Policy</i> to all land included within this precinct which is consistent with other Heritage Overlay schedules in the Planning Scheme.	N/A
All land within HO25 – Racecourse Road precinct – Flemington & Kensington	Overlay	HO25	Include the <i>Moonee Valley Permit Exemptions Policy</i> as an incorporated document to Heritage Overlay Schedule 25 (HO25 – Racecourse Road precinct). This will give effect to the <i>Moonee Valley Permit Exemptions Policy</i> to all land included within this precinct which is consistent with other Heritage Overlay schedules in the Planning Scheme.	N/A

All land within DDO3 – Strathmore, North Essendon, Essendon, Moonee Ponds, Ascot Vale, Travancore & Flemington	Overlay	DDO3	Amend the Design and Development Overlay (DDO3) at Schedule 3 to Clause 43.02 to update the Mt Alexander Road Corridor precinct maps with higher quality images to improve legibility.	N/A
All land within DDO7 – Essendon, North Essendon, Niddrie	Overlay	DDO7	Amend the Design and Development Overlay (DDO3) at Schedule 7 to Clause 43.02 to update Keilor Road Major Activity Centre Precinct Map with a higher quality image to improve legibility.	N/A

**SUBMISSION ON A PLANNING SCHEME AMENDMENT**  
Planning and Environment Act 1987



**AMENDMENT TO WHICH THE SUBMISSION RELATES**

Amendment No: C169 - ANOMALIES  
Planning Scheme: MOONEE VALLEY

**WHO IS MAKING THE SUBMISSION?**

Name: [REDACTED]  
Address: 50 BALDA ST, TRAVANCORE  
Contact telephone number: [REDACTED]

**YOUR SUBMISSION** (outline any comments or concerns you have about what the amendment proposes to do).

We support this amendment which  
will correct an anomaly.

If there is insufficient room for your submission, please attach additional sheets.

Signature hwca Date 5/7/17

SEE IMPORTANT NOTES ON OTHER SIDE



Strategic Planning  
Moonee Valley City Council  
Attention: Justin Scriha

19 July 2017

Dear Madam

**PLANNING APPLICATION NO.:** AMENDMENT C169  
**VICROADS REFERENCE NO:** 22250/17  
**PROPERTY ADDRESS:** 319 BUCKLEY STREET, ABERFELDIE

**Section 55 – No conditions**

Thank you for forwarding planning Scheme Amendment C169 to the Roads Corporation (VicRoads) for comments, pursuant to Section 55 of the Planning and Environment Act 1987.

VicRoads notes that the amendment rezones part of the land at 46 Birdwood Street North Essendon from Road Zone Category 1 to General Residential Zone.

VicRoads has considered the proposed amendments to the City of Moonee Valley Planning Scheme and has no comments to make in relation to the proposal.

Should you have any enquiries regarding this matter, please contact Kojo Adjei on (03) 9313 1171 or [Kojo.Adjei@roads.vic.gov.au](mailto:Kojo.Adjei@roads.vic.gov.au)

Yours sincerely

**KOJO ADJEI**  
TRAFFIC AND PLANNING  
Cc: Permit Applicant



**9.12 Submission to the Proposed Amendments to the Air Navigation (Essendon Airport) Regulations**

**File No:** FOL/17/11  
**Author:** Josh Gould  
Senior Strategic Planner  
**Directorate:** Planning & Development

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**Purpose**

The purpose of this report is to update Council on the proposed amendments to the Air Navigation (Essendon Airport) Regulations 2001 (the regulations), and for Council to endorse the draft submission prepared in response to the public discussion paper released by the Federal Government's Department of Infrastructure and Regional Development (the Department).

**Executive Summary**

- The Department of Infrastructure and Regional Development is seeking comments on three proposed amendments to the Air Navigation (Essendon Airport) Regulations 2001.
- The Air Navigation (Essendon Airport) Regulations 2001 (refer **Appendix A** – separately circulated) provides the legislative framework to regulate the movement of aircraft at Essendon Airport during curfew and non-curfew times.
- The proposed amendments have been explained in a Public Consultation Paper released in September 2017 (refer **Appendix B**).
- The three proposed amendments relate to allowable operations during curfew and non-curfew periods at Essendon Airport.
- Council has been given until Tuesday 24 October 2017 to make a submission on the proposed amendments, an extension from the 10 October 2017 deadline.
- A draft submission has been prepared which outlines Council's support for one of the proposed amendments, and a view that insufficient information has been provided in relation to the two other amendments to allow for a clear position to be formed (refer **Appendix C**).
- The draft submission also includes a request that the Department of Infrastructure and Regional Development undertake further assessments to better understand the impacts of the proposed amendments and, that the Department responds directly to Council's submission.

## Recommendation

That Council:

1. Endorse the draft submission to the proposed amendments to the Air Navigation (Essendon Airport) Regulations 2001 (refer **Appendix C**); and
2. Forward the submission to the Federal Government's Department of Infrastructure and Regional Development.

## Background

Essendon Airport lacks an appropriate buffer or separation area between airport operations and sensitive uses. Residents living nearby are therefore at risk of exposure to adverse amenity impacts from airport operations, particularly noise from aircraft movements.

In Council's submission to the Essendon Airport Draft Master Plan (2013), the importance of consultation with Council in regard to the types and times of flights at the airport was highlighted. Council position in that submission was that residents should not be adversely affected in terms of amenity, or in terms of development, on account of the continued operation of the airport, or by the introduction of new airside service operations. Council also reaffirmed its ongoing support for the Community Aviation Consultation Group (CACG) and the 'Fly Neighbourly' Agreement as part of that submission.

The Air Navigation (Essendon Airport) Regulations 2001 provide the legislative framework which specifically regulates aircraft movements at Essendon Airport during curfew and non-curfew times. The objective of the regulations (as noted at Part 1 Regulation 3) is "*to minimise the impact of aircraft noise on the community surrounding Essendon Airport through the imposition of a curfew between 11pm and 6am and restrictions on certain aircraft operations at all times.*"

The following key 'Parts' of the regulations are noted. Part 2 outlines restrictions on aircraft movements at Essendon Airport that apply at all times. Part 3 imposes a curfew on certain aircraft movements at Essendon Airport between 11pm and 6am. Part 4 outlines the permitted aircraft movements during curfew periods, in the event of an emergency and the process for obtaining dispensations from the regulations.

## Proposed Amendments

The Department of Infrastructure and Regional Development is seeking comment on three proposed amendments to the regulations. These amendments, with a brief outline of the relevant section of the current regulations, are provided as follows:

1. Lifting the permitted weight limit for jet aircraft from 45,000kgs to 55,000kgs for operators during non-curfew hours

Currently, Part 2 (Restrictions applying at all times) Regulation 6 states:

*"The operator of an aircraft is guilty of an offence if: (a) the operator allows the aircraft to take off from, or land at, Essendon Airport; and (b) the aircraft has a maximum take-off weight of 45,000 kilograms or more, and the operator knows, or is reckless, about that fact; and (c) the take-off or landing is not authorised under Division 4.2, and the operator knows, or is reckless about, that fact."*

2. Removing the ability of non-emergency helicopters and propeller driven aircraft to operate during the curfew

Currently, Part 4 (Permitted aircraft movements) Regulation 12 allows for propeller-driven aircraft to land at, or take off from, Essendon Airport during a curfew period if the aircraft meets specified take-off weight criteria or does not exceed certain noise levels on take-off and on approach to landing (see **Appendix A** on page 10 – separately circulated for full wording).

Part 4 Regulation 13 allows a helicopter to land at, or take off from, Essendon Airport during a curfew period if the helicopter complies with the relevant maximum noise levels applicable to the maximum take-off weight of the helicopter (see **Appendix A** on page 11 – separately circulated for full wording).

3. Allowing jet aircraft, which meet strict noise criteria to land during the curfew period

Currently, Part 3 (The curfew) Regulation 7 sets the curfew period as starting at 11pm on a day and ending at 6am on the next day. Regulation 8 states:

*“The operator of an aircraft is guilty of an offence if: (a) the operator allows the aircraft to take off from, or land at, Essendon Airport; and (b) the take-off or landing occurs during a curfew period, and the operator knows, or is reckless about, that fact; and (c) the take-off or landing is not permitted under Part 4, and the operator knows, or is reckless about, that fact.”*

As noted earlier, Part 4 of the regulations outlines which movements are permitted during curfew periods. In addition to the permitted movements outlined at Regulation 12 or 13 relating to propeller driven aircraft and Helicopters, Regulation 14 and 15 provide direction for landing in the event of emergencies, and the circumstances in which dispensations from the regulations can be granted. Currently, jet aircraft can only operate during the curfew if a dispensation is granted in exceptional circumstances.

## Discussion

The following provides an analysis of the three proposed amendments and presents the recommendations of Council Officers:

1. Lifting the permitted weight limit for jet aircraft from 45,000kgs to 55,000kgs for operators during non-curfew hours

Council Officers believe insufficient information has been provided in the discussion paper in relation to this amendment.

The public consultation paper states (on page 3) that *“Advances in aircraft engine and airframe technology have allowed larger jets to operate at noise profiles at or below older, smaller jets”*. However the examples provided in the paper suggest this is not always the case (refer **Appendix B**).

The ‘flyover’ decibels of a ‘Bombardier Global Express’ (in the 45,000kgs – 50,000kgs weight range) is given as 83.5, which is slightly above that of the ‘Hawker Beechcroft 100A’ and ‘Dassault Falcon 20’ (Jets with weight less than 45,000kgs) that are noted as having ‘flyover’ decibel levels of 81.8 and 82.9 respectively.

Similarly, the Fokker F28-100 (in the 45,000kgs – 50,000kgs weight range) and the Boeing 717-200 (in the 50,000kgs – 55,000kgs weight range) both have ‘flyover’ and ‘landing’ decibel levels above that of the ‘Hawker Beechcroft 100A’ and ‘Dassault Falcon 20’ (Jets with weight less than 45,000kgs).

These figures suggest that the ability of these larger aircraft to operate during the non-curfew hours will not necessarily result in “*improved noise outcomes*” as the discussion paper suggests (on page 4).

Council Officers believe that further information, such as a detailed aircraft noise assessment would allow the community and relevant stakeholders such as Council to better understand the proposed amendment, the positive and negative impacts on the community, and enable a more suitably informed assessment of the proposed changes.

2. Removing the ability of non-emergency helicopters and propeller driven aircraft to operate during the curfew

In relation to this amendment, Council Officers agree that non-emergency movements subject the community to additional aircraft noise during the curfew period, above a level that is permitted at other airports.

The public consultation paper states (on page 5) that “*while noting that there is very little demand for non-emergency helicopter and propeller-driven movements during the curfew, non-emergency movements have contributed to the generation of noise complaints including a number of services which have been investigated by the Aircraft Noise Ombudsman.*”

This amendment would benefit the surrounding community by removing a source of noise during the curfew period, while not impacting the ability for emergency services to be provided to the wider community.

Given the stated benefits of removing the ability of these particular helicopters and aircraft to operate during the curfew, Council would be supportive of this amendment being implemented as soon as practically possible, and would appreciate advice from the Department on when this change would come into effect.

3. Allowing jet aircraft, which meet strict noise criteria to land during the curfew period

Council Officers believe the implications from this amendment are unclear, and a proper understanding of the potential impacts cannot be formed based on the information provided.

Council Officers are appreciative of the need to articulate the benefit for the community from allowing increased numbers of private jet aircraft to land during the curfew period.

It appears limited justification for this amendment has been provided by the Department in the Public Consultation Paper, with the changes seemingly only being of benefit to business jet operators and the users of those business jets. This alone is an insufficient reason to amend the regulations.

In regard to the potential impacts of this amendment, the public consultation paper states (on page 6) that *“the public will benefit from having more services at Essendon Airport. Additional services will also contribute to employment and business opportunities on and near the airport and within the region.”*

An economic assessment or analysis has not been provided, and therefore the extent of the suggested increase in economic or business opportunities has not been quantified. The lack of a social and economic impact assessment leaves the community and stakeholders such as Council, unable to make a suitably informed assessment of the impacts of the amendment.

Council Officers believe Council would have a greater degree of comfort with this proposed amendment if:

- Analysis on the economic benefits, explaining how the benefits potentially balance out the amenity impacts, and whether there will be a net community benefit was provided.
- The number of jet movements (landings) were capped at the level of flights that would not occur as a result of Amendment no.2.

Overall, Officers believe further assessment should be undertaken by the Department to better understand the potential positive and negative impacts of the proposed amendments to the Air Navigation (Essendon Airport) Regulations 2001, and for this analysis to be made available to the community and Council.

## **Consultation**

Council Officers attended a public forum hosted by Mr Peter Khalil, the State Member for Essendon, Mr Danny Pearson, and the State Member for Niddrie, Mr Ben Carroll on Thursday 28 September at the Strathmore Heights Community Hall, held in relation to the proposed amendments. Information about this forum was published on Council's website and social media.

In addition, information about the Public Consultation Paper has been made available on Council's website and promoted on social media outlets.

## **Implications**

### **1. Legislative**

The report relates to Council's submission to the proposed amendments to the Air Navigation (Essendon Airport) Regulations 2001 which is Federal Legislation.

There are no implications in relation to the Human Rights Charter.

### **2. Council Plan / Policy**

In presenting this report to council, council is achieving its Strategic Objective for Connected, well designed municipality, thriving neighbourhoods, accessible places and spaces in accordance with Council Plan 2017-2021 Theme 3: Sustainable living.

### **3. Financial**

There are no specific financial implications associated with Council's submission to the Proposed Amendments to the Air Navigation (Essendon Airport) Regulations 2001.

### **4. Environmental**

The proposed amendments to the Air Navigation (Essendon Airport) Regulations 2001 will have implications in regard to the level of aircraft noise from aircraft movements at the airport. Further investigation by the Department of Infrastructure and Regional Development is needed to ascertain an accurate measure of the expected change in aircraft noise during non-curfew and curfew periods.

### **Conclusion**

Council Officers have reviewed the proposed amendments to the Air Navigation (Essendon Airport) Regulations 2001.

Council Officers recommend Council support removing the ability of non-emergency helicopters and propeller driven aircraft to operate during the curfew (Amendment no. 2). However in relation to Amendment no. 1 and no. 3, Council Officers believe that insufficient information has been provided to allow for a clear position to be formed on these particular changes.

It is recommended Council endorse the draft submission prepared by Council Officers and forward the submission to the Federal Government's Department of Infrastructure and Regional Development.

### **Appendices**

Appendix A: Air Navigation (Essendon Airport) Regulations 2001 (separately circulated)

Appendix B: Public Consultation Paper September 2017

Appendix C: Council's Draft Submission.



Australian Government  
Department of Infrastructure  
and Regional Development



# Proposed amendments to the Air Navigation (Essendon Airport) Regulations 2001

Public Consultation Paper

September 2017

## Summary

### Purpose

The purpose of this paper is to seek comments through public consultation on proposed amendments to the Air Navigation (Essendon Airport) Regulations 2001 (the Regulations) which are intended to facilitate aircraft movements at Essendon Airport while protecting community amenity.

### Proposed amendments:

The Department of Infrastructure and Regional Development is seeking comments on three potential amendments to the Regulations:

1. Lifting the permitted weight limit for jet aircraft from 45,000kgs to 55,000kgs for operators during non-curfew hours.

The largest jets in operation when curfew restrictions were introduced at Essendon were around 40,000kgs maximum take-off weight (MTOW). Larger jets (for business aviation and regional passengers) are now, on average, between 48-53,000kgs MTOW and have greater range, enhanced fuel efficiency and improved noise profiles, that are similar or lower than older jet aircraft, due to newer engine technology and advanced navigation systems.

2. Removing the ability of non-emergency helicopters and propeller driven aircraft to operate during the curfew

Non-emergency movements subject the community to additional aircraft noise during the curfew period above that which is permitted at other curfew airports. While noting that there is very little demand for non-emergency helicopter and propeller-driven movements during the curfew, non-emergency movements have contributed to the generation of noise complaints including a number of services, which have been investigated by the Aircraft Noise Ombudsman.

3. Allowing jet aircraft, which meet strict noise criteria to land during the curfew period.

Jet aircraft landing during the curfew at Sydney, Adelaide and Gold Coast Airports must be less than 34,000kgs MTOW and have a noise level of not greater than 95 decibels on landing. It is proposed at Essendon Airport that only aircraft with a noise level not greater than 90 decibels be permitted to land during the curfew.



## Regulatory Environment

### The Regulations

Essendon Airport has some of the strictest curfew arrangements in Australia, which were introduced as part of the development of Melbourne Airport in the 1970s. The Regulations establish a regulatory framework for the restriction of aircraft movements at Essendon Airport between the periods of 11 pm and 6 am. Part 4 of the Regulations specifies a range of permitted movements and the conditions that apply to them.

#### Permitted operations during the curfew period

Regulation 12 permits propeller-driven aircraft not exceeding 8,618kgs MTOW or propeller-driven aircraft with MTOW greater than 8,618kgs that do not exceed the noise level of 95 decibels on landing on 90 decibels on take-off, to operate during the curfew.

Regulation 13 permits helicopters which meet the noise standard specified by the International Civil Aviation Organization as applying to the helicopter type.

Regulation 14 permits any aircraft involved in emergency assistance, an in-flight emergency, a Police Air Wing operation or any aircraft which is granted a dispensation by the Department of Infrastructure and Regional Development, to operate during the curfew period.

Regulation 15 permits jet aircraft to be granted a curfew dispensation to operate during the curfew period at Essendon in exceptional circumstances. Circumstances are considered exceptional if the cause of the delay is immediate, unforeseen and cannot be met by alternative arrangements (e.g. landing at another airport).

#### Permitted operations during non-curfew period

Essendon airport has a maximum aircraft weight limit of 45,000kgs. However Regulation 15 permits aircraft greater than 45,000kgs MTOW to operate during non-curfew periods if they are granted a dispensation. Operators need to demonstrate that: the aircraft cannot land at another airport; the aircraft is scheduled to undergo specialised maintenance or engineering at Essendon Airport; security requirements for the passengers, freight or aircraft are such that Essendon is the most appropriate; and that the aircraft requires special facilities, which are not available at another airport (VIP security, parking, facilitation etc). The number of dispensations for aircraft greater than 45,000kgs MTOW has been low (3) since the Regulations took effect in 2001. This is primarily due to the fact that aircraft greater than 45,000kgs MTOW will generally operate into other airports rather than use Essendon Airport due to the complex restrictions of this regulation.

### Fly Neighbourly Agreement

Night-time noise from aircraft operating at Essendon Airport is a sensitive issue for surrounding communities. In recognition of the impact of airport operations a "Fly Neighbourly Agreement" has been developed by Essendon Airport. While the Fly Neighbourly Agreement is voluntary, every aircraft operator at Essendon Airport is signatory to the agreement. The Fly Neighbourly Agreement specifies operational procedures for aircraft operators to minimise the noise impact of operations on surrounding communities.

## The proposed amendments

Essendon Airport is the largest base for business aviation aircraft in Australia with 44 of the 150 business jets in Australia based at Essendon Airport. Essendon Airport is also attracting regional aviation routes, which are not suitably serviced by Melbourne Airport, allowing for faster connections to Melbourne and less travel time for those travelling from regional New South Wales and Victoria.

### Proposal 1 – lifting the weight restriction from 45,000kgs to 55,000kgs for non-curfew operations

#### Current settings

Currently only jet aircraft with a MTOW less than 45,000kgs are permitted to operate at Essendon airport during non-curfew hours. Essendon Airport is the only airport in Australia, which restricts jet aircraft during non-curfew hours by operating weight.

#### Problem with current settings

Essendon Airport provides vital links for regional passengers and is a major employer with both on-airport and off-airport activities. The current restriction on operating weight would not allow larger regional passenger jets or new generation business jets to operate at Essendon Airport.

#### Proposed solution

In order to facilitate growth at Essendon Airport while protecting the community from the effects of aircraft noise, it is proposed to allow aircraft up to 55,000kgs MTOW to operate from Essendon Airport. Allowing these newer, quieter business jets to operate at Essendon Airport would attract both regional passenger services and business aviation with newer, larger jet aircraft. Advances in aircraft engine and airframe technology have allowed larger jets to operate at noise profiles at or below older, smaller jets. Modern aircraft also have more advanced flight navigation systems providing more accurate flight paths, which can reduce noise exposure.

Some examples of the noise profiles for a business jet less than 45,000kgs MTOW, business jet greater than 45,000kgs but less than 50,000kgs, and business jets greater than 50,000kgs MTOW but less than 55,000kgs MTOW are provided below:

Maximum Take-off Weight	Business Jet type and weight	Take-off (Decibels)	Flyover (Decibels)	Landing (Decibels)
<45,000kgs	Hawker Beechcraft 1000A (14,061kgs)	85.9	81.8	91.6
	Dassault Falcon 20 (13,755kgs)	91.9	82.9	90.6
>45,000kgs-50,000kgs	Bombardier Global Express (45,132kgs)	88.7	83.5	89.7
	Gulfstream 650 (45,177kgs)	89.8	77.5	88.3
	Fokker F28-100	89.2	84.4	93.4

Maximum Take-off Weight	Business Jet type and weight	Take-off (Decibels)	Flyover (Decibels)	Landing (Decibels)
>50,000kgs-55,000kgs	Boeing 717-200 (54,884kgs)	89.0	84.1	92.1

## Impacts of the proposal

### **Public**

The public would benefit from enhanced services in larger aircraft and better connectivity with regional communities. This will also provide better connectivity and access to services both at Essendon Airport and within greater Melbourne.

While a broader range of larger aircraft types may commence operations at Essendon Airport because of the proposal, members of the community would not be adversely impacted by the use of these aircraft as they have similar noise profiles to existing aircraft types and all operators would need to comply with the Fly Neighbourly Agreement. Larger aircraft are generally fitted with more advanced navigation systems, which allow for more accurate flight paths and improved noise outcomes.

### **Operators**

Under current arrangements, business jet operators that have aircraft greater than 45,000kgs MTOW but less than 50,000kgs MTOW can have their aircraft certified for operations less than 45,000kgs MTOW. This process involves the aircraft manufacturer certifying modifications to the aircraft, which would limit the operating weight to less than 45,000kgs MTOW. The cost of certification ranges from \$30,000-\$100,000 depending on the aircraft. This is a capital cost which would not be required if the weight limit was raised to 55,000kgs MTOW.

Raising the maximum aircraft weight limit to 55,000kgs MTOW permits operators with larger aircraft to use Essendon Airport as an additional base for operations, allowing operators to grow their businesses in both regional passenger services and business aviation. These benefits would not be possible under the current restrictions.

### **Safety**

The maximum aircraft weight limit of 45,000kgs was stipulated when the Regulations were drafted in 2001 largely as a proxy measure intended to limit aircraft noise. The runway length and structural strength are such that there are no safety concerns with aircraft up to 55,000kgs MTOW operating at Essendon Airport, and modern aircraft in this weight class have lower noise profiles than the aircraft with a 45,000kg MTOW which this regulation was originally designed for.

## Proposal 2 – Removing the ability of non-emergency helicopters and propeller-driven aircraft to operate at Essendon Airport during the curfew

### Current Settings

Essendon Airport is currently the only airport in Australia with a curfew that allows for non-emergency helicopter movements during the curfew. While non-emergency propeller-driven aircraft are permitted to operate at Sydney and Adelaide during the curfew, alternatives in these locations are limited. With three other airports in the Melbourne basin, there are opportunities to operate propeller-driven aircraft at other airports.

### Problem with current settings

Non-emergency movements subject the community to additional aircraft noise during the curfew period above that which is permitted at other curfew airports. While noting that there is very little demand for non-emergency helicopter and propeller-driven movements during the curfew, non-emergency movements have contributed to the generation of noise complaints including a number of services which have been investigated by the Aircraft Noise Ombudsman.

In the quarter ending November 2016, there were a total of 607 movements of which 584 were emergency movements and 23 movements were non-emergency.

### Proposed solution

The proposed solution is to remove the operations of non-emergency helicopters and propeller-driven aircraft during the curfew. This proposal will not affect emergency operations; existing operators of emergency aircraft will continue to operate during the curfew. The Department is proposing to either remove the ability of these aircraft to operate with immediate effect or to implement a phased approach for removing these services.

### Impacts of the proposal

#### **Public**

The benefits to the public would be to reduce the effect of aircraft noise during curfew hours from non-emergency movements. Such operations are often associated with the use of older less efficient aircraft with higher noise profiles than modern aircraft. By limiting movements to emergency operations, this will ensure that time critical services can still be delivered, while reducing the effects of aircraft noise from non-essential, non-emergency operations.

#### **Operators**

Existing operators of non-emergency aircraft will have the cost associated with ceasing operations at Essendon Airport during curfew hours and/or relocating to another airport. These operations are relatively small in number so the overall cost impact of such a change should be minimal. Non-emergency operations could be facilitated at a number of other airports within the Melbourne Basin including Moorabbin and Avalon (neither airport has an operating curfew).

### Proposal 3 – Allowing jet aircraft movements during the curfew.

#### Current settings

Essendon Airport is currently the only Australian airport where business aircraft are not permitted to land during the curfew. At Sydney, Adelaide and Gold Coast Airports, business jets less than 34,000kgs MTOW, which meet current noise requirements (which commenced in 2006) are permitted to operate unrestricted during the curfew period. Since the introduction of the new requirements in Sydney in February 2015 and Adelaide in December 2014, which allow any business jet less than 34,000kgs MTOW to operate during the curfew, there has only been a small increase in business jet flights (approximately 10 additional flights per quarter) from the previous arrangements. Business jets, which fly during the curfew at Sydney, Adelaide and Gold Coast airports, need to meet the noise standard of no more than 95 decibels on landing and no more than 90 decibels on take-off.

#### Problem with current settings

The current settings do not allow business jet operators to land or take-off at Essendon Airport during a curfew period unless they have been granted a curfew dispensation which satisfies the exceptional circumstance criteria under the regulations. This limits the ability of business aviation operators to have connectivity to Eastern seaboard cities and return to base at Essendon Airport on the same day.

#### Proposed solution

The Department is proposing to allow **landings only** of business jet aircraft during the curfew period. Recognising the impacts of aircraft noise on the surrounding community need to be balanced against facilitating limited movements at Essendon Airport, the amendments would not permit take-offs as higher ground noise levels are generated from aircraft taxiing and subsequent take-offs exposing the surrounding community to additional noise impacts.

The Department acknowledges that communities living in close proximity should be protected from adverse aircraft noise. It is therefore proposed that a stricter noise standard than that which applies at Sydney, Adelaide and Gold Coast Airports would apply to these jet movements with no more than 90 decibels on landing to reduce the noise impact on surrounding communities, ensuring that only the newest business jets can land at Essendon during the curfew.

#### Impacts of the proposal

##### **Public**

The public will benefit from having more services at Essendon Airport. Additional services will also contribute to employment and business opportunities on and near the airport and within the region.

The public will be exposed to a very small increase in exposure to aircraft noise from landings at Essendon Airport. This very small increase is offset by specifying the strictest noise standard for aircraft, which should assist in minimising the impact on the community. There will be no net increase in the total number of movements during the curfew as non-emergency aircraft will be removed. A number of these non-emergency aircraft have higher operating noise profiles than the stringent noise standard to be applied to jet aircraft landings.

***Operators***

Improved connectivity will allow business jet operators to run same-day connections from the East Coast to Essendon Airport after a full day of scheduled meetings. The proposal will also allow the return of aircraft for maintenance to Essendon Airport overnight; currently these aircraft would need to be facilitated at other airports.

There will be a small compliance cost associated with the restrictions on aircraft type. This compliance cost is offset against the connectivity benefit of allowing landings at Essendon Airport during the curfew. The compliance cost relates to operators needing to verify that their aircraft is noise certified by the aircraft manufacturer to less than 90 decibels on landing.



## Submissions

The Department of Infrastructure and Regional Development (the Department) will be accepting submissions until 10 October 2017. Submissions can also be made directly to your Federal, State or Local Member who can raise these submissions through the Essendon Airport Community Aviation Consultation Group. Submissions can be made electronically to [curfews@infrastructure.gov.au](mailto:curfews@infrastructure.gov.au) or in writing to"

Aircraft Operations  
Aviation Environment Branch  
Department of Infrastructure and Regional Development  
GPO Box 594  
CANBERRA ACT 2601

Your submission, including any personal information supplied, is being collected by the Department of Infrastructure and Regional Development for the purpose of [insert purpose], in accordance with the Privacy Act 1988 (the Privacy Act). The Department will use this information to gather feedback from stakeholders on proposed amendments to the Air Navigation (Essendon Airport) Regulations 2001.

Your personal information will be stored securely by the Department. It may be used by the Department to make further contact with you about the consultation process. Your personal information will not be disclosed to any other third parties, except in the circumstances outlined below.

Submissions, in part or full, including the name of the author may be published on the Department's website at [www.infrastructure.gov.au](http://www.infrastructure.gov.au) or in the Government's response, unless the submission is confidential. Confidential submissions (including author name) will not be published. Private addresses and contact details will not be published or disclosed to any third parties unless required by law.

Submissions will only be treated as confidential if they are expressly stated to be confidential. Automatically generated confidentiality statements or disclaimers appended to an email do not suffice for this purpose. If you wish you make a confidential submission, you should indicate this by ensuring your submission is marked confidential.

Confidential submissions will be kept securely and will only be disclosed in the following circumstances:

- in response to a request by a Commonwealth Minister;
- where required by a House or a Committee of the Parliament of the Commonwealth of Australia; or
- where required by law.

Please direct any queries during these consultations to [curfews@infrastructure.gov.au](mailto:curfews@infrastructure.gov.au).



**Submission to the Proposed Amendments  
to the Air Navigation (Essendon Airport)  
Regulations 2001**

**October 2017**



**1. Introduction**

This submission is made by Moonee Valley City Council (Council), being the responsible authority for the administration and enforcement of the Moonee Valley Planning Scheme, for the land surrounding the Airport.

Essendon Fields Airport has a long established presence in the City of Moonee Valley, and makes an important contribution to the local and broader regional economy. The airport is located adjacent established residential areas, with commercial and industrial uses to the west. In order to manage the impacts of aircraft operations the airport has established flight curfew arrangements.

The current arrangements do not prevent all movements during the curfew hours. In addition to emergency services, some helicopter freight and business movements are also permitted. As such, the Current curfew doesn't protect residents – as demonstrated by the fact certain aircraft and helicopters are unrestricted in the number of air movements and landing that could occur.

Essendon Fields Airport is proposing to adapt the current arrangements to better reflect the needs of the aviation industry, whilst resulting in improved amenity conditions by removing some flight movements that impact upon residential areas such as non-emergency helicopters.

Council has reviewed the Public Consultation Paper provided by the Department of Infrastructure and Regional Development, and makes the following comments.

**2. Background – Council's established position**

In Council's submission to the Essendon Airport Draft Master Plan (2013), the importance of consultation with Council in regard to the types and times of flights at the airport was highlighted.

Council continues to maintain its position as provided in that submission, being that residents should not be adversely affected, either in terms of amenity, or in terms of development, on account of the continued operation of the airport, or by the introduction of new airside service operations.

Essendon airport is not afforded a buffer or separation areas between airport operations and sensitive uses. Residents living nearby have the potential be exposed to negative amenity impacts from airport operations. Given this context, Council's established view has been that the Airport must engage extensively with the community in relation to its current and future operations, and outline the rationale for the proposed changes.

Council also notes its continuing support for the ongoing operation of the Community Aviation Consultation Group (CACG) and the Fly Neighbourly Agreement.

**3. Proposed Amendments**

**1. Lifting the permitted weight limit for jet aircraft from 45,000kgs to 55,000kgs for operators during non-curfew hours**

The information provided in the Public Consultation Paper in relation to this amendment could be enhanced to assist the public in understanding the proposed changes.

The Public Consultation Paper (p. 3) states: *“Advances in aircraft engine and airframe technology have allowed larger jets to operate at noise profiles at or below older, smaller jets”*. However the examples provided in the paper suggests this is not always the case.

The ‘flyover’ decibels of a ‘Bombardier Global Express’ (in the 45,000kgs – 50,000kgs weight range) is given as 83.5, which is above that of the ‘Hawker Beechcroft 1000A’ and ‘Dassault Falcon 20’ (Jets with weight less than 45,000kgs) are noted as having ‘flyover’ decibel levels of 81.8 and 82.9 respectively.

Similarly, the Fokker F28-100 (in the 45,000kgs – 50,000kgs weight range) and the Boeing 717-200 (in the 50,000kgs – 55,000kgs weight range) both have ‘flyover’ and ‘landing’ decibel levels above that of the ‘Hawker Beechcroft 1000A’ and ‘Dassault Falcon 20’ (Jets with weight less than 45,000kgs).

These figures suggest the ability of these larger aircraft to operate during the non-curfew hours will not necessarily result in improved noise outcomes as the discussion paper suggests (p. 4).

Further information, such as a detailed aircraft noise assessment would allow the community and relevant stakeholders such as Council to better understand the proposed amendments, the positive and negative impacts on the community, and enable a more suitably informed assessment of the proposed changes.

It is apparent many surrounding residents may not be fully aware of the curfew conditions and the various types of aircraft movements that occur within the restricted hours. Community understanding could be enhanced by sharing of flight traffic information in a user friendly and accessible way. This would be particularly useful in the event that a cap were to be applied to the number of jet landings.

**2. Removing the ability of non-emergency helicopters and propeller driven aircraft to operate during the curfew**

Council is supportive of this amendment. Council agrees that non-emergency movements subject the community to additional aircraft noise during the curfew period, above a level that is permitted at other airports.

This amendment would benefit the surrounding community by removing a source of noise during the curfew period, while not impacting the ability for emergency services to be provided to the wider community.

Given the stated benefits of removing the ability of these particular helicopters and aircraft to operate during the curfew, Council would be supportive of this amendment being implemented as soon as practically possible, and would appreciate advice from the Department on when this change would come into effect.

**3. Allowing jet aircraft, which meet strict noise criteria to land during the curfew period**

Council considers the implications from this amendment are unclear, and a proper understanding of the potential impacts cannot be formed based on the information provided.

There is limited justification for this amendment by the Department in the Public Consultation Paper, with the changes principally benefitting business jet operators and the users of those business jets. In regard to the potential impacts of this amendment, the Public Consultation Paper suggests (p. 6) that *“The public will benefit from having more services at Essendon Airport. Additional services will also contribute to employment and business opportunities on and near the airport and within the region.”*

An economic assessment or analysis has not been provided, and therefore the extent of the suggested increase in economic or business opportunities has not been quantified. The absence of a social and economic impact assessment leaves the community and stakeholders unable to make a suitably informed assessment of this component of the amendment.

Council would have a greater degree of comfort in regard to this proposed amendment if:

- Analysis was provided on the economic benefits, explaining how the benefits potentially balance out the amenity impacts, and whether there will be a net community benefit.
- The number of jet movements (landings) were capped at the level of flights that would not occur as a result of Amendment no.2.

**4. Conclusion**

Council is committed to the economic development of the City of Moonee Valley, and more clearly articulated economic benefit would assist in understanding if the proposed amendments facilitate this outcome.

Council's preference is for further assessment be undertaken by the Department to better understand the potential positive and negative impacts of the proposed amendments to the Air Navigation (Essendon Airport) Regulations 2001, and for this analysis to be made available to the community and Council.

In summary, Council is supportive of removing the ability of non-emergency helicopters and propeller driven aircraft to operate during the curfew (Amendment no.2), however Council believes that insufficient information has been provided in relation to Amendment no.1 and Amendment no.3 to allow for a clear position to be formed on these particular changes.

It would be appreciated if the Department could respond to the matters raised in this submission prior to advancing the proposed changes further.

## CONFIDENTIAL REPORTS

### Closure of meeting to public

#### Recommendation

That Council resolve to close the meeting to the public pursuant to Section 89(2) of the *Local Government Act 1989* to discuss the following matters:

#### 12.1 Windy Hill - Update

Item 12.1 is Confidential under the terms section 89(2) of the Local Government Act 1989 as it contains information relating to: (d) contractual matters; (e) proposed developments AND (f) legal advice.