Agenda

Ordinary Meeting of Council

Tuesday, 13 August 2019
6:30pm
Ordinary Meeting of Council

Tuesday, 13 August 2019 at 6:30pm
to be held at the Moonee Valley Civic Centre

Members:
- Cr Narelle Sharpe
- Cr John Sipek
- Cr Samantha Byrne
- Cr Jim Cusack
- Cr Rebecca Gauci Maurici
- Cr Richard Lawrence
- Cr Nicole Marshall
- Cr Cam Nation
- Cr Andrea Surace

Officers:
- Mr Bryan Lancaster
- Mr Steven Lambert
- Ms Kendrea Pope
- Ms Natalie Reiter
- Mr Gil Richardson
- Mr Petrus Barry
- Ms Allison Watt

Mayor
Deputy Mayor

Chief Executive Officer
Director City Services
Director Organisational Performance
Director Planning and Development
Director Asset Planning and Strategic Projects
Manager Statutory Planning
Manager Governance and Communications
Business:

1. Opening
2. Reconciliation Statement
3. Apologies and Leave of Absence
4. Confirmation of Minutes
   Ordinary Meeting of Council held on Tuesday, 23 July 2019.
5. Declarations of Conflict of Interest
6. Presentations
   Nil.
7. Petitions and Joint Letters
   7.1 Mascoma Street, Strathmore ..............................................................5
8. Public Question Time
9. Reports from Special Committees
   Nil.
10. Reports
    10.1 19-21 Louis Street, Airport West (Lots 787 & 788 on LP12958) -
         Construction of a 10 storey mixed-use development comprising
         retail premises, a medical centre, office, education centre,
         dwellings and a reduction in car parking requirements ......................6
    10.2 2 Vida Street, Aberfeldie (Lot 5 on Plan of Subdivision 066257) -
         Construction of a Residential Aged Care Facility, use and
         development of the land for a Retirement Village and reduction in
         bicycle requirements ..........................................................................41
    10.3 MPAC to 2040: Moonee Ponds Activity Centre Local Plan -
         Extension of Interim Controls ............................................................77
    10.4 Proposed sale of land from formerly discontinued road - 16
         Emerald Street, Essendon ...............................................................82
    10.5 Proposed disposal of 27 Kittyhawk Court, Airport West .................86
    10.6 Mayoral Attendance at Wellbeing Cities Forum ...............................91
    10.7 Revision to the grading of 15 Clarence Street Flemington in
         Amendments C200moon and C201moon .............................................94
    10.8 Return of the 2019 General Revaluation ........................................101
    10.9 Notices of Motion Quarterly Report .............................................103
11. Notices of Motion
   11.1 Notice of Motion No. 21 – Managing CEO Employment .......................105

12. Urgent Business

13. Delegates Reports

14. Confidential Reports
   Nil.

15. Close of Meeting

BRYAN LANCASTER
Chief Executive Officer
PETITIONS AND JOINT LETTERS

7.1 Mascoma Street, Strathmore

Author: Tracey Classon - Governance Officer
Directorate: Organisational Performance

Summary

Council has received a petition with 15 signatures, opposing parking changes on Mascoma Street Strathmore, opposite Lebanon Reserve.

The preamble to the petition reads: We the undersigned residents DO NOT want unrestricted parking bays placed on the residential side of Mascoma Street.

We the residents DO NOT want the existing ‘No Standing signs’ restricting parking on sporting event days on Mascoma Street.

Recommendation

That Council resolves to:

1. Receive and note the petition.
2. Refer this matter to the Director Planning and Development and reporting back to Council.
3. Advise the petition organiser accordingly.

Attachments

Nil
# Reports

## 10.1 19-21 Louis Street, Airport West (Lots 787 & 788 on LP12958) - Construction of a 10 storey mixed-use development comprising retail premises, a medical centre, office, education centre, dwellings and a reduction in car parking requirements

**Author:** William Wheeler - Principal Statutory Planner  
**Directorate:** Planning and Development

<table>
<thead>
<tr>
<th>Planning File No.</th>
<th>MV/984/2018</th>
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</table>
| **Proposal**      | Construction of a 10 storey building comprising two retail premises, a medical centre, office, education centre and 24 dwellings  
Reduction in car parking requirements |
| **Applicant**     | Ratio Consultants Pty Ltd |
| **Owner**         | 1921 Louis Pty Ltd |
| **Planning Scheme Controls** | Commercial 1 Zone  
Environmental Audit Overlay |
| **Planning Permit Requirement** | Clause 34.01-4 – Construct a building or construct or carry out works  
Clause 52.06-3 – Reduction in car parking requirements |
| **Car Parking Requirements** (Clause 52.06) | Required: 162 car spaces  
Provided: 98 car spaces |
| **Bicycle Requirements** | Required: 25 bicycle spaces  
Provided: 34 bicycle spaces |
| **Restrictive Covenants** | Yes – Covenant 1812794 is not breached by this proposal |
| **Easements**     | None |
| **Site Area**     | 1,405 square metres |
| **Number Of Objections** | N/A |
| **Consultation Meeting** | N/A |
Executive Summary

- The application seeks planning approval for the construction of a 10 storey building comprising two retail premises, a medical centre, office, education centre, 24 dwellings and a reduction in car parking requirements.

- The site has an area of 1,405 square metres and is located on the western side of Louis Street, Airport West. The site comprises an existing factory/warehouse and associated sheds/outbuildings.

- The application was exempt from advertising, therefore a Consultation Meeting was not held as no objections were received.

- The application was externally referred to the Head, Transport for Victoria. Conditional support to the application was provided.

- The application was internally referred to Council’s Development Engineering (Drainage) Unit, Traffic and Transport Unit, Waste Management Unit, Environmental Sustainable Design (ESD) Officer, Strategic Planning Unit and Landscape Architect (Streetscapes). Conditional support to the application was provided by all.

- The proposed development provides a suitable level of intensification for a site located within a Major Activity Centre and the Principal Public Transport Network Area, with no adjoining sensitive interfaces.

- Ultimately the proposal, subject to conditions, is considered to successfully balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations. In particular, the revised ‘without prejudice’ plans provide a 5.0 metre front setback to facilitate future streetscape improvement works, enhanced pedestrian/cycling connections and street greening along Louis Street. While not a formal requirement within the Moonee Valley Planning Scheme, the 5.0 metre front setback forms part of a negotiated outcome to achieve a good urban design outcome and ensure development along the western side of Louis Street does not compromise the potential to achieve a greening of the street, as a key pedestrian link. This is a concept explored through the key directions and preferred options report for the Airport West activity centre structure plan review. Strategic work for this area is to be completed through the future Airport West Neighbourhood Plan.

- The proposal also provides two retail premises, a medical centre, office, education centre and 24 dwellings for meaningful employment opportunities, activation along Louis Street, an increase in housing opportunities and diversity of dwelling stock to meet growing population needs.

- 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 Planning Permit be issued subject to conditions.
Recommendation

That Council issues a Planning Permit in relation to Planning Permit Application No. MV/984/2018 for the construction of a 10 storey mixed-use development comprising retail premises, a medical centre, office, education centre, dwellings and a reduction in car parking requirements at No.19-21 Louis Street, Airport West (Lots 787 & 788 on LP12958), subject to the following conditions:

Endorsement 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) An increased setback of 5.0 metres to Louis Street, and subsequent built form changes, in accordance with revised ‘without prejudice’ plans prepared by Point Architects, Revision P3, dated 29 April 2019;

   b) The ground floor loading bay relocated and designed to accommodate the full length of the waste collection vehicle, with no encroachment into the vehicle accessway, to ensure the safe and efficient collection of waste on site;
c) All internal privacy screening annotated as being at least 1.7m in height and suitably treated to avoid direct views between balconies associated with dwellings;

d) The bedroom directly adjacent to the communal rooftop terrace on Level 8 relocated and/or modified to avoid potential noise impacts from this communal open space area;

e) Provision of 300mm trench grates at the bottom of the ramp leading to the basement;

f) The existing cross fall and longitudinal fall maintained in the road reserve to prevent runoff into the proposed basement from Louis Street;

g) Provision of a DDA car parking space, designed in accordance with Australian Standard AS2890.6-2009;

h) The dimension of all columns within car parking areas in accordance with Diagram 1 of Clause 52.06-9 (Design Standards for Car Parking) of the Moonee Valley Planning Scheme;

i) Internal ramp section diagrams confirming a minimum headroom clearance of 2.2 metres is provided;

j) Ramp grades and section lengths clearly nominated;

k) Grades for drainage within car parking areas annotated as being provided as part of the detailed design stage;

l) Details regarding all mechanical parking structures, including gates and columns, as per the manufacturer’s specifications within the traffic report;

m) All ‘Ned Kelly’ style wall mounted bicycle parking annotated as being staggered spaces;

n) The length and width dimensions of all horizontal rail bicycle parking spaces;

o) Any updates to the vehicle accessway and car parking areas required by the amended traffic report required under Condition 8 of this permit;

p) All stormwater treatment measures and associated annotations as a result of Condition 3;

q) All Sustainable Design Assessment and BESS annotations and measures in accordance with Condition 4;

r) A prominent note on all floor and elevation plans stating all noise attenuation measures are to be implemented as required by the endorsed acoustic report under Condition 5;

s) A landscape plan in accordance with Condition 6; and

t) A detailed schedule of all external materials and finishes. The schedule must show the specific material, colour (including colour samples) and finishes of all external walls, roofing, fascias, window frames, screening measures, soffits, vehicle access doors and paving.

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. Stormwater from the development must be treated to meet the water quality performance objectives set out in the *Urban Stormwater Best Practice Environmental Management Guidelines*, *Victoria Stormwater Committee 1999 (Guidelines)*, as amended. The performance objectives of the Guidelines must be met entirely on site as demonstrated by a Water Sensitive Urban Design (WSUD) assessment report(s) submitted to and approved by the Responsible Authority; except that with the written consent of the Responsible Authority, up to 20% of treatment may be delivered offsite as demonstrated by a Water Sensitive Urban Design (WSUD) assessment report(s) submitted to and approved by the Responsible Authority.

4. An amended Sustainable Design Assessment, inclusive of BESS Report, must be submitted simultaneously with the submission of amended plans in accordance with Condition 1 of this permit. The BESS Report must be a 'published' version, achieve all minimum requirements, meet best practice standards and be to the satisfaction of the Responsible Authority for approval. Once approved the Sustainable Design Assessment, inclusive of BESS Report, is to be implemented and appropriately managed during construction of the proposed building.

5. 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 (including noise sources within the development itself). The applicant must meet all costs associated with drafting and execution of the acoustic report, including those incurred by the Responsible Authority.

   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.

6. Before the development starts landscape plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The landscape plans 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 plans 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) The location and details of street tree plantings within the nature strip along Louis Street;
   
   c) Details for planter boxes, ensuring a minimum 750mm wide and 1m deep, including drip irrigation and proposed plant species;
d) 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;

e) The use of drought tolerant species;

f) Features such as paths, paving and accessways;

g) All planting abutting the accessway(s) and land frontage to have a maximum mature height of no more than 900mm in accordance with Clause 52.06-9 (Design Standards for Car Parking) of the Moonee Valley Planning Scheme; and

h) An appropriate irrigation system, including irrigation and maintenance details for all planter boxes.

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

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

7. 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:

a) Be modified in accordance with Condition 1 of this permit; and

b) Include scaled waste management drawings showing waste collection vehicle access, including any associated turning circles.

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.

8. An amended traffic report must be submitted simultaneously with the submission of amended plans in accordance with Condition 1. The amended traffic report must be generally in accordance with the traffic report submitted and assessed with the application but modified to show provision of a SIDRA analysis (or similar) of the site access and nearby intersections. In particular, further information regarding the impact of the development on additional traffic volumes along Louis Street is required, due to the significant increase to peak hour traffic volumes.

9. 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) A car parking layout generally in accordance with the relevant requirements of the Australian Standards for Off-Street Car Parking
AS/NZS 2890.1-2004 (including ramp grades and dimensions, column location, headroom clearance, etc.);

b) Arrangements for the provision and allocation of car spaces on site;

c) The management of visitor parking spaces and security arrangements for occupants of the development, including the provision of an intercom system at the security entrances;

d) Lighting of car parking areas, entries and exits;

e) Proposed line marking, convex mirrors and signage to direct occupants and visitors to their designated spaces;

f) Arrangements for the loading and unloading of goods and materials for the commercial uses;

g) Entitlements to the use of the loading bay by all uses on the land, including the collection of waste by private waste collection vehicles;

h) No charge being made for car parking without the consent of the Responsible Authority;

i) Traffic calming measures for inclusion within the accessways and car parking areas on site, including rubber speed humps and speed restrictions as appropriate;

j) The closure of any car parking areas a minimum of 30 minutes after the closure of the last use(s) approved on the land;

k) The movements of trucks and other vehicles to the loading bay showing likely access routes and movements from adjacent roads;

l) Details as to how the car stackers are to be regularly maintained and serviced;

m) Details of timeframes and measures to be undertaken, to reinstate the car stackers back to working order, if the car stackers becoming non-operational; and

n) Details of measures to be undertaken if the car stackers are 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.

10. 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 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.

11. 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.

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. A Council drain (minimum 300mm dia uPVC or FRC or 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.

14. Prior to the commencement of the use or buildings and works associated with the use (or the certification or issue of a statement of compliance under the Subdivision Act 1988) the applicant must provide:

   a) A Certificate of Environmental Audit in accordance with Section 53Y of the Environment Protection Act 1970; or
   
   b) A Statement of Environmental Audit under Section 53Z of the Environment Protection Act 1970. A Statement must state that the site is suitable for the use and development allowed by this permit.

All the conditions of the Statement of Environmental Audit must be complied with to the satisfaction of the Responsible Authority, prior to commencement of use of the site. Written confirmation of compliance must be provided by a suitably qualified environmental professional or other suitable person acceptable to the Responsible Authority. In addition, sign off must be in accordance with any requirements in the Statement conditions regarding verification of works.

The applicant must enter into a Section 173 Agreement under the Planning and Environment Act 1987 in relation to ongoing maintenance and/or monitoring in accordance with the Statement of Environmental Audit. The Agreement must be executed on title prior to the commencement of the use and prior to the issue of a Statement of Compliance under the Subdivision Act 1988. The applicant must meet all costs associated with drafting and execution of the Agreement, including those incurred by the Responsible Authority.

Transport for Victoria Condition

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

Development Conditions

16. The water sensitive urban design treatments as specified within the Water Sensitive Urban Design (WSUD) assessment report(s) submitted to and approved by the Responsible Authority must be implemented on site prior to the
occupation of the development unless an alternative agreement is reached with the Responsible Authority.

17. 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 occupier of the adjoining land allows access for the purpose.

18. 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.

19. Floor levels shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.

20. 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.

21. 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.

22. 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.

23. 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 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.

24. Bicycle parking spaces, access, lockers and compounds, associated showers and change rooms, must be provided, maintained and kept available for these purposes at all times to the satisfaction of the Responsible Authority.

25. 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.

26. 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.

27. The development must be provided with external lighting capable of illuminating access to the vehicle accessway, loading bay, 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.

28. Before the development starts, the Applicant must obtain consent under the Airports (Protection of Airspace) Regulations 1996 for any activity in the prescribed airspace for Essendon Fields Airport (i.e. buildings, antennas or cranes during construction).

29. 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).

30. 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.

31. 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.

32. All wastes, including liquid waste and waste water, must be disposed of to the satisfaction of the Responsible Authority.

33. 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.

34. 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.

- This permit does not authorise any advertising signs. No advertising signs may be erected on the land other than those which have been approved under a separate planning permit or are exempt from the need for a planning permit under the Moonee Valley Planning Scheme.

- 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 property to pre-development levels in accordance with the following: \( C_w=0.4, t_c=10\text{mins}, t_{so}=5\text{mins}, ARI \ 1 \text{ in } 5 \). An ARI of 1 in 10 shall be used for storage and the greater of post development \( C_w \) or \( C_w=0.80 \).

- 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.
• Before the development starts, separate approval must be obtained from Moonee Valley City Council in relation to the proposed planting of street trees. Please contact Council on 9243 8888 to speak with Council’s Arborist.

• All works undertaken within any existing road reserves must accord with the requirements of Moonee Valley City Council’s Technical Services Department 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 further 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 development.

• The development authorised by this permit will require the submission of a Construction and Site Management Plan (CSMP) prior to the commencement of any works. All CSMP’s are required to be made via Council’s online system at http://www.mvcc.vic.gov.au/planning-and-building/planning/construction-site-management-plans.aspx or in person at 9 Kellaway Avenue, Moonee Ponds.

1. Introduction

1.1 Subject Site and Surrounds

The subject site is located on the western side of Louis Street, Airport West. The site is regular in shape with a frontage to Louis Street of 32.92 metres and a maximum depth of 42.67 metres, resulting in a total area of 1,405m².

The land has a fall of approximately 0.60 metres from north-west to south-east across the site.

There are no easements noted on the Certificate of Title, however there is a restrictive covenant present. The proposed development will not contravene the restrictive covenant.

The site comprises a factory/warehouse and associated sheds/outbuildings. The existing buildings have varied front setbacks to Louis Street. Vehicle access is obtained from two existing crossovers to the east along Louis Street. There is no significant landscaping or vegetation on the subject site. There are no street trees located along the Louis Street frontage.
The surrounding area is predominantly commercial zoned land used and developed for commercial and light industrial purposes. The subject site is located within the Airport West Activity Centre under *Plan Melbourne 2017-2050: Metropolitan Planning Strategy* and directly abuts Westfield Shopping Centre to the rear. The site is also located within the Principal Public Transport Network Area and is proximate to the No.59 tram route, numerous bus routes (including the No.902 ‘SmartBus’ route along Louis Street) and various local businesses. The built form within the vicinity is predominantly single and double storey brick, concrete or rendered commercial/industrial buildings.

### 1.2 Proposal

It is proposed to demolish all buildings and construct a 10 storey building comprising two retail premises, a medical centre, office, education centre and 24 dwellings, and reduce car parking requirements. The proposal can be summarised as follows:

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<tr>
<th>Table 1</th>
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<tbody>
<tr>
<td>Retail premises</td>
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<tr>
<td>Medical centre</td>
</tr>
<tr>
<td>Office (excluding core, amenities and balcony)</td>
</tr>
<tr>
<td>Education centre (training college)</td>
</tr>
</tbody>
</table>
No. of dwellings | 24 (16 x 2 bedrooms and 8 x 1 bedroom)
---|---
No. of car spaces | 98 (4 x retail staff, 35 x medical, 25 x office, 10 x educational and 24 x dwelling spaces)
No. of bicycle spaces | 34 (13 x employee/resident, 12 x visitor/shopper/student spaces and 9 surplus spaces)
Loading bay dimensions | 4.88m (length), 3.60m (width), 4.20m (height) and 17.57m² (area)
Max. building height | 34.80 metres (10 storeys)

Refer Appendix B – Plans (separately circulated).

It is noted revised ‘without prejudice’ plans (refer Appendix C – separately circulated) were received by Council on 10 May 2019 to address some of the referrals and concerns raised. The revised ‘without prejudice’ plans demonstrate:

- A 5.0 metre minimum front setback from Louis Street for all floor levels (164.6m² or 11.71% of the site), to facilitate future streetscape improvement works, enhanced pedestrian/cycling connections and street greening along Louis Street. This 5.0 metre front setback will ensure development along the western side of Louis Street does not compromise Council’s future plans for this ‘key pedestrian street’ until formal planning controls can be implemented.
- As a result of the above, a total reduction in basement floor area by 340m² along with the deletion of 13 car spaces.
- Six additional bicycle spaces and landscaped garden beds along the site frontage, until streetscape improvement works are undertaken by Council.
- Reduced retail premises floor area by 85m².
- Reduced medical centre floor area by 137m².
- Modified external design, particularly to the ground, first and second floor levels along the front and side elevations, to accommodate the 5.0 metre front setback from Louis Street.

The revised ‘without prejudice’ plans address some of the referrals and concerns raised and are to be included as a condition on any permit granted accordingly (refer Appendix C – separately circulated).

2. Background

2.1 Relevant Planning History
No relevant planning permit history has been identified for the land.

2.2 Planning Policies and Decision Guidelines
Planning Policy Framework (PPF)
Clause 11 Settlement
Clause 13  Environmental Risks and Amenity
Clause 15  Built Environment and Heritage
Clause 16  Housing
Clause 17  Economic Development
Clause 18  Transport
Clause 19  Infrastructure

Local Planning Policy Framework (LPPF)

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 21.09  Transport
Clause 21.10  Social and Physical Infrastructure
Clause 22.03  Stormwater Management (Water Sensitive Urban Design)

Zoning

Clause 34.01  Commercial 1 Zone

Overlays

Clause 45.03  Environmental Audit Overlay

Particular and General Provisions

Clause 52.06  Car Parking
Clause 52.34  Bicycle Facilities
Clause 53.18  Stormwater Management in Urban Development
Clause 58  Apartment Developments
Clause 65  Decision Guidelines
Clause 66.02  Use and Development Referrals
Clause 71.02-3  Integrated decision making

2.3 Referrals

External

<table>
<thead>
<tr>
<th>Referral Authority</th>
<th>Conditions/Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Head, Transport for Victoria (Section 55 referral)</td>
<td>No objection subject to a standard condition.</td>
</tr>
<tr>
<td>Internal</td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td><strong>Department/Officer</strong></td>
<td><strong>Conditions/Comments</strong></td>
</tr>
<tr>
<td>Development Engineering (Drainage)</td>
<td>No objection subject to standard engineering and drainage conditions</td>
</tr>
<tr>
<td>Traffic and Transport</td>
<td>No objection subject to the inclusion of conditions on any permit granted. While such a reduction in car parking spaces would not normally be accepted, in principle support of the parking shortfall is given only on the basis that Council’s active transport outcomes can be achieved (i.e. provision of a 5m front setback to facilitate future streetscape improvement works, enhanced pedestrian/cycling connections and street greening along Louis Street). With regard to traffic generation, additional information is required (i.e. SIDRA analysis of the site access and nearby intersections) to determine this further. No objection to the car parking design, loading facilities and bicycle facilities subject to the inclusion of conditions and a car parking management plan on any permit granted</td>
</tr>
<tr>
<td>Waste Management</td>
<td>No objection to the Waste Management Plan or private waste collection, subject to the waste collection vehicle being able to collect waste without obstructing pedestrians and vehicles. It is recommended the loading bay be designed and provided to accommodate the length of the waste collection vehicle, to ensure the safe and efficient collection of waste on site</td>
</tr>
<tr>
<td>Environmental Sustainable Design (ESD) Officer</td>
<td>No objection subject to the provision of an amended Sustainable Design Assessment (SDA), including BESS Report, and associated plan notations as conditions on any permit granted</td>
</tr>
<tr>
<td>Strategic Planning</td>
<td>No objection subject to conditions. The proposal achieves the mix of uses desired for the site (retail, medical, offices, education and residential). Vehicular access is restricted to one point of entry. A high grade architectural design is proposed featuring substantial recesses to upper elements. The proposal does push the envelope in terms of building height at 10 storeys. The proposal activates the Louis Street frontage but is built to the property boundary which will irreparably jeopardise future streetscape improvements and street greening to facilitate public realm improvements.</td>
</tr>
<tr>
<td>Department/Officer</td>
<td>Conditions/Comments</td>
</tr>
<tr>
<td>-------------------</td>
<td>---------------------</td>
</tr>
</tbody>
</table>
| **For Council to achieve street greening and pedestrian links along Louis Street, a 5m setback is critical. If not achieved at the subject site, future ambitions will be irreparably undermined. This application should therefore mark the beginning of requirements for a site-by-site frontage setback to match the 5m setback of the Westfield building to the north (first structure along Louis Street). Such design objectives helped inform part of the Airport West Structure Plan Review and will contribute to any future strategic plans for this precinct, noting Louis Street provides a key linkage from the core retail precinct of the activity centre to the Green Spine.** 

To offset the impacts of the 5m setback, a proposed built form above six storeys is an agreeable compromise but should, where possible, be restricted to between 8-10 storeys. It is further recommended Council consider options to formalise the management of released land holdings along the Louis Street frontage. |
| **Landscape Architect (Streetscapes)** | **No objection subject to the following:** |
|  | • Include a 5m front setback, including both levels of basement, along the front title boundary to accommodate in ground tree planting and bicycle parking. Ensure the width of the awning along the front entry does not impact on street tree planting |
|  | • Improve the façade treatment at Ground level and Level 1 of the rear interface to Rodd Street (with a more detailed textured and permeable treatment for this road interface – to allow passive surveillance to this road) |
|  | • Confirm what new street tree plantings can be achieved in the nature strip on Louis Street at 6-8m intervals with the existing powerlines going to be underground. Tree species to match existing along Louis Street. Min. 45 litre stock, 30mm calliper at 2m high |
|  | • Provide details for planters (to ensure min. 750mm wide and 1m deep), drip irrigation and proposed plant species |
|  | • Include large corner planters for medium sized canopy trees in the northeast and southeast corners of the balcony on Level 3 (min. 1m wide |
2.4 Public Notification of the Application

Pursuant to Clause 34.01-7, an application to construct a building or construct or carry out works more than 30 metres from land in a residential zone, land used for a hospital or an education centre, or land in a Public Acquisition Overlay to be acquired for a hospital or an education centre, is exempt from the notice requirements of Section 52(1)(a), (b) and (d) of the Planning and Environment Act 1987.

Pursuant to Clause 52.06-4, an application under Clause 52.06-3 is exempt from the notice requirements of Section 52(1)(a), (b) and (d) if the application is also for a permit under another provision of the planning scheme and in respect of all other permissions sought the application is exempt from the notice requirements of Section 52(1)(a), (b) and (d) of the Planning and Environment Act 1987.

3. Discussion

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

The proposal, subject to conditions, is considered to comply with the relevant State, Regional and Local Planning Policies. Generally, these policies 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 Airport West Major Activity Centre under Plan Melbourne 2017-2050: Metropolitan Planning Strategy and the Principal Public Transport Network Area. The subject site directly abuts the No.902 ‘SmartBus’ route along Louis Street and is within proximity of the No.59 tram route, numerous bus routes and various local businesses, including Westfield Shopping Centre. The location of the subject site is considered to lend support to a more intensive form of commercial and residential development.

With regard to Clauses 13.04-1S (Contaminated and potentially contaminated land) and 21.04-6 (Potentially Contaminated Land), the site is subject to an Environmental Audit Overlay. While the ground floor level is proposed to be occupied by retail premises, lobby areas, car parking and building services, the upper floor levels are to be used for residential purposes, which is classified as a ‘sensitive use’. Therefore, a Certificate or Statement of Environmental Audit in accordance with Part IXD of the Environment Protection Act 1970 will be
required as a condition on any permit granted to ensure the site is suitable for residential purposes.

Policy guidelines relevant to the built environment and urban design, Clauses 15.01 (Built Environment) and 21.06-4 (Urban Design), are discussed in detail within Section 3.2 of this report.

The proposal contributes to the objective and strategies of Clause 16.01-3S (Housing diversity) by providing a mix of dwelling sizes in various configurations, which will cater for the increasingly diverse needs of future residents. While no three bedroom apartments are provided at this stage, the applicant would be able to apply for an amendment to amalgamate apartments within the building footprint should there be a market demand for this.

With regard to Clause 17.02-1S (Business) the proposal will help meet the community’s needs for retail, office and other commercial services within Airport West Activity Centre and the Principal Public Transport Network Area. Importantly, the proposed commercial facilities are aggregated and provide net community benefit in relation to their accessibility and efficient use of infrastructure. The proposal also provides small scale shopping opportunities to help meet the needs of local residents and workers in a convenient activity centre location.

With regard to Clause 18.01-1S (Land use and transport planning), the proposed development helps create a safe and sustainable transport system by integrating land use and transport. Furthermore, the proposed development complies with the strategies of Clause 18.02-2R (Principal Public Transport Network) by maximising the use of existing infrastructure and increasing the diversity and density of development along the PPTN, proximate to an important modal interchange in a Major Activity Centre.

The proposed development complies with Clause 19.02-1S (Health facilities) and Clause 19.02-2S (Education facilities) through the provision of a medical centre and an education centre (training college), which will assist the integration of health and education facilities with the local community and an activity centre area highly accessible to public and private transport. The revised ‘without prejudice’ plans (refer Appendix C – separately circulated) and proposed 5.0 metre front setback will also ensure streets and accessways adjoining the proposed education facility are designed to encourage safe bicycle and pedestrian access in the future.

The proposal complies with Clause 21.04-3 (Ecologically Sustainable Development) through the use of ecologically sustainable design principles, subject to the provision of an amended Sustainable Design Assessment (SDA) and BESS Report 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 SDA or BESS Report, subject to the inclusion of conditions on any permit granted.

The proposal accords with the objectives and strategies 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 indicating private waste collection. It is considered this waste management plan adequately addresses the provisions of this clause, subject to the waste collection vehicle being able
to collect waste without obstructing pedestrians and vehicles. It is recommended the loading bay be relocated and designed to accommodate the length of the waste collection vehicle, to ensure the safe and efficient collection of waste on site. Furthermore, the reduced retail and medical centre floor areas demonstrated on the revised ‘without prejudice’ plans will require provision of an amended waste management plan, which is to be endorsed, implemented and managed through a condition on any permit granted.

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 the subject site is located within an area of ‘high to substantial housing intensification’.

Clause 21.07 (Activity Centres) is applicable in this instance and builds on the objectives and strategies of the Planning Policy Framework, in particular Clause 11 (Settlement). The subject site is located within the Airport West Activity Centre as identified in Plan Melbourne 2017-2050: Metropolitan Planning Strategy. Importantly, the proposal provides growth of retail and commercial activities within the northern ‘mixed use precinct’ adjoining Airport West Shopping Centre. The proposal provides an increase in residential densities and affordable housing opportunities through development adjoining Airport West Shopping Centre, while enhancing the image and identity of the centre through changes to the built form. Notably, the increased building height provides an opportunity for growth and improvement while still considering residential amenity impacts.

The proposed built form integrates with the public realm through active frontages, maintains solar access and incorporates sustainable building practices and water sensitive urban design. Consequently, the Airport West Activity Centre Structure Plan 2008 has been considered in the design and assessment of the proposed development. However, it is important to note this Structure Plan can no longer be relied upon with any great weight. There have been significant direction and policy changes from the State Government with regard to Plan Melbourne 2017-2050 and the future development of Metropolitan Melbourne, its activity centres and Principal Public Transport Network (PPTN). In particular, “increased diversity and density of developments is encouraged on the PPTN, particularly at interchanges, activity centres and where principal public transport routes intersect.”

Accordingly, further strategic work is required and began with the release of the key directions and preferred options report for the Airport West activity centre structure plan review in late 2017. Strategic work for this area is to be completed through the future Airport West Neighbourhood Plan.

With regard to Clause 21.08 (Economic Development), the proposed development would contribute to and enhance the Airport West Activity Centre in terms of investment and employment opportunities. In particular, the establishment of office and mixed use developments that support professional services, including high value adding office, retail, educational and health services, are encouraged. Furthermore, the proposed retail premises, medical centre, office and education centre (training college) satisfy the community’s
retail and commercial service needs through increased accessibility to local businesses and a more sustainable local economy. Therefore, the proposed mix of uses and activities within this commercial precinct and Major Activity Centre are acceptable.

Clause 21.09 (Transport) seeks to improve walking and cycling infrastructure and encourage residents and visitors to use these viable transport modes. This clause also seeks to locate new development where there is access to public transport to improve its viability. The proposed development is located along the Principal Public Transport Network (PPTN) and will be served by high-quality public transport with access to the No.902 ‘SmartBus’ service, the No.59 tram, and a number of local bus routes.

While the proposed development provides for an improved public realm removing vehicle crossovers, reinstating the nature strip and undergrounding power lines, further streetscape improvement works are required to demonstrate a net community benefit to be delivered through the increased building height. In particular, the revised ‘without prejudice’ plans (refer Appendix C – separately circulated) demonstrate a 5.0 metre front setback to facilitate future streetscape improvement works, enhanced pedestrian/cycling connections and street greening along Louis Street. This 5.0 metre front setback will ensure development along the western side of Louis Street does not compromise the potential to achieve a greening of the street, as a key pedestrian link. This will help improve walking and cycling infrastructure along with enhance the public realm experience for pedestrians and cyclists, providing a meaningful net community benefit. These requirements are to be included as conditions on any permit granted.

The proposal complies with Clause 22.03 Stormwater Management (Water Sensitive Urban Design) and meets the required on-site stormwater treatment as demonstrated by achieving at least 100% on the STORM Rating Report. However, the STORM Rating Report is to be updated and amended as per the layout and design on the revised ‘without prejudice’ plans (refer Appendix C – separately circulated), and this is to form a condition on any permit granted. The relevant WSUD requirements, including stormwater treatment measures and associated plan notations, are also to be included as conditions on any permit granted in accordance with this policy.

3.2 Does the proposal represent an appropriate built form outcome?

It is a strategy of Clause 15.01-1S (Urban design) to ensure new development responds to its context in terms of character, cultural identity, natural features, surrounding landscape and climate. The proposed development, subject to modification, appropriately considers its site context and proposes a built form that will not be visually dominant to the streetscape or adjoining properties and provides appropriate internal amenity to future users of the site.

Further to this, the overarching objective of Clause 15.01-2S (Building design) is:

- “To achieve building design outcomes that contribute positively to the local context and enhance the public realm.”
The *Urban Design Guidelines for Victoria (2017)* are a policy guideline in support of this clause, providing guidance on the development of functional and enjoyable places throughout Victoria for people to live, work and spend leisure time. The guidelines contained at Element 2 (Movement Network), Element 3 (Public Spaces) and Element 5 (Buildings) are of relevance to this application and have been satisfied, as discussed below.

Clause 21.06-4 (Urban Design) provides further objectives and strategies, including the reference document *City of Moonee Valley Design Guidelines for Multistorey Residential Buildings (2003)*, which echoes the key urban design principles contained within Clause 15.01-2S and the *Urban Design Guidelines for Victoria (2017)*.

It is considered the proposed development, subject to modification, is consistent with the relevant design principles of the *Urban Design Guidelines for Victoria (2017)*, the *City of Moonee Valley Design Guidelines for Multistorey Residential Buildings (2003)* and Clauses 15.01-2S and 21.06-4, as discussed below.

**Building Design Quality and 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 design response demonstrated on revised ‘without prejudice’ plans (refer Appendix C – separately circulated) is appropriate given the size and location of the site with good access to a range of services including public transport, various local businesses and Westfield Shopping Centre.

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 with an acceptable transition of built form to adjoining properties, noting the development potential of largely underutilised commercial land within the northern precinct of Airport West Activity Centre.

**Streetscape and Urban Design**

The front façade and strong three-storey podium makes a positive contribution to Louis Street and helps integrate the development with the street while assisting to enhance the experience for pedestrians. The inclusion of ground floor retail premises along Louis Street provides for an active frontage at the street level. However, an increased street setback, as demonstrated on revised ‘without prejudice’ plans (refer Appendix C – separately circulated) is to be included as a condition on any permit granted to provide a consistent street edge and improved urban design response as referenced within Section 2.3 of this report. There would be a significant increase in fenestration, passive surveillance and the perception of public safety to Louis Street as a result of the proposed development.

The incorporation of balconies also provides appropriate articulation of the building façade while maximising opportunities for visibility and passive surveillance. All vehicle and pedestrian entries are well defined and clearly identifiable from the public realm.

Car parking for the development is contained towards the rear of the site at ground level and within two basement levels with vehicle access from Louis
Street. The provision of one vehicle accessway can be comfortably absorbed along the streetscape, particularly given two existing vehicle crossovers are to be removed and reinstated as part of the proposed development. This will maintain an active and visually interesting street frontage along Louis Street. The provision of one vehicle accessway and concealed car parking areas allow the articulated built form to be the main focal point of the proposed development. Therefore, car parking would be adequately obscured from Louis Street, allowing the proposed development to address the streetscape with a more active frontage.

Setbacks and Site Coverage

The building envelope, siting and proposed design response is guided by the commercial zoning of the site and surrounding properties, lack of prescriptive overlays, the size of the site and lack of sensitive interfaces abutting the site. The proposed site coverage and setbacks address the opportunities and constraints of the site, noting the impetus for higher densities, lack of sensitive residential interfaces and lack of heritage implications. In particular, the three storey podium accords with the three storey (11m) street wall height nominated within the Airport West Activity Centre Structure Plan 2008.

However, given the lack of weight held by this outdated document and future strategic direction referenced within Section 2.3 of this report, a street setback is required to facilitate public realm improvements, streetscape works and street greening along Louis Street. For Council to achieve street greening and pedestrian links along Louis Street, a 5.0 metre setback is critical. If not achieved at the subject site, future ambitions will be irreparably undermined.

This application should therefore mark the beginning of requirements for a site-by-site frontage setback to match the 5.0 metre setback of the Westfield building to the north (first structure along Louis Street). Such design objectives helped inform part of the Airport West Structure Plan Review and will contribute to any future strategic plans for this precinct, noting Louis Street provides a key linkage from the core retail precinct of the activity centre to the Green Spine. Therefore, the increased street setback demonstrated on revised ‘without prejudice’ plans (refer Appendix C – separately circulated), is to be included as a condition on any permit granted.

The proposed development is built up to the side and rear property boundaries at ground floor level, which is considered to provide an acceptable design response to the opportunities and constraints of the site, including commercial zoning and lack of sensitive interfaces. The lack of a rear setback at first floor level, provision of a 1.55 metre wide lightwell along the northern boundary, provision of a 4.5 metre setback along part of the southern boundary and increased upper floor setbacks also provide an acceptable response and equitable development opportunities to adjoining properties. Overall, the siting and setbacks of the proposal provide articulation and visual relief to the built form while helping to mitigate detrimental off-site amenity impacts. Therefore, the setbacks for the proposed development, as shown on the revised ‘without prejudice’ plans (refer Appendix C – separately circulated), are considered to provide an acceptable response to the opportunities, constraints and features of the site.
The proposed development has a high level of site coverage, which is consistent with the commercial zoning of the site and its location within a Major Activity Centre.

Building Height and Silhouette

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 a Commercial 1 Zone in a Major Activity Centre and directly abuts the Principal Public Transport Network (PPTN). Such locations encourage more intensive forms of development to take advantage of existing infrastructure and services.

Initiative B5 within the outdated Airport West Activity Centre Structure Plan 2008 encourages two and three storey forms within the northern ‘mixed use precinct’. Clearly such heights are discordant with prevailing State, regional and local policies within the current planning scheme. As referenced within Section 2.3 of this report, Council’s Strategic Planning Department initially states the proposal does push the envelope in terms of building height at 10 storeys. However, to offset the 5.0 metre front setback provisionally negotiated with the applicant and shown on revised ‘without prejudice’ plans (refer Appendix C – separately circulated), a proposed built form between 8-10 storeys can be considered.

It is noted the application initially lodged with Council (not being considered here) was for an eight storey building with no front setback, which was subsequently increased in height to 10 storeys following further discussions and meetings with Council requiring a 5.0 metre front setback along Louis Street. Therefore, in simplistic terms, the trade-off for Council receiving a 5.0 metre front setback to Louis Street was for two additional floor levels comprising 10 apartments.

Given the unknown valuation of such a trade-off, Council sought external advice from SGS Economics & Planning Pty Ltd on the economic valuation of this. Ultimately, it is concluded the trade-off in land area versus floor area is fair. However, given the additional floor area will be significantly more valuable from a development yield perspective than the land area, when comparing the two development scenarios, a 5% public open space contribution cannot be waived (as requested by the applicant) and will continue to be required under any future subdivision of the land. Therefore, the proposed height and silhouette of the building with a 5.0 metre front setback to Louis Street, as shown on revised ‘without prejudice’ plans (refer Appendix C – separately circulated), is appropriate in this instance.

Internal Circulation, Space and Building Adaptability

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 pedestrian entry points to the retail premises and dwellings are clearly identifiable from Louis Street, and the ground floor and basement car parking levels are also easily accessible from the site frontage. The provision of lift and stair access, in conjunction with lobby/foyer areas along Louis Street, will allow
for ease of movement, including the movement of furniture, emergency access and escape.

The development provides an adequate and efficiently designed car parking layout that will ensure safe vehicle movements. As discussed within Sections 2.3 and 3.5 of this report, Council’s Traffic and Transport Unit have no objection to the provision and layout of car parking, subject to the inclusion of conditions on any permit granted.

In terms of storage space, all dwellings have been provided with adequate internal and external storage space in accordance with the relevant provisions of Clause 58.05-4 (Storage).

Provision for waste storage is included at ground floor level by way of a common bin storage room. Council’s Waste Management Unit has no objection to the waste management plan, subject to the waste collection vehicle being able to collect waste without obstructing pedestrians and vehicles. In particular, the loading bay is to be relocated and designed to accommodate the length of the waste collection vehicle, to ensure the safe and efficient collection of waste on site. Furthermore, the reduced retail and medical centre floor areas demonstrated on the revised ‘without prejudice’ plans will require provision of an amended waste management plan. These requirements are to form a condition on any permit granted.

On-Site Amenity and Liveability

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. Further to this, all habitable rooms (living areas and bedrooms) will 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 balcony that is considered to be well-proportioned and well-oriented. Importantly, all balcony areas meet the minimum area and dimension requirements of Clause 58.05-3 (Private open space).

The proposed development has been designed to limit internal overlooking where possible. However, further details regarding internal screening between balconies is required on the plans to ensure this requirement has been adequately satisfied. In particular, all internal screening is to be annotated as being at least 1.7m in height and suitably treated to avoid direct views between balconies. This is to form a condition on any permit granted.

The proposed development is to minimise the transmission of noise within the development through the inclusion of suitable conditions on any permit granted, including the provision and implementation of a professional acoustic report.
Off-Site Amenity

There would not be any overlooking potential into habitable room windows and private open space of new and existing dwellings from the proposed development. While ResCode is not applicable in this instance, it is noted the requirements of Clause 55.04-6 (Overlooking) have been met, given there are no approved or existing dwellings within 9.0 metres of the subject site.

The proposed development does not cause overshadowing impacts to any existing secluded private open space areas due to the location/orientation of the site and proposed design response. Whilst there would be some additional overshadowing of pedestrian footpaths along Louis Street during the afternoon hours at the September Equinox, the proposed development is located in a commercial zone within an activity centre where higher densities and additional overshadowing are to be expected. Therefore, the proposed development is considered to provide a suitable design response and is acceptable with regard to 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 is an acceptable design response in this instance.

Parking, Traffic and Access

See comments provided by Council’s Traffic and Transport Unit within Section 2.3 of this report, in addition to the requirements of Clause 52.06 (Car Parking) as discussed within Section 3.5 of this report.

Landscaping and Fencing

The subject site currently has limited permeability and does not contain any significant landscaping or vegetation. The proposed development would also have a high level of site coverage, which is considered acceptable for a site within a Commercial 1 Zone and Major Activity Centre. However, low level planting at ground floor level and planter boxes at Levels 1, 2, 3, 6 and 8 is proposed and appropriate, as discussed within Section 3.8 of this report, subject to the recommendations of Council’s Landscape Architect being included as conditions on any permit granted.

While the recommendations from Council’s Landscape Architect referenced within Section 2.3 of this report will help provide an improved landscaping theme for the site and surrounding area, proposed changes to the Rodd Street interface cannot be implemented given this is private land forming part of Westfield Shopping Centre.

Environmental Sustainability

Given the type of development and the intensive use of the site for a multi-level, multi-dwelling 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, subject to the waste collection vehicle being able to collect waste without obstructing pedestrians and vehicles. In particular, the loading bay is to be relocated and designed to accommodate the length of the waste collection vehicle, to ensure the safe and efficient collection of waste on site. Furthermore, the reduced retail and medical centre floor areas demonstrated on the revised ‘without prejudice’ plans will require provision of an amended waste management plan. These requirements are to form a condition on any permit granted accordingly.

The proposed development has incorporated many Environmentally Sustainable Design initiatives, including the provision of a 20,000 litre rainwater tank within the lower basement level for the re-use of stormwater within the development and a 24kW solar photovoltaic system. Furthermore, all habitable living areas and bedrooms have windows with direct access to daylight.

Lastly, it is noted 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 reduces 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 considered to be 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 standard engineering and drainage conditions on any permit granted.

### 3.3 Does the proposal accord with the Commercial 1 Zone?

The proposed retail premises, medical centre, office, education centre (training college) and dwellings are ‘as-of-right’ uses under Clause 34.01-1 (Table of Uses) of the Commercial 1 Zone. Therefore, the proposed mix of uses accord with the objectives of relevant planning policies within the Moonee Valley Planning Scheme and will help create a vibrant mixed use precinct within Airport West Activity Centre, as discussed within Section 3.1 of this report.

The proposed development itself requires a permit under Clause 34.01-4 (Buildings and Works). As discussed within Sections 3.1 and 3.2 of this report, and subject to modification, the proposal is considered to be a good design outcome for the site and surrounding area.

### 3.4 Does the proposal accord with the Environmental Audit Overlay?

A sensitive (residential) use is proposed on site, which is subject to an Environmental Audit Overlay. As discussed within Section 3.1 of this report, an Environmental Audit will be required as a condition on any permit granted in accordance with Part IXD of the *Environment Protection Act 1970* to ensure the site is suitable for residential purposes.
3.5 Is adequate car parking and vehicle access provided?

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

**Table 2**

<table>
<thead>
<tr>
<th>Unit</th>
<th>Requires</th>
<th>Provides</th>
</tr>
</thead>
<tbody>
<tr>
<td>Retail premises / shop (371m²)</td>
<td>12</td>
<td>4</td>
</tr>
<tr>
<td>Medical centre (2,040m²)</td>
<td>71</td>
<td>35</td>
</tr>
<tr>
<td>Office (855m²)</td>
<td>25</td>
<td>25</td>
</tr>
<tr>
<td>Education centre / training college (100 students)</td>
<td>30</td>
<td>10</td>
</tr>
<tr>
<td>24 dwellings (16 x 2 bedrooms and 8 x 1 bedroom)</td>
<td>24</td>
<td>24</td>
</tr>
<tr>
<td>Residential visitors</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>162</strong></td>
<td><strong>98</strong></td>
</tr>
</tbody>
</table>

As referenced within Section 2.3 of this report, Council’s Traffic and Transport Unit has no objection, subject to the inclusion of conditions on any permit granted. While such a reduction in car parking spaces would not normally be accepted, in principle support of the parking shortfall is given only on the basis Council’s active transport outcomes can be achieved (i.e. provision of a 5m front setback to facilitate future streetscape improvement works, enhanced pedestrian/cycling connections and street greening along Louis Street).

With regard to traffic generation, additional information is required (i.e. SIDRA analysis of the site access and nearby intersections) in order to determine this further. The provision of a SIDRA analysis, or similar, will be included as a condition on any permit granted. Any recommended changes to site access, car parking and/or traffic generation from the proposed development as a result of this analysis are also to be included within such a condition.

However, it is noted the revised ‘without prejudice’ plans (refer Appendix C – separately circulated) demonstrate a reduced demand for car parking through reduced retail and medical centre floor areas, thereby reducing traffic generation from the proposed development. The provision of six additional bicycle parking spaces along the site frontage, as per the revised ‘without prejudice’ plans, will also encourage the use of alternative modes of transport, further reducing vehicular traffic from the proposed development. Therefore, traffic generation is considered acceptable subject to the revised ‘without prejudice’ plans (refer Appendix C – separately circulated) and provision of a SIDRA analysis, or similar, as a condition on any permit granted.

With regard to car parking design, Council’s Traffic and Transport Unit has no objection subject to the inclusion of a car parking management plan and conditions on any permit granted. In particular, a pedestrian visibility splay has not been provided on the north side of the vehicle accessway to the site.
However, the provision of a 5.0 metre front setback to walls and built form along the northern side of the vehicle accessway, as shown on revised ‘without prejudice’ plans, will ensure this requirement is met. The provision of a DDA (Disability Discrimination Act) car parking space, designed in accordance with Australian Standard AS2890.6-2009, is required. The dimension of all columns within car parking areas is required in accordance with Diagram 1 of Clause 52.06-9 (Design Standards for Car Parking). Internal ramp section diagrams are to be provided to confirm a minimum headroom clearance of 2.2 metres, as per the traffic report and letter response submitted by the applicant. Ramp grades and section lengths are to be nominated on the plans, with grades for drainage within car parking areas nominated as being provided as part of the detailed design stage. The plans are also to be updated to include details regarding all mechanical parking structures, including gates and columns, as per the manufacturer’s specifications within the traffic report and letter response provided.

Therefore, subject to the inclusion of conditions on any permit granted, it is not anticipated the proposed development will generate a cumulative impact or have an adverse effect on car parking, vehicle movements or the capacity of the local road network.

3.6 Are adequate bicycle facilities provided?
The proposal includes bicycle spaces as set out in the table below:

<table>
<thead>
<tr>
<th>Unit</th>
<th>Requires</th>
<th>Provides</th>
</tr>
</thead>
<tbody>
<tr>
<td>Retail employees</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Retail shoppers</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Medical centre employees</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Medical centre visitors</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>Office employees</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Office visitors</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Education centre (training college)</td>
<td>5 (based on 100 students, in the absence of employee numbers)</td>
<td>5</td>
</tr>
<tr>
<td>Education centre (training college) students</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>Dwelling residents</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>Dwelling visitors</td>
<td>2</td>
<td>2</td>
</tr>
</tbody>
</table>
As demonstrated in the table above, the proposed development provides adequate bicycle spaces in accordance with the requirements of Clause 52.34 (Bicycle Facilities).

Further to the above bicycle space requirements, a minimum of one shower and change room is also required under Clause 52.34-5 (Required Bicycle Facilities). An ‘end of trip shower and change facility’ comprising separate male and female amenities with showers, toilets and change rooms is nominated on Levels 1, 2, 3, 4 and 5 with safe, secure and convenient access from employee bicycle spaces within Basement Level 1 to the medical centre, office and education centre (training college). This is acceptable and meets the requirements of this clause.

Council’s Traffic and Transport Unit has no objection to the provision of bicycle facilities as part of the proposed development, subject to the inclusion of conditions on any permit granted. It is noted the revised ‘without prejudice’ plans (refer Appendix C – separately circulated) provide six additional bicycle spaces as horizontal rails along the site frontage, which complies with Australian Standard AS2890.3-2015 requiring a minimum 20% of all bicycle parking be provided as horizontal rails.

3.7 Are adequate loading facilities provided?

Clause 65 (Decision Guidelines) requires the consideration of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts. Given the proposed retail premises are moderate in size, it is generally accepted deliveries to retail premises of this scale are delivered by small trucks, vans and the like. However, the proposed 4.87m (l) x 3.60m (w) x 4.20m (h) loading bay (4.53m length on revised ‘without prejudice’ plans) at ground floor level does not provide adequate space for private waste collection vehicles and delivery vehicles, including 6.4m long Small Rigid Vehicles (SRV). Council’s Waste Management Unit, and Traffic and Transport Unit, do not accept the current design and layout of the loading bay. Therefore, the loading bay is to be relocated and designed to accommodate the length of waste collection vehicles, to ensure the safe and efficient collection of waste on site, and this is to be included as a condition on any permit granted.

3.8 Does the proposal comply with the requirements of Clause 58 (Apartment Developments)?

The proposal is considered to generally comply with the provisions of Clause 58 as set out in the assessment table (refer Appendix A).

The following points of exception, which have not been satisfied in full through this development, are listed and discussed below:

<table>
<thead>
<tr>
<th>Unit</th>
<th>Requires</th>
<th>Provides</th>
</tr>
</thead>
<tbody>
<tr>
<td>Surplus</td>
<td>N/A</td>
<td>9</td>
</tr>
<tr>
<td>Total</td>
<td>25</td>
<td>34</td>
</tr>
</tbody>
</table>
### Table 4

<table>
<thead>
<tr>
<th>Design Standard</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clause 58.02-1</td>
<td>The contemporary 10 storey building design demonstrated on revised ‘without prejudice’ plans responds to the commercial zoning of the site, contextual setting of Airport West Activity Centre, direct abutment to the Principal Public Transport Network (PPTN) and recently approved 10 storey mixed-use development nearby to the east of the site at 83 Matthews Avenue, Airport West, without detracting from the residential character of Moore Road at least 160 metres to the south of the site, as discussed within Sections 3.1 and 3.2 of this report. Importantly, Plan Melbourne 2017-2050 provides an impetus for higher densities on sites within Major Activity Centres directly abutting the Principal Public Transport Network (PPTN). A number of large sites capable of accommodating a high level of built form are found within the immediate context, including Westfield Shopping Centre directly to the west of the site. Therefore, the proposed building design demonstrated on revised ‘without prejudice’ plans adequately responds to the preferred future development and features of the site and surrounding area.</td>
</tr>
<tr>
<td>(Standard D1)</td>
<td>Urban context</td>
</tr>
<tr>
<td>Clause 58.03-5</td>
<td>The commercial zoning of the site does not encourage the provision of landscaping, which respects the landscape character (or lack thereof) of other commercial properties abutting the Principal Public Transport Network (PPTN) forming part of Airport West Activity Centre. However, while the development is not providing the required deep soil areas (7.5% of site area with a minimum dimension of 3m) or minimum number of canopy trees as specified in Table D2, the provision of low level planting at ground floor level and planter boxes at Levels 1, 2, 3, 6 and 8 is considered acceptable and meets the objectives of this standard, subject to the recommendations of Council’s Landscape Architect being incorporated and included as conditions on any permit granted.</td>
</tr>
<tr>
<td>(Standard D10)</td>
<td>Landscaping</td>
</tr>
<tr>
<td>Clause 58.03-8</td>
<td>A STORM Rating Report formed part of the application and is to be updated and amended (as per revised ‘without prejudice’ plans) to demonstrate adequate stormwater management, collection, utilisation and infiltration within the development, as discussed within Sections 2.3 and 3.1 of this report.</td>
</tr>
<tr>
<td>(Standard D13)</td>
<td>Integrated water and stormwater management</td>
</tr>
<tr>
<td>Design Standard</td>
<td>Response</td>
</tr>
<tr>
<td>-----------------</td>
<td>----------</td>
</tr>
<tr>
<td>Clause 58.04-1</td>
<td>Direct views into habitable room windows and private open space areas of new and existing dwellings have been avoided. However, further details regarding internal screening between balconies is required on the plans to ensure this requirement has been adequately satisfied. In particular, all internal screening is to be annotated as being at least 1.7m in height and suitably treated to avoid direct views between balconies. This is to be included as a condition on any permit granted.</td>
</tr>
<tr>
<td>(Standard D14)</td>
<td>Building setback</td>
</tr>
<tr>
<td>Clause 58.04-3</td>
<td>The layout and design of the proposed development and new dwellings adequately minimises noise transmission within the site. In particular, noise sensitive rooms such as living areas and bedrooms have generally been located to avoid noise impacts from mechanical plants, lifts, building services, non-residential uses, car parking and other dwellings. However, the location of a bedroom directly adjacent to the communal rooftop terrace on Level 8 should be modified to avoid potential noise impacts from this communal area, and this is to be included as a condition on any permit granted. At this stage, it is unknown whether new dwellings have been designed and constructed to include acoustic attenuation measures to reduce noise levels from external noise sources, including from within the development itself. However, given the proposed development and dwellings would be subject to external noise from nearby sources including Essendon Fields Airport, the No.59 tram, Tullamarine Freeway, surrounding businesses and other uses within the development, an acoustic report will be required to determine appropriate noise attenuation measures to reduce external noise impacts on residents in accordance with the requirements of this standard. The provision of a professional acoustic report, along with its implementation during construction, is to be included as a condition on any permit granted.</td>
</tr>
<tr>
<td>(Standard D16)</td>
<td>Noise impacts</td>
</tr>
<tr>
<td>Clause 58.06-3</td>
<td>A Waste Management Plan formed part of the application and generally demonstrates adequate waste management, utilising private waste collection services, subject to the waste collection vehicle being able to collect waste without obstructing pedestrians and vehicles as discussed within Sections 2.3 and 3.1</td>
</tr>
<tr>
<td>(Standard D23)</td>
<td>Waste and recycling</td>
</tr>
</tbody>
</table>
Design Standard | Response
--- | ---
of this report. In particular, it is recommended the loading bay be relocated and designed to accommodate the length of the waste collection vehicle, to ensure the safe and efficient collection of waste on site. Furthermore, the reduced retail and medical centre floor areas demonstrated on the revised ‘without prejudice’ plans will require provision of an amended waste management plan, which is to be endorsed, implemented and managed through a condition on any permit granted.

3.9 Does the proposal demonstrate integrated decision making?
The proposal complies with the provisions of Clause 71.02-3 (Integrated decision making), subject to the inclusion of conditions on any permit granted.

The VCAT decision of *5 Chauvel Street Pty Ltd v Banyule CC* states that Clause 71.02-3 essentially recognises that there may be ‘pros’ and ‘cons’ of a development and just because there is one or some ‘cons’, does not mean a proposal fails. It follows that planning does not seek perfect or ideal outcomes but acceptable outcomes, balancing competing policy. Not every aspect of every policy must be complied with to arrive at an acceptable outcome and favourable decision for a proposal. This is supported by the Supreme Court decision of *Rozen*, where, at paragraph 171, the Court stated the following:

- “The test of acceptable outcomes stated in the clause is informed by the notions of net community benefit and sustainable development. An outcome may be acceptable despite some negative characteristics. An outcome may be acceptable because on balance it results in net community benefit despite achieving some only of potentially relevant planning objectives and impeding or running contrary to the achievement of others.”

Furthermore, in *Knox City Council v Tulcany Pty Ltd* it states the planning scheme does not require an ideal outcome as a pre-requisite to a permit. If it did, very few, if any, permits for development would ever be granted and there would be difficult differences of opinion as to whether the outcomes were in fact ideal. The Tribunal is entitled to grant a permit where it is satisfied that the permit will result in a reasonably acceptable outcome having regard to the matters relevant to its decision under the planning scheme. The concept of net community benefit is not one of ideal outcomes, but of outcomes which result in a net benefit to the community assessed within a policy framework by reference to both their benefits and disbenefits.

As discussed throughout this report, the proposal suitably addresses aspects of economic, environmental and social well-being by balancing conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations. In particular, the revised ‘without prejudice’ plans provide a 5.0 metre front setback to facilitate future streetscape improvement works, enhanced pedestrian/cycling connections and street
greening along Louis Street. The proposal also provides two retail premises, a medical centre, office, education centre and 24 dwellings for meaningful employment opportunities, activation along Louis Street, undergrounding of power lines, removal of existing vehicle crossovers, reinstatement of the nature strip, an increase in housing opportunities and diversity of dwelling stock to meet growing population needs.

4. Human Rights

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

5. Council Plan/Policy

On 26 June 2018, Council adopted the MV2040 Strategy as its long-term plan for the city. It is considered the proposal is consistent with the relevant strategic directions set out in the MV2040 Strategy, including:

- Strategic Direction 3: A city where people are healthy and safe
- Strategic Direction 5: A city with housing for all
- Strategic Direction 14: A city that is green and water-sensitive
- Strategic Direction 15: A city that rethinks waste
- Strategic Direction 16: A city that is cool and climate-adapted
- Strategic Direction 17: A city that fosters local identity
- Strategic Direction 18: A city of high-quality design
- Strategic Direction 20: A city in a beautiful landscape setting.

6. Conclusion

The application has been assessed against the relevant provisions of the Planning Policy Framework, Local Planning Policy Framework, zoning and overlay 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 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 by officers as detailed above in the recommendation section.

Attachments

A: Clause 58 (Apartment Developments) Assessment Table (separately circulated)
B: Plans (separately circulated)
C: Revised Without Prejudice Plans (separately circulated)
10.2 2 Vida Street, Aberfeldie (Lot 5 on Plan of Subdivision 066257) - Construction of a Residential Aged Care Facility, use and development of the land for a Retirement Village and reduction in bicycle requirements

Author: Justin Scriha - Senior Statutory Planner
Directorate: Planning and Development

<table>
<thead>
<tr>
<th>Planning File No.</th>
<th>MV/124/2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposal</td>
<td>Construction of one three storey residential aged care facility comprising 101 lodging rooms (74 care rooms and 27 assisted living suites) (Building ‘B01’) Use and development of two four storey retirement village buildings comprising 32 independent living units each (64 total) (Buildings ‘B02’ and ‘B03’) Waiver of resident bicycle spaces</td>
</tr>
<tr>
<td>Applicant</td>
<td>URBIS P/L</td>
</tr>
<tr>
<td>Owner</td>
<td>JOPHIL PTY LTD</td>
</tr>
<tr>
<td>Planning Scheme Controls</td>
<td>General Residential Zone Environmental Audit Overlay</td>
</tr>
<tr>
<td>Planning Permit Requirement</td>
<td>Clause 32.08-2 – Use of the land for Accommodation (Retirement Village) Clause 32.08-8 – Construct a building or construct or carry out works for a Residential Aged Care Facility Clause 32.08-9 – Construct a building or construct or carry out works for a use in Section 2 of Clause 32.08-2 - Accommodation (Retirement Village) Clause 52.34-2 – Reduce the bicycle facility requirement of Clause 52.34-5</td>
</tr>
<tr>
<td>Car Parking Requirements (Clause 52.06)</td>
<td>Required: 102 car spaces Provided: 120 car spaces</td>
</tr>
<tr>
<td>Bicycle Requirements</td>
<td>Required: 19 spaces (13 resident, 6 visitor and no requirement for staff) Provided: 28 spaces (0 resident, 14 visitor and 14 staff)</td>
</tr>
<tr>
<td>Restrictive Covenants</td>
<td>None</td>
</tr>
<tr>
<td>Easements</td>
<td>Easement E-1 – Drainage, sewerage and</td>
</tr>
</tbody>
</table>
Executive Summary

- This application seeks planning approval for the construction of one three storey residential aged care facility comprising 101 lodging rooms known as building B01 and two four storey retirement village buildings comprising 64 independent living units (total) known as buildings B02 and B03.

- The site has an area of 9,764.64 square metres (excluding the carriageway easement to Fawkner Street) and is located on the western side of Vida Street, Aberfeldie. The northern boundary of the site adjoins a Right-of-Way which connects Vida Street to Fawkner Street.

- The application was advertised and six objections were received from five properties. The concerns raised related to neighbourhood character, overdevelopment, off-site amenity impacts (overlooking and overshadowing), building massing, traffic, car parking, construction management and construction impacts.

- A Consultation Meeting was not held as less than 10 objections from 10 different properties were received, in accordance with Council’s Statutory Planning protocols.

- The application was internally referred to Council’s Development Engineering (Drainage) Unit, Traffic and Transport Unit, Environmental Sustainable Design (ESD) Officer, Arborist, Waste Strategy and Planning Officer, Landscape and Urban Design Unit and Strategic Planning Department. Conditional support to the application was provided.

- Pursuant to Clause 73.04 (Nesting Diagrams) of the Moonee Valley Planning Scheme, the land uses known as ‘Residential Aged Care Facility’ and ‘Retirement Village’ are each separately nested under the use known as ‘Accommodation’. Neither of these uses are nested under the terms ‘Dwelling’ or ‘Residential Building’ and consequently they are not subject to the minimum garden area requirement of Clause 32.08-4 (Minimum Garden Area Requirement) or the maximum building height requirement of Clause 32.08-10 (Maximum Building Height Required for a Dwelling or Residential Building) of the Moonee Valley Planning Scheme.

- Pursuant to Clause 32.08-8 (General Residential Zone – Residential Aged Care Facility) of the Moonee Valley Planning Scheme, a residential aged care facility development must meet the requirements of Clause 53.17 (Residential Aged Care Facility) of the Moonee Valley Planning Scheme. In contrast, a retirement facility must meet the requirements of Clause 53.03 (Residential Aged Care).
village is subject to the relevant decision guidelines of the General Residential Zone and is not required to meet either Clause 53.17 (Residential Aged Care Facility) or Clause 55 (Two or More Dwellings on a Lot and Residential Building) of the Moonee Valley Planning Scheme.

- The proposal is considered to be an appropriate design response which successfully addresses the unique physical characteristics and highly accessible location of the site. The development will provide essential housing for the aged and elderly, including independent and assisted accommodation, in a municipality which is forecast to experience a 44% increase in the proportion of its residents aged 65 and over by 2040 (MV2040 Strategy, June 2018). This is also reinforced by State and Local Planning Policy which broadly seeks to provide a diverse range of housing which anticipates the needs of existing and future residents.

- 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 and Council’s MV2040 Strategy, and recommends a Notice of Decision to Grant a Permit be issued subject to conditions.

Recommendation
That Council issues a Notice of Decision to Grant a Permit in relation to Planning Permit Application No. MV/124/2019 for the use and development of the land for a Residential Aged Care Facility, Retirement Village and reduction in bicycle requirements at No. 2 Vida Street, Aberfeldie (Lot 5 on Plan of Subdivision 066257), subject to the following conditions:

Endorsement 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 be in an electronic format. The amended plans must be generally in accordance with the plans submitted and assessed with the application but modified to show:

a) The setback of the second floor level of Building B01 from the northern title boundary increased to a minimum of 4.9 metres;

b) Any internal alterations to Building B01 as a result of Condition 1 a);

c) No further changes to the development footprint other than as required by Conditions 1 a) and b);

d) The entranceway footpath from Vida Street to the B01 lobby to be widened to a minimum of 1.8 metres;

e) The timber louvre screening to the north-facing habitable room windows and balconies at the first and second floor levels of Building B01 reoriented to a horizontal design;

f) All screening to the north-facing habitable room windows at the first and second floor levels of Building B01 to be permanent and no more than 25% transparent in accordance with Clause 53.17-3 (Residential Aged Care Facility – Development Requirements) of the Moonee Valley Planning Scheme;

g) The location, height and design of the proposed front fencing to Vida Street to be clarified and consistent on all relevant plans;

h) The provision of a 300mm trench grate at the bottom of the accessway ramp leading to the basement;

i) The dimension of headroom clearance along the accessway ramp to be shown perpendicular from the ramp (i.e. 3.5 metres along the ramp to the loading/waste collection area and 3 metres to all other areas) on all relevant sectional drawings;

j) A notation on the Ground Floor plan to stipulate the pedestrian visibility splay on the northern side of the accessway is to accord with Clause 52.06-9 (Design Standards for Car Parking) requirements;

k) Dimensions for the proposed accessway adjacent to the pedestrian lobby and parallel car parking spaces to be shown on the Ground Floor plan;

l) The length of the accessway ramp transitions to be annotated on the amended plans, including the ramp from the loading area to the carpark;

m) The proposed crossover to be drawn in accordance with the requirements of Council’s Vehicle Crossing Policy on the Ground Floor plan;

n) A notation on the Ground Floor plan to stipulate that the proposed vehicle crossing will be constructed in accordance with Council’s Vehicle Crossing Policy;

o) The distance between the speed hump and any other on-street infrastructure on Vida Street and the proposed vehicle crossing dimensioned on the Ground Floor plan;

p) The distance between the intersection kerb line of Vida and Knight Streets
from the proposed crossover to be dimensioned on the Ground Floor plan;

q) The provision of at least six (6) resident bicycle parking spaces;

r) Dimensions for all bicycle parking spaces shown on all relevant plans in accordance with AS2890.3-2015 requirements;

s) An amended WSUD report to account for the footprint changes required by Condition 1 a) in accordance with Condition 3;

t) An amended Sustainable Design Assessment report to account for the footprint changes required by Condition 1 a) in accordance with Condition 4;

u) An amended Landscape Plan in accordance with Condition 8; and

v) A notation in accordance with Condition 22.

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. An amended Water Sensitive Urban Design (WSUD) assessment report(s) must be submitted simultaneously with the submission of amended plans in accordance with Condition 1. The WSUD assessment must achieve best practice water quality performance objectives to comply with Clause 22.03-4 (Stormwater Management) of the Moonee Valley Planning Scheme.

4. A published and compliant Sustainable Design Assessment report (or equivalent) must be submitted simultaneously with amended plans in accordance with Condition 1 and must comply with Clause 21.04-3 (Ecologically Sustainable Development) of the Moonee Valley Planning Scheme.

5. 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.

6. 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.

7. A maximum 30 days following completion of the development, 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 Guide or a Building Maintenance Guide.

8. 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 landscape plan must be drawn to scale, with dimensions, and be generally in accordance with the landscape plan submitted with the application but modified to show:

a) Any changes as required by Condition 1;
b) Enhanced landscaping to be demonstrated along the periphery of the entranceway footpath, with increased garden bed depth, and the provision of larger screening plants/trees;
c) 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;
d) Sectional diagrams of the proposed raingardens in accordance with Melbourne Water's guidelines; and
e) The provision of canopy trees within the front setback capable of reaching a minimum mature height of 4 metres.

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.

9. 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 and must include:

a) A car parking layout generally in accordance with the relevant requirements of the Australian Standards for Off-Street Car Parking
AS/NZS 2890.1-2004 (including ramp grades and dimensions, column location, headroom clearance, etc.);

b) Arrangements for the provision of 120 car spaces with these spaces allocated as follows:
   i) 18 visitor car parking spaces;
   ii) 72 retirement village car spaces (1 space per 1 or 2 bedroom dwelling and 2 spaces per 3 bedroom dwelling); and
   iii) 30 residential aged care car spaces (assisted living units and aged care beds).

c) The management of visitor parking spaces and security arrangements for occupants of the development, including the provision of an intercom system at the security entrances;

d) Lighting of parking areas, entries and exits;

e) Proposed signage to direct occupants and visitors to their designated spaces;

f) Arrangements for the loading and unloading of goods and materials for the commercial uses;

g) Entitlements to the use of loading dock areas by all retail and office uses on the land;

h) No charge being made for car parking without the consent of the Responsible Authority;

i) Traffic calming measures for inclusion within the accessways and car parking areas on site, including rubber speed humps and speed restrictions as appropriate; and

j) The movements of trucks and other vehicles to the loading docks showing likely access routes and movements from adjacent roads.

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.

End Endorsement Conditions

Contamination Condition

10. Prior to the commencement of the use or buildings and works associated with the use the applicant must provide:

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

b) A Statement of Environmental Audit under Section 53Z of the Environment Protection Act 1970. A Statement must state that the site is suitable for the use and development allowed by this permit.

All the conditions of the Statement of Environmental Audit must be complied
with to the satisfaction of the Responsible Authority, prior to commencement of use of the site. Written confirmation of compliance must be provided by a suitably qualified environmental professional or other suitable person acceptable to the Responsible Authority. In addition, sign off must be in accordance with any requirements in the Statement conditions regarding verification of works.

The applicant must enter into a Section 173 Agreement under the Planning and Environment Act 1987 in relation to ongoing maintenance and/or monitoring in accordance with the Statement of Environmental Audit. The Agreement must be executed on title prior to the commencement of the use and prior to the issue of a Statement of Compliance under the Subdivision Act 1987. The applicant must meet all costs associated with drafting and execution of the Agreement, including those incurred by the Responsible Authority.

End Contamination Condition

Use and Development Conditions

11. 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.

12. 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.

13. 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.

14. Floor levels shown on the endorsed plans must not be altered or modified without the prior written consent of the Responsible Authority.

15. Before the building known as ‘B01’ 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 53.17-3 (Development Requirements - 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.

16. All pipes, fixtures, fittings, ducts and vents servicing any building on the land, other than storm water down pipes 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.

17. Parking areas, loading bays and access lanes must be kept available for these purposes at all times to the satisfaction of the Responsible Authority.

18. Before the buildings approved by this permit are 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.

19. 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.

20. Before the use starts, at least 28 bicycle spaces must be provided on the land in a manner and in locations to the satisfaction of the Responsible Authority, so that 14 spaces are available for staff and 14 spaces are available for visitors.

21. The existing street tree on Vida Street must not be removed or damaged as a result of the permitted development.

22. 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.

23. 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.
24. Before the development starts, a Drainage Layout Plan, 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 include computations and location of stormwater outlets and legal points of discharge. When approved, the Drainage Layout Plan will form part of this permit. The provisions, recommendations and requirements of the endorsed Drainage Layout Plan must be implemented and complied with to the satisfaction of the Responsible Authority.

25. Before the buildings approved by this permit are occupied, all boundary fencing is to be constructed in accordance with the endorsed plans at the cost of the permit holder to the satisfaction of the Responsible Authority.

26. The development must be provided with external lighting capable of illuminating access to each 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 land.

27. Once the use is commenced, the land may only be used for the permitted use and the use must be conducted to the satisfaction of the Responsible Authority.

28. 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.

29. Before the buildings approved by this permit are occupied, all landscaping, (including trees, shrubs and lawn) must be completed in accordance with the endorsed landscape plan to the satisfaction of the Responsible Authority.

30. The provisions, recommendations and requirements contained in the arborist report prepared by Axiom Tree Management P/L and dated Thursday 28 March 2019 must be implemented and complied with to the satisfaction of the Responsible Authority.

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

32. All wastes must be disposed of to the satisfaction of the Responsible Authority. Liquid waste or polluted waters must not be discharged into a sewer or storm water drainage system.

33. Noise levels associated with the use must at all times comply with the State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1 (SEPP N-1). Should the Responsible Authority deem it necessary, the owner and/or occupier of the land must submit an Acoustic Report prepared by a suitably qualified acoustic consultant to the satisfaction of the Responsible Authority to demonstrate compliance, or which outlines any measures considered necessary to achieve compliance. The costs associated with the Acoustic Report shall be borne by the permit holder. The
recommendations of the Acoustic Report must be implemented to the satisfaction of the Responsible Authority. The endorsed plans must be amended to accord with the recommendations contained in the Acoustic Report to the satisfaction of the Responsible Authority.

34. 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.

35. Once the use is commenced, the land may only be used for the permitted use and the use must be conducted to the satisfaction of the Responsible Authority.

36. Prior to the endorsement of the plans referred to in Condition 1, the owner of the land must enter into and execute an agreement with the Responsible Authority pursuant to Section 173 of the Planning and Environment Act 1987 to the satisfaction of the Responsible Authority and such agreement shall contain a covenant that the original purchaser and each successive purchaser of any independent living unit on the site acknowledges the fact that, at the time the construction of these independent living units were approved, the subject site was located adjacent to the IGA supermarket that was lawfully established and which, or the successors of which, may still operate and which were, at that time, conducting retail activities and activities that may at times be the source of potential noise nuisance for residents of the subject site.

   The owner of the land, or other person in anticipation of becoming the owner of the land must pay all costs and expenses (including legal expenses) of, and incidental to, the agreement (including those incurred by the Responsible Authority).

End Use and Development Conditions

37. 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 on 9243 8888 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 land.

- This permit does not authorise any advertising signs. No advertising signs may be erected on the land without a planning permit (other than those which, under the Moonee Valley Planning Scheme are exempt from the need for a planning permit).

- The required on-site detention system must be designed to limit the rate of stormwater discharge from the property to pre-development levels in accordance with the following: Cw=0.4, tc=10mins, tso=5mins, ARI 1 in 5. An ARI of 1 in 10 shall be used for storage and the greater of post development Cw or Cw=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 the Moonee Valley City Council’s Technical Services Department 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.

- It is the responsibility of the permit holder/developer to ensure that all necessary approvals are obtained and mitigation measures undertaken with regards to the removal of the existing electricity substation on the land as set out by the relevant service provider.

- In the event that car parking spaces or storage cages are separately titled, a condition will be imposed on any further 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 development.

- The development authorised by this permit will require the submission of a Construction and Site Management Plan (CSMP) prior to the commencement of any works. All CSMP’s are required to be made via Council’s online system at http://www.mvcc.vic.gov.au/planning-and-building/planning/construction-site-management-plans.aspx or in person at 9 Kellaway Avenue, Moonee Ponds.

- For more information on the A-SPEC requirements, please contact A-SPEC using one of the following methods:
1. Introduction

1.1 Subject Site and Surrounds

The subject site is located on the western side of Vida Street, Aberfeldie and abuts a Right-of-Way to the north, connecting Vida Street to Fawkner Street. The allotment is generally regular in shape with a frontage to Vida Street of 66.431 metres and a depth of 144.945 metres, resulting in a total area of 9,765 square metres (excluding the carriageway easement to Fawkner Street).

The north-western portion of the site forms part of the right-of-way to Fawkner Street (2.74 metres wide) – this section along with the rear portion of the site (measured 6.096 metres from the western boundary) is set aside for drainage, sewerage and carriageway purposes as easement E-1 on the title. The adjoining properties to the west at 7 Fawkner Street and 343 – 347 Buckley Street (Boundy’s IGA) have right of carriage over this easement (known as Lots 1 – 4 on Plan of Subdivision 066257).

The land has a fall of approximately 2 metres from the west to the east across the site.

The land was historically used for yarn processing (mid-1930s to at least 1980) and later for motor vehicle sales and repairs (until 2009) and is therefore included within the Environmental Audit Overlay. The site is currently used to accommodate temporary classrooms for the adjoining Ave Maria College. Aside from portable classrooms the rest of the site is vacant, with the exception of an electrical substation which is situated along the northern boundary of the land.

Vehicle access to the site is currently provided via a crossover to the north-east on Vida Street and another to the west which provides direct access to the right-of-way via the carriageway easement. It is also noted there is currently 20 perpendicular public car parking spaces immediately adjacent to the site on Vida Street.

There is no significant landscaping or vegetation on the site, and there is a medium to large sized street tree adjacent to the site on Vida Street.
Figure 2 – Subject site (2 Vida Street, Aberfeldie – image date December 2017)

Figure 3 – Subject site (2 Vida Street, Aberfeldie – image date 5 July 2019)
The surrounding area is predominantly residential zoned land used and developed for residential and education purposes. As discussed above, the property to the south of the site is occupied by Ave Maria College, a private secondary school which comprises a number of 1 – 3 storey buildings. There are two other schools proximate to the site – Aberfeldie Primary School at No. 1 Doone Street (approximately 100 metres south-west as the crow flies) and Essendon Keilor College at No. 286 Buckley Street (approximately 200 metres north-east as the crow flies).

The land opposite the site to the east and north, as well as to the south, west and south-west beyond Ave Maria College is zoned General Residential and is predominantly characterised by detached single and double storey dwellings as well as some multi-dwelling unit developments. The residential area directly east of the site is included in a Heritage Overlay (HO5) known as the ‘Vida Street and Knight Street’ precinct. Residential built form in the vicinity of the site is predominantly dated from the inter-war and post-war periods, with examples of Victorian, Edwardian and contemporary era infill.

Land directly to the west and north-west is Commercial 1 zoned land used and developed for convenience, retail and food and drink purposes.

The site is also located proximate to two neighbourhood parks – Clifton Park and Bradshaw Street Reserve.

Finally, it is noted the site is located within 400 metres of the Principal Public Transport Network (PPTN) due to the Route 903 SmartBus, which traverses Buckley Street, connecting Altona to Mordialloc.
1.2 Proposal

It is proposed to construct one three storey residential aged care facility comprising 101 lodging rooms known as building B01 and two four storey retirement village buildings comprising 64 independent living units known as buildings B02 and B03. The proposal, as advertised, can be summarised as follows:

Table 1

<table>
<thead>
<tr>
<th>Use and Development Summary</th>
<th></th>
</tr>
</thead>
</table>
| No. of lodging rooms/assisted living suites (Building B01) | 101 rooms:  
  • 74 care rooms/beds; and  
  • 27 assisted living suites |
| No. of retirement village dwellings (Buildings B01 and B02) | 64 dwellings:  
  • 56 X two-bedrooms; and  
  • 8 X three-bedrooms |
| No. of car spaces | 120 car spaces:  
  • 72 X retirement village spaces (56 spaces for the one or two-bedroom dwellings and 16 spaces for the three-bedroom dwellings); and  
  • 48 X aged care facility spaces (includes provision for two mini-van spaces, 25 staff spaces and 18 visitor spaces) |
| No. of bicycle spaces | 28 (14 staff and 14 visitor) |
| Max. Building Height |  
  • B01 – 13.1 metres (mandatory maximum height of 16 metres pursuant to Clause 53.17-3)  
  • B02 – 14.8 metres (no mandatory maximum height)  
  • B03 – 15.1 metres (no mandatory maximum height) |

Refer Attachment B Plans (separately circulated).

2. Background

2.1 Relevant Planning History

The following relevant planning history has been identified for the site:
### Table 2

<table>
<thead>
<tr>
<th>Application No.</th>
<th>Application Type</th>
<th>Description</th>
<th>Outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td>MSC/40/2018</td>
<td>Pre-application meeting</td>
<td>Use and development of the site for a retirement village and aged care facility</td>
<td>N/A</td>
</tr>
<tr>
<td>MV/746/2013</td>
<td>Planning Permit</td>
<td>Use of the land for construction management associated with the existing education facility at 16 Vida Street</td>
<td>Approved 12 December 2013</td>
</tr>
</tbody>
</table>

It is noted there are other historical planning permits associated with the site which are not relevant to the current application.

#### 2.2 Planning Policies and Decision Guidelines

**Planning Policy Framework**

- Clause 11.01-R1 Settlement – Metropolitan Melbourne
- Clause 11.02-1S Supply of Urban Land
- Clause 13 Environmental Risks and Amenity
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 19 Infrastructure

**Local Planning Policy Framework**

- Clause 21.01 Municipal Framework
- 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 22.03 Stormwater Management (Water Sensitive Urban Design)

**Zoning**

- Clause 32.08 General Residential Zone

**Overlays**

- Clause 45.03 Environmental Audit Overlay
Particular and General Provisions
Clause 52.06 Car Parking
Clause 52.34 Bicycle Facilities
Clause 53.17 Residential Aged Care Facility
Clause 53.18 Stormwater Management in Urban Development
Clause 65 Decision Guidelines
Clause 66.02-11 Integrated Public Transport Planning
Clause 71.02-3 Integrated Decision Making

2.3 Referrals
The following referrals were undertaken:

Table 3

<table>
<thead>
<tr>
<th>External Referrals</th>
<th>Comments/Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Head, Transport for Victoria (Section 55)</td>
<td>No objection</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Internal Referrals</th>
<th>Comments/Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Traffic and Transport Unit</td>
<td>No objection subject to standard conditions relating to accessway design, crossover design, bicycle facility design, pedestrian visibility and car parking design</td>
</tr>
<tr>
<td>Development Engineering (Drainage) Unit</td>
<td>No objection subject to standard drainage and easement conditions. Confirms that the MUSIC results meets Council and Melbourne Water best practice guidelines</td>
</tr>
<tr>
<td>Environmental Sustainable Design (ESD) Officer</td>
<td>No objection subject to verification from Development Engineering (Drainage) regarding the MUSIC report</td>
</tr>
<tr>
<td>1. Waste Strategy and Planning Officer</td>
<td>No objection</td>
</tr>
<tr>
<td>2. Strategic Planning Department</td>
<td>No objection subject to conditions relating to building setbacks, screening treatment measures, pedestrian entrance visibility and footpath widths</td>
</tr>
<tr>
<td>Landscape and Urban Design Unit</td>
<td>No objection subject to a condition relating to raingarden design</td>
</tr>
<tr>
<td>Arborist</td>
<td>No objection</td>
</tr>
<tr>
<td>Community Strengthening Department (Healthy Ageing Unit)</td>
<td>The proposal aligns with community need: • Ageing community projected to</td>
</tr>
</tbody>
</table>
significant increase in the coming 20 years

- Current retirement and aged care facilities in the municipality have been in situ for many decades
- The proposal provides a good mix of recreation and living space for seniors and connection with local amenities within a 20 minute walking distance

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 four notices displayed on site for 14 consecutive days.

As a result, six objections from five properties were received as identified within Attachment A of this report.

A response to the objections is provided in Section 3.9 of this report.

2.5 Consultation Meeting

A Consultation Meeting was not held as less than 10 objections from 10 different properties were received, in accordance with Council’s Statutory Planning protocols.

3. Discussion

3.1 Does the proposal comply with the relevant Planning Policy Framework clauses?

Planning Policy Framework (PPF)

The relevant 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 community, transport and commercial services. Relevant policy guidance is contained within ‘Plan Melbourne 2017-2050: Metropolitan Planning Strategy’ and Clauses 11, 15 and 16, which all seek to increase the residential supply in these areas.

This site offers a unique opportunity for redevelopment considering its size, location within the Principal Public Transport Network (PPTN), proximity to major institutional uses and open space and location in a residential area which already features a range of dwelling densities.

With regards to Clause 13.04-1S (Contaminated and Potentially Contaminated Land) it is noted the site has been identified as being potentially contaminated as a result of historic industrial uses (manufacturing and motor vehicle repairs). The permit applicant has commenced the process of engaging suitably qualified environmental professionals to conduct environmental site investigations to facilitate the obtaining of a Certificate or Statement of Environmental Audit for the site,
confirming it is either appropriate for the proposed sensitive use or has been suitably remediated for the proposed sensitive use. This will be required to be finalised prior to the commencement of the use and buildings and works as a condition of any permit issued.

The proposal contributes to the objective and strategies of Clause 16.01-1S (Integrated Housing) by providing an aged care facility and retirement village to meet the needs of the local community. The proposed development complies with the objective and strategies of Clauses 16.01-7S (Residential Aged Care Facilities) by facilitating the timely development of residential aged care facilities to meet existing and future needs. The design and location of the residential aged care facility contributes to housing diversity and choice and is an appropriate use in an established residential area with access to existing services and public transport.

The proposal contributes to the objective and strategies of Clause 19.02-1S (Health Facilities) by integrating health and aged care services into the local community. Importantly, consideration has been given to demographic trends, as well as existing and future demands associated with residential aged care facilities within the local community. Adequate car parking facilities have been provided for staff and visitors, as discussed within Section 3.4 of this report.

It is important to note the proportion of the population of the City of Moonee Valley aged 65 and over is expected to increase by 44 per cent by 2040 (MV2040 Strategy, June 2018). In the Aberfeldie neighbourhood the expected growth in this demographic is 4 per cent to 2040, which will account for 16 per cent of the total population of the neighbourhood. The proposed development will provide permanent accommodation for residents in this increasing demographic, and it is considered the co-location of a retirement village and aged care facility strategically responds to an identified increase in demand for ‘ageing in place’ facilities where residents can receive different levels of care based on individual needs. This conclusion is reinforced by Council’s Community Strengthening Department as discussed in Section 2.3 of this report. As such, the proposed use of the site responds to a demonstrated need for housing diversity and accords with the relevant objectives and strategies of Clauses 11, 15, 16 and 19 of the Moonee Valley Planning scheme.

Local Planning Policy Framework (LPPF)

The proposal complies with Clause 21.04 (Sustainable Environment) through the use of ecologically sustainable design principles as set out in the submitted Sustainable Design Assessment (SDA) and Green Star Scorecard. As referenced in Section 2.3 of this report, Council’s ESD Officer has reviewed the submitted SDA and Green Star Scorecard and application plans and has raised no objections to the proposal.

The proposed development 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 Council’s Waste Management
Guidelines (2018) and is to be endorsed, implemented and managed through a condition on any permit granted accordingly.

As discussed earlier in this section, the proposal is considered to respond to an identified demand for aged care accommodation and as such is also consistent with Clause 21.05-1 (Housing Growth) which has the objective of providing a variety of housing choices in appropriate locations to meet the needs of an increasingly diverse range of households.

The proposed development generally responds to the objectives and strategies of Clause 21.06 (Built Environment). Clause 21.06-1 (Neighbourhood Character) seeks to ensure new development in residential areas is in accordance with the preferred character of each residential precinct as outlined in the Neighbourhood Character Precinct Profiles 2012. Whilst the proposal is not technically a residential development in the same sense as a multi-dwelling application, consideration should still be given to the impact of the proposal on the character of the area. The site is within the Garden Suburban 5 precinct, and the development is considered to be generally consistent with this precinct’s preferred character in the following ways:

- This section of Vida Street is unique, with the western side is characterised by multi-level (up to three storeys) education buildings which are part of Ave Maria College. The proposed aged care facility (Building B01) is situated to adjoin the northern boundary wall of the Ave Maria College building and has a height of three stories, resulting in a continuation of the established street wall.

- The building design will make a positive contribution to the streetscape and will be an improvement to the current outlook which includes chain mesh fencing and disused land with no formal landscaping. Building B01 which faces Vida Street is articulated with varied material treatments (face brick to the ground floor and render with timber cladding to the first and second floors), large portrait style windows and recesses.

- The development generally accords with the relevant design objectives of the Garden Suburban 5 neighbourhood character precinct with respect to:
  - Architectural style (there is no existing built form on the site to retain and the proposed building style is appropriate given the use of the buildings)
  - Building height, form and layout (articulated front façade and appropriate height for the site context)
  - Building materials, design and details (the palette of colours and materials comprises mostly soft and earthy finishes such as red/brown brickwork, timber panelling and painted cream render)
  - Roof styles (a flat roof is the most appropriate roofing style for buildings of this scale)
Siting and setbacks (subject to a condition as discussed in Section 3.6 below)

Garages, carports and outbuildings (all vehicular accommodation is contained within the site, mostly within the basement and is not visible from the public realm)

Garden styles (a significant portion of the site is set aside for open space with landscaping, including the front setbacks)

Front fencing (the selected front fence design will allow for views of front landscaping from Vida Street and is of a suitable height and design to the proposal).

In terms of Clause 21.06-4 (Urban Design), the proposal is considered to achieve the objective of providing contemporary development that is innovative, legible and designed in a manner responding to its location and context as follows:

- Each building achieves an appropriate degree of visual interest and design articulation through the use of varied materials, recesses, fenestration and canopies. Selected colours and materials include red-brown face brick work and painted white/cream render which are the two main materials, complemented by natural look timber louvres and grey, dark grey and charcoal painted render applied to window canopies, eaves and recessed upper floor levels.

- A high standard of amenity for residents and patients is achieved through the provision of large, ground level open spaces between each building with substantial provision for landscaping. Additionally, the development includes communal facilities such as activity rooms, a theatre, hair dresser and beauty salon, bar, workshop, gymnasium, swimming pool and craft room. Independent living units, care rooms and assisted living suites are also provided with at least one outlook and have been situated so window screening for overlooking is not required in most instances, ensuring internal amenity is not compromised by obscure glazing/screening. An exception to this occurs along the northern elevation to the first and second floor levels of Building B01, where some habitable rooms and balconies have direct outlooks to secluded private open space areas of the dwellings to the north on Buckley Street. In order to maximise access to sunlight and outlook for these areas a condition of any permit will require screening in these locations is modified to horizontal louvres rather than vertical, as this will allow for upward views and will result in a better internal amenity outcome, as requested by Council's Strategic Planning Department.

- A condition of any permit issued will require the entranceway footpath from Vida Street to the B01 lobby to be widened to a minimum of 1.8 metres, which is the minimum width required to enable two wheelchairs to pass each other. It is noted the Strategic Planning Department referral requested a minimum width of 2 metres, however it is not considered reasonable to enforce a width
that is greater than the minimum requirement. An additional condition will require enhanced landscaping along the periphery of the entranceway footpath, with increased garden bed depth, and an increase in larger plantings, to be shown on an amended Landscape Plan and also in accordance with the comments from Council’s Strategic Planning Department

- The siting of the development generally responds to the opportunities, constraints and features of the site. The site does not share any boundaries with any residential properties as the Right-of-Way along the north of the site acts as a buffer between the site and the dwellings on Buckley Street, the southern boundary is shared with Ave Maria College, and the residential development to the west at 7 Fawkner Street is separated from the location of Building B03 by the 6.096 metre wide drainage, sewerage and carriageway easement. As a result, the large site is able to accommodate a more intense form of development than would otherwise be appropriate in this setting, with significant separation provided internally between all three buildings and externally due to the Right-of-Way and easement which act as buffers

   Notwithstanding the above, the positioning of Building B01 and its relationship with the northern site interface is considered to be inappropriate at the second floor level, where no recess from the ground and first floors has been provided. This was raised as a concern by Council’s Strategic Planning Department who have recommended the building setback from the northern boundary is increased to a minimum of 4.9 metres, either to the entire northern façade or just to the second floor level. A condition on any permit issued will require that this is achieved for the second floor level

   It should also be noted the proposal has a site building coverage of 49%, permeability coverage of 23.5% and garden area coverage of 40%, despite the application not being required to meet the objectives and standards of Clause 55 (Two or More Dwellings on a Lot and Residential Buildings) or the mandatory minimum garden area requirement of the General Residential Zone. These figures are indicators of the appropriateness of the siting of the development in this residential context where large areas of open space and landscaping are prevalent

- As discussed above, the development successfully minimises off-site amenity impacts in part due to its relative lack of sensitive interfaces. It should be noted that the Residential Aged Care Facility component of this application (Building B01) is subject to the development requirements of Clause 53.17 (Residential Aged Care Facility) which includes off-site amenity standards based on ResCode – the compliance of this component of the development with Clause 53.17 is discussed below at Section 3.7 of this report. The Retirement Village component of the application (Buildings B02 and B03) minimises off-site amenity impacts as follows:
• The buildings are generously set back from the southern and western title boundaries by a minimum of 7.2 and 8.3 metres respectively and these setbacks would exceed the minimum setbacks required under ResCode or Clause 53.17 if either were applicable

• The minimum northern boundary setbacks of 6.7 metres to the main building line of B02 and 5.9 metres to the main building line of B03 would not meet the minimum setbacks required under ResCode or Clause 53.17, which would be 7.89 and 7.79 metres respectively. However, as discussed, these buildings benefit from the approximately 3 metre wide buffer provided by the Right-of-Way, ensuring that appropriate setbacks from the residential properties to the north of the site are provided. The laneway buffer also assists in minimising visual bulk. The application does not include the laneway as part of setback calculations (hence the non-compliance), however, this does provide a 3 metre buffer between the subject site and the adjoining properties to the north

• Building B02 would comply with the setback requirement of ResCode or Clause 53.17 with respect to daylight to existing adjoining habitable room windows at Nos. 337 and 339 Buckley Street if either were applicable. Building B03 is not opposite any adjoining habitable room windows as the property at No. 7 Fawkner Street has a garage on the shared boundary with the subject site and the property at No. 341 Buckley Street is used as a medical centre

• There are no north-facing habitable room windows located within three metres of the subject site

• The submitted overshadowing diagrams demonstrate only one residential property will be affected by shadows cast from the development, being the north-eastern section of the property at No. 7 Fawkner Street at 9am on the September 22 equinox, with this property unaffected by shadows cast by the development at all other times. Further to this, the extent of shadows cast to the adjoining playground/recreation space of Ave Maria College is minimal, being limited to the morning hours of 9am to 11am

• Both buildings B02 and B03 are setback by more than 9 metres from any adjoining secluded private open space, which would be beyond the threshold for requiring screening of windows and balconies if ResCode or Clause 53.17 were applicable.

• The proposed development is considered to present a well-integrated building with a sense of address. This is achieved with clearly articulated facades at all visible frontages and clearly defined pedestrian and vehicle entrances/accessways

• The contemporary design, façade variation and high level of
articulation of the proposed buildings will provide an attractive and interesting built form that will help the building integrate with its surroundings. As discussed above, the use of predominantly lighter finishes such as white/cream render and red-brown face brick work complement the existing built form in the area, particularly the large buildings at Ave Maria College to the south.

- The development fits comfortably within the mandatory maximum building height for aged care facilities of Clause 53.17 (Residential Aged Care Facility), but it is noted this control applies only to building B01. Buildings B02 and B03 are defined as retirement villages under the planning scheme and are not subject to the mandatory height controls of either the General Residential Zone or Clause 53.17.

- The development is not required to be designed to protect flight safety as it is not located within proximity to Essendon Airport.

Finally, the development complies with Clause 22.03 Stormwater Management (Water Sensitive Urban Design) by achieving best practice water quality performance objective through the submission of a compliant MUSIC model. As discussed in Section 2.3 of this report, the submitted MUSIC model has been peer reviewed by Council’s ESD Officer and Development Engineering (Drainage) Unit who have both confirmed its compliance.

3.2 Does the proposal accord with the General Residential Zone?

Pursuant to Clause 73.04-1 (Nesting Diagrams – Accommodation Group) of the Moonee Valley Planning Scheme, the land uses known as ‘Residential Aged Care Facility’ and ‘Retirement Village’ are both nested under the umbrella use ‘Accommodation’, but are not nested under ‘Residential Building’ or ‘Dwelling’. As such, neither of these land uses are subject to mandatory requirements of Clause 32.08-4 (Minimum Garden Area Requirement) or Clause 32.08-10 (Maximum Building Height Requirement for a Dwelling or Residential Building).
The use of the land as a Residential Aged Care Facility falls under Section 1 of the table at Clause 32.08-2 (Table of Uses), meaning it is an as of right use.

Notwithstanding, buildings and works for a Residential Aged Care Facility trigger a planning permit under Clause 32.08-8 and must meet the requirements of Clause 53.17 (Residential Aged Care Facility). The compliance of Building B01 with this clause is discussed at Section 3.6.

The use and development of the land for a Retirement Village triggers a permit under the General Residential Zone pursuant to Clauses 32.08-2 and 32.08-9. This aspect of the proposal is considered to meet the relevant decision guidelines of the General Residential Zone as follows:

- The overall development is consistent with the Municipal Planning Strategy and Planning Policy Framework as discussed in Section 3.1
- In terms of the purpose of the zone, the proposal is appropriate as it will contribute to providing a diversity of housing types in the municipality, in this instance focusing on the elderly, a demographic which is expected to increase by 2040 as discussed in Section 3.1
- There will be no impact of overshadowing on existing solar energy facilities on dwellings on adjoining lots, as demonstrated by the submitted overshadowing diagrams
- Although technically a Section 2 (permit required) use, a retirement village is considered to be no different than other residential uses as it is defined at Clause 73.03 (Land Use Terms) as ‘land used to provide permanent accommodation for retired people or the aged and may include communal recreational or medical facilities for residents of the village’. In this way, the proposed buildings B02 and B03 are no different to regular apartment buildings and are therefore
considered to be appropriately compatible with the residential use of the area

- As discussed throughout this section and Section 3.1, it is considered the proposal serves local community needs by providing targeted housing for a growing demographic in the community

- The scale and intensity of the use and development is appropriate given the large allotment and lack of sensitive interfaces. This has enabled a suitable design response providing for an appropriate dwelling yield with minimal amenity impacts on the adjoining and surrounding dwellings. Further to this, the development responds to its immediate context, noting that Ave Maria College to the south is developed with multiple multi-storey buildings

The intensity of the use is also considered to be acceptable from a transport perspective – each independent living unit has been provided with car parking spaces in accordance with Clause 52.06 (Car Parking) requirements on the site, provision has been made for all vehicles to be able to exit the site in a forwards direction, provision has been made for waste collection to occur on site, appropriate active transport options have been provided, and vehicle access to the development will be limited to one crossover. These design features all contribute to minimising the impact of the development on the local transport network

- As discussed in Section 3.1, the design, height, setback and appearance of buildings B02 and B03 are considered appropriate in this context

- Suitable provision has been made for landscaping across the development, including within the front setback to Vida Street (subject to a condition as discussed in Section 3.1), along the sides of the vehicle accessway, and in the open spaces surrounding all proposed buildings

- The provision of car and bicycle parking and the design of the accessway is acceptable, as discussed at Sections 3.4 and 3.5

- Adequate facilities for loading and waste collection have been provided on the site. As discussed throughout this report these facilities have been reviewed by Council’s Waste Planning and Strategy Officer and Traffic and Transport Unit who have raised no objections to the proposed arrangements

- The safety, efficiency and amenity impacts of traffic to be generated by the proposal, have also been reviewed by Council’s Traffic and Transport Unit. The applicant has commissioned a Traffic Engineering Assessment which included traffic counts and surveys of the local road network to determine the impact of the proposed development on traffic movements in the area. The report concluded traffic movements generated by the retirement village buildings will typically be less than those of standard residential dwellings, as residents of the buildings will be less likely than others to own a
vehicle and are less likely to make trips (e.g. due to smaller household sizes, lack of school/employment to travel to). As noted in the Traffic and Transport referral response, the traffic generation rates in the report have been accepted and it is therefore determined the effect of the development on the local road network is appropriate to the scale of the proposal.

3.3 Is the site suitable for the proposed sensitive uses?

As discussed in Sections 1 and 3.1, the subject site is included in the Environmental Audit Overlay, due to historical industrial uses including manufacturing and motor vehicle repairs.

The permit applicant has commenced the process of engaging suitably qualified environmental professionals to conduct environmental site investigations to facilitate the obtaining of a Certificate or Statement of Environmental Audit for the site, confirming it is either appropriate for the proposed sensitive use or has been suitably remediated for the proposed sensitive use. This will be required to be finalised prior to the commencement of the use and buildings and works as a condition of any permit issued.

The development can, therefore, appropriately meet the purpose of the Environmental Audit Overlay subject to a condition.

3.4 Is the provision and design of car parking acceptable?

The proposal is considered to generally comply with the provisions of Clause 52.06, Car parking of the Moonee Valley Planning Scheme.

The site is located within the Principal Public Transport Network Area https://www.planning.vic.gov.au/resource-library/principal-public-transport-network. As such, the applicable car parking rates are specified in Column B of Table 1 to Clause 52.06-5 of the Moonee Valley Planning Scheme and calculated below:

Table 4

<table>
<thead>
<tr>
<th>Component</th>
<th>Number/area</th>
<th>Requires</th>
<th>Provides</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential Aged Care Facility</td>
<td>27 X assisted living suites</td>
<td>8</td>
<td>8</td>
</tr>
<tr>
<td>(Requires 0.3 spaces to each lodging room)</td>
<td>74 X aged care beds</td>
<td>22</td>
<td>22</td>
</tr>
<tr>
<td>Retirement Village</td>
<td>56 X two-bedroom dwellings</td>
<td>56</td>
<td>56</td>
</tr>
<tr>
<td>(Requires 1 space per one and two-bedroom dwelling and 2 spaces per three or more bedroom dwelling)</td>
<td>16 X three-bedroom dwellings</td>
<td>16</td>
<td>16</td>
</tr>
</tbody>
</table>
The design of car spaces and accessways generally complies with the requirements of Clause 52.06-9, including the provision of pedestrian visibility splays.

The following requirements raised by Council’s Traffic and Transport Unit will be included as conditions on any permit issued:

- The dimension of headroom clearance along the accessway ramp to be shown perpendicular from the ramp (i.e. 3.5 metres along the ramp to the loading/waste collection area and 3 metres to all other areas) on all relevant sectional drawings

- A notation on the Ground Floor plan to stipulate the pedestrian visibility splay on the northern side of the accessway is to accord with Clause 52.06-9 (Design Standards for Car Parking) requirements

- Dimensions for the proposed accessway adjacent to the pedestrian lobby and parallel car parking spaces to be shown on the Ground Floor plan

- The length of the accessway ramp transitions to be annotated on the amended plans, including the ramp from the loading area to the carpark

- The proposed crossover to be drawn in accordance with the requirements of Council’s Vehicle Crossing Policy on the Ground Floor plan

- A notation on the Ground Floor plan to stipulate the proposed vehicle crossing will be constructed in accordance with Council’s Vehicle Crossing Policy

- The distance between the speed hump and any other on-street infrastructure on Vida Street and the proposed vehicle crossing dimensioned on the Ground Floor plan

- The distance between the intersection kerb line of Vida and Knight Streets from the proposed crossover to be dimensioned on the Ground Floor plan.

All other requirements previously raised by Council’s Traffic and Transport Unit have been satisfied on the advertised plans.

3.5 Are adequate bicycle spaces and facilities provided?

The proposal includes bicycle spaces, as set out in the table below:
The proposal does not technically comply with the requirement of Clause 52.34 due to the way the provided bicycle parking spaces have been allocated, as demonstrated in Table 5 above. Council’s Traffic and Transport Unit have reviewed and approved of this arrangement for the following reasons:

- A storage room for mobility scooters is provided within the basement level
- A number of resident car spaces within the basement have sufficient room behind the car space to store a bicycle if required
- Two shower/change rooms are located within 20 metres of the staff bicycle parking area, demonstrating that adequate end of trip facilities have been provided.

Notwithstanding the above, there is sufficient room in the basement level for some resident bicycle spaces to be provided, and as such a condition of any permit issued will require that at least 6 resident spaces are included.

In addition, the following requirement which was raised by Council’s Traffic and Transport Unit will be included as a condition on any permit issued:

- Dimensions for all bicycle parking spaces shown on all relevant plans in accordance with AS2890.3-2015 requirements.

3.6 Does the proposal accord with the requirements of Clause 53.17 (Residential Aged Care Facility)?

The residential aged care facility component of this application (Building B01) generally accords with the development requirements and decision guidelines of this clause. A full list of and assessment against these requirements can be found at Attachment C (separately circulated). The following points of exception are discussed below:
### Table 6

<table>
<thead>
<tr>
<th>Clause 53.17 Development Requirement</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Side and Rear Setbacks</td>
<td>Building B01 does not comply with the setback requirements of this clause at the following locations (refer to <a href="#">Attachment D</a> for an annotated plan highlighting the locations discussed below):</td>
</tr>
<tr>
<td></td>
<td>North elevation – north-eastern corner (Location 1)</td>
</tr>
<tr>
<td></td>
<td>- Proposed setback = 4.3 metres</td>
</tr>
<tr>
<td></td>
<td>- Proposed maximum wall height = 11.3 metres</td>
</tr>
<tr>
<td></td>
<td>- Minimum allowable setback = 6.39 metres</td>
</tr>
<tr>
<td></td>
<td>North elevation – north-western corner (Location 2)</td>
</tr>
<tr>
<td></td>
<td>- Proposed setback = 4.3 metres</td>
</tr>
<tr>
<td></td>
<td>- Proposed maximum wall height = 10.7 metres</td>
</tr>
<tr>
<td></td>
<td>- Minimum allowable setback = 5.79 metres</td>
</tr>
<tr>
<td></td>
<td>North elevation – hallway/circulation areas (Location 3)</td>
</tr>
<tr>
<td></td>
<td>- Proposed setback = 2.095 metres</td>
</tr>
<tr>
<td></td>
<td>- Proposed maximum wall height = 10.6 metres</td>
</tr>
<tr>
<td></td>
<td>- Minimum allowable setback = 5.69 metres</td>
</tr>
<tr>
<td></td>
<td>South elevation – main building line (Location 4)</td>
</tr>
<tr>
<td></td>
<td>- Proposed setback = 0.3 – 0.5 metres</td>
</tr>
<tr>
<td></td>
<td>- Proposed maximum wall height = 11.3 metres</td>
</tr>
<tr>
<td></td>
<td>- Minimum allowable setback = 6.39 metres</td>
</tr>
</tbody>
</table>

It is considered appropriate to vary this requirement for the following reasons:

- The proposed northern boundary setbacks benefit from the existing right-of-way, which provides a 3 metre buffer between the subject site and the residential properties to the north. When taking this into account, all areas of this interface meet the setback requirement with the exception of the hallway/circulation areas.

As discussed in Section 3.1, a condition of permit will require the entire second floor of B01 to be setback from the northern boundary by a minimum of 4.9 metres, in accordance with the Strategic Planning Department referral. This will result in a minimum buffer of 7.9 metres.
<table>
<thead>
<tr>
<th>Clause 53.17 Development Requirement</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>between the second floor level of the building and the southern boundaries of the adjoining residential properties. This setback is considered suitable in terms of visual bulk, and it is also noted amenity impacts of the building on these properties is mitigated, with no overshadowing and overlooking appropriately managed.</td>
</tr>
<tr>
<td></td>
<td>• With respect to the southern boundary setbacks, this section of the development is situated directly opposite the adjoining three storey boundary wall of the Ave Maria College building.</td>
</tr>
<tr>
<td>Overlooking</td>
<td>Habitable rooms located at the first and second floor levels on the northern interface of Building B01 have direct views within 9 metres of the secluded private open space areas of the dwellings at No. 2A Fawkner Street and Nos. 329 to 333 Buckley Street. As a result, habitable windows on this interface are provided with timber louvre screening as discussed in Section 3.2 of this report. A condition of any permit issued is required to note that these particular screens are to be no more than 25% transparent, in accordance with this development requirement. Further, as discussed in Section 3.2, an additional condition will require these louvres to be oriented horizontally so as to allow upward views, in accordance with the recommendation of Council’s Strategic Planning Department.</td>
</tr>
<tr>
<td>Front Fence</td>
<td>The proposed front fence has a height of 1.754 metres, in lieu of 1.5 metres as per this requirement. The proposed variation is minor, and it is noted the adjoining property to the south (Ave Maria College) also has a front fence that is taller than 1.5 metres. It is not considered the front fence as proposed will be at odds with the character of the area. The proposed design will be semi-transparent, ensuring views to front landscaping are maintained. It is also noted the fence height will provide security and enclosure for future residents of the development.</td>
</tr>
</tbody>
</table>

3.7 Does the proposal accord with the purpose and requirements of Stormwater Management?
The proposal is considered to generally comply with the provisions of Clause 53.18 (Stormwater Management in Urban Development) as follows:

**Table 7**

<table>
<thead>
<tr>
<th>Clause 53.18 - Objectives and Standards</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stormwater management objectives for buildings and works Clause 53.18-5 (Standard W2)</td>
<td>Complies</td>
</tr>
<tr>
<td>A MUSIC report has been submitted with the application demonstrating a stormwater management system which meets the current best practice performance objectives for stormwater quality as set out in Urban Stormwater - <em>Best Practice Environmental Management Guidelines</em> (Victorian Stormwater Committee, 1999)</td>
<td></td>
</tr>
<tr>
<td>Site management objectives Clause 53.18-6 (Standard W3)</td>
<td>Complies subject to a condition</td>
</tr>
<tr>
<td>A condition of any permit issued will require the submission and endorsement of a construction and site management plan, which must address (amongst other things) the management of erosion and sediment, stormwater, litter, concrete and other construction wastes and chemical contamination throughout the construction of the development</td>
<td></td>
</tr>
</tbody>
</table>

### 3.8 Objections (Discussion)

The following table provides a discussion of the concerns raised within the objections ([Attachment A](#)) to the application:

**Table 8**

<table>
<thead>
<tr>
<th>Issue</th>
<th>Officer Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Traffic from staff, visitors and service vehicles (including the potential for accidents at the north-west corner of the land) and car parking impacts (including loss of on-street parking to Vida Street)</td>
<td>As discussed under Section 3.4 of this report, the proposal provides adequate on-site car parking for the proposed uses and the design standards of Clause 52.06-9 are met, subject to minor conditions. Whilst it is acknowledged the area may experience levels of congestion in terms of street traffic and on-street parking, it is not considered the development would impact on these to an unacceptable degree. Further, Council’s Traffic and Transport Unit had no objection to the application on these grounds</td>
</tr>
<tr>
<td>Overdevelopment / proposal exceeds the requirements of the</td>
<td>The subject site is zoned General Residential and not Neighbourhood Residential and is therefore not subject to the mandatory height limits of the Neighbourhood Residential Zone. As discussed</td>
</tr>
<tr>
<td>Issue</td>
<td>Officer Response</td>
</tr>
<tr>
<td>----------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Neighbourhood Residential Zone for 8 metres or 2 storeys</td>
<td>throughout this report, the proposal complies with the mandatory height limit for residential aged care facilities in residential zones, as set out in Clause 53.17 (Residential Aged Care Facility) of the Moonee Valley Planning Scheme. Further, as discussed in Sections 3.1 and 3.2 of this report, the proposed development is considered an appropriate scale for the site’s context.</td>
</tr>
<tr>
<td>Building B03 is too close to surrounding structures – noise and safety factors associated with the IGA</td>
<td>Counting the carriageway easement which runs along the site’s western boundary, the B03 building is setback by a minimum of 8.285 metres from the adjoining IGA building, which is an appropriate buffer. It is not considered future residents of the building will be subject to unreasonable or irregular noise impacts associated with the nearby retail premises, and it is noted that mixed use developments and precincts in which residential and commercial and retail uses are located within close proximity to each other is encouraged by State and Local planning policy – particularly the concept of ‘20-minute neighbourhoods’. Notwithstanding, a condition of permit issued will require the owner of the land to enter in to a Section 173 Agreement with Council that acknowledges the use of the IGA premises (which predates the construction of the retirement village) and any associated potential noise impacts.</td>
</tr>
<tr>
<td>Aberfeldie Primary school is incorrectly located on Plan A0-002</td>
<td>Whilst this drawing error is acknowledged, the recommendations of this report have been formed on the basis of an independent assessment of the proposal, the site and its context, and this particular error is of no consequence to the decision.</td>
</tr>
<tr>
<td>Objection to construction vehicles using Fawkner Street to access the site</td>
<td>This is not a valid planning concern – Fawkner Street is a public road. Should a permit be issued, a Construction and Site Management plan (CSMP) will be required to be submitted to and endorsed by Council prior to the commencement of construction. The CSMP will include, amongst other things, traffic management requirements in order to minimise the impact of the construction on the adjoining and surrounding properties and will be enforceable as an endorsed document of the planning permit.</td>
</tr>
<tr>
<td>Protective fencing during construction to be contained on site boundaries</td>
<td>As above, construction management concerns can be appropriately managed through an endorsed CSMP which will form part of any planning permit issued.</td>
</tr>
<tr>
<td>Issue</td>
<td>Officer Response</td>
</tr>
<tr>
<td>----------------------------------------------------------------</td>
<td>-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Electricity supply due to removal of existing substation on the land</td>
<td>This is not a valid planning concern. It will be the responsibility of the developer to ensure the necessary approvals are obtained and mitigation measures are used to ensure that the construction of the development does not interfere with the electricity supply of the surrounding area</td>
</tr>
<tr>
<td>Development equity opportunities</td>
<td>It is not considered the development layout as proposed will unreasonably compromise the ability of the adjoining and surrounding properties to develop</td>
</tr>
<tr>
<td>Energy efficiency of the new buildings</td>
<td>The proposal complies with the relevant planning scheme requirements with regard to energy efficiency, including Clause 21.04 (Sustainable Environment) of the Moonee Valley Planning Scheme through the submission of a Built Environment Sustainability Scorecard (BESS) report demonstrating best practice ecologically sustainable design principles. It should be noted the development will also be subject to the relevant energy efficiency requirements of the Building Act 1993 and the Building Regulations 2018</td>
</tr>
<tr>
<td>Neighbourhood character</td>
<td>Overall it is considered the proposal is an acceptable design response, as discussed in Section 3.1 of this report</td>
</tr>
<tr>
<td>Overshadowing</td>
<td>The submitted overshadowing diagrams demonstrate there will be no unreasonable overshadowing of adjoining residential properties</td>
</tr>
<tr>
<td>Overlooking</td>
<td>As discussed in Sections 3.1 and 3.6 of this report, the proposal is considered acceptable with regards to overlooking of adjoining residential properties, subject to one condition relating to the transparency of overlooking screens on the northern façade of Building B01</td>
</tr>
</tbody>
</table>

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. **Council Plan/Policy**

   On 26 June 2018, Council adopted the MV2040 Strategy as its long-term plan for the city. It is considered the proposal is consistent with the relevant strategic directions set out in the MV2040 Strategy, including:
   - Strategic Direction 3: A city where people are healthy and safe
   - Strategic Direction 5: A city with housing for all
• Strategic Direction 14: A city that is green and water-sensitive
• Strategic Direction 15: A city that rethinks waste
• Strategic Direction 16: A city that is cool and climate-adapted
• Strategic Direction 17: A city that fosters local identity
• Strategic Direction 18: A city of high-quality design
• Strategic Direction 20: A city in a beautiful landscape setting.

6. Conclusion

This application has been assessed against the relevant provisions of the Planning Policy Framework, Local Planning Policy Framework, zoning and overlay controls and the relevant provisions of the Moonee Valley Planning Scheme. It is considered the proposal demonstrates compliance with the requirements of these provisions and policies.

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 the proposal would not have a significant social effect.

Officers therefore, recommended Council issues a Notice of Decision to Grant a Permit in accordance with the conditions contained within the recommendation section above.

Attachments
A: Location of Objectors (separately circulated)
B: Plans (separately circulated)
C: Clause 53.17 Development Requirements Assessment (separately circulated)
D: Building B01 setback locations (separately circulated)
10.3 MPAC to 2040: Moonee Ponds Activity Centre Local Plan - Extension of Interim Controls

Author: Corina de Araujo - Senior Strategic Planner
Directorate: Planning and Development

1. Purpose
1.1 The purpose of this report is to:
   - Update Council on the status of the *MPAC to 2040: Moonee Ponds Activity Centre Local Plan*;
   - Seek a Council resolution to formally request the Minister for Planning to extend the expiry of the existing interim mandatory maximum height controls for the Moonee Ponds Activity Centre (MPAC).

2. Background
2.1 In December 2016, MPAC was announced as one of the activity centres included in the State Government’s *Activity Centre Pilot Program* (Pilot Program).
2.2 A key purpose of the Pilot Program was to identify how planning controls could be used to provide greater clarity and certainty in activity centres.
2.3 In February 2017, Council officers commenced a review of height controls in MPAC.
2.4 On 13 June 2017, Council resolved to (among other things) request a Ministerial Amendment to introduce interim mandatory built form controls.
2.5 On 12 October 2017, Amendment C183 introduced mandatory maximum building height controls for MPAC (Precincts 1-8), by amending Schedule 1 to the Activity Centre Zone, on an interim basis until 30 September 2018.
2.6 In January 2018, Council officers commenced a comprehensive review of MPAC that considered built form, transport, streetscapes, open space, affordable housing and wind.
2.7 On 14 August 2018, Council resolved to (among other things) request a Ministerial Amendment to extend the expiry date of the mandatory maximum building height controls by a minimum of one year, to 30 September 2019 to enable the progression of the necessary strategic work.
2.8 On 27 September 2018, Amendment C197moon extended the expiry date of the interim mandatory height controls to 30 September 2019.
2.9 The Department of Environment, Land, Water and Planning (DELWP) noted an extension was required to allow for the significant strategic work to be completed. The extension was intended to provide continued clarity for the community while further work for the Pilot Program was undertaken.
3. **Issues**

3.1 Informal consultation was held from 23 April 2019 to 17 May 2019 on the draft *MPAC to 2040: Moonee Ponds Activity Centre Local Plan*, associated background documents and the revised planning controls.

3.2 Council officers are currently reviewing all feedback received, including undertaking further testing of the proposed planning controls, to ensure the final suite of documents align with the vision set by the *MV2040 Strategy* for the activity centre.

3.3 The outcome of the informal consultation will be presented in a future report to Council.

3.4 The current interim mandatory height controls are due to expire on 30 September 2019.

3.5 It is necessary for the expiry date to be extended to enable Council officers to thoroughly work through the informal feedback received from the community. Following this, the proposed planning controls and associated strategic work can be finalised, in order to undertake a full planning scheme amendment to implement the revised planning controls into the Moonee Valley Planning Scheme.

3.6 This will ensure Council meets the requirements of the Pilot Program to provide greater clarity and certainty to the Moonee Valley community regarding development outcomes in MPAC.

3.7 Should an extension to the interim planning controls not be granted, the previous planning controls for MPAC will be reinstated, resulting in the interim mandatory maximum building height requirements being removed, without any changes.

3.8 This is not a favourable outcome given the planning outcomes which have occurred in MPAC, under the current planning controls that do not align with the approved structure plan - *Moonee Ponds Activity Centre Structure Plan 2010* (updated 2012).

**Recommendation**

That Council resolves to request the Minister for Planning to exercise his powers of intervention under Section 20(4) of the *Planning and Environment Act 1987* to prepare and approve an amendment to the Moonee Valley Planning Scheme by amending Schedule 1 to Clause 37.08 (Activity Centre Zone), to extend the expiry date of the mandatory maximum building heights for Precincts 1-8 by a minimum of one year.

**Attachments**

A: Impact Assessment
Impact assessment

1. Relationship to Council commitment MV2040 or Council Plan

1.1 The vision for the MPAC to 2040: Moonee Ponds Activity Centre Local Plan (Local Plan) is for a fair, thriving, connected, green and beautiful activity centre. The Local Plan, associated background documents, and suite of planning controls build on the strategic directions set by the MV2040 Strategy.

1.2 In particular, the report seeks to achieve the Council Plan objective 1.5 – people have secure and suitable housing – and its associated key strategy which is: encourage high-quality development that meets the needs of our growing population (Fair – Qeente Boordup).

1.3 At the Ordinary Meeting on 13 June 2017, Council raised a Notice of Motion No 2017/16 – Developments in Moonee Ponds (NoM) for officers to provide information in response to significant development occurring in Moonee Ponds, including associated infrastructure and service needs. An initial response to the NoM was reported to Council on 13 March 2018.

1.4 At the Ordinary Meeting on 14 August 2018, an update was provided on the progress of the work referred to in the NoM. At this meeting Council also resolved to request a Ministerial Amendment to extend the expiry of the interim planning controls for MPAC.

2. Legislative obligations

2.1 A Ministerial Amendment under Section 20(4) of the Planning and Environment Act 1987 is required to extend the expiry date of the interim planning controls.

2.2 There are no human rights implications as a result of this report.

3. Legal implications

3.1 There are no legal implications as a result of this report.

4. Risks

4.1 Using the risk assessment criteria matrix, the risk rating for the report is high (12). The measure of consequence is assessed as moderate (environmental and reputation) and the measure of likelihood is likely.

4.2 In terms of environmental risks, an increase in inappropriate development may cause medium level environmental harm. For example, repeated occurrences of higher water and energy use, and waste generation.

4.3 In terms of reputation risks, the outcome of the report may result in concerns from the public regarding the future of the activity centre.
5. Social impact assessment
   5.1 The decision will have a positive social impact in terms of providing certainty and clarity for development outcomes in MPAC.

6. Economic impact assessment
   6.1 The decision will have a positive economic impact in terms of streamlining the planning process (through a Ministerial Amendment).

7. Environmental impact assessment
   7.1 The decision will have a positive environmental impact in terms of progressing strategic work that furthers the objectives of the MV2040 Strategy's theme of a green city – low carbon, green and water sensitive, rethinking waste, along with being cool and climate-adapted.

8. Reputational impact assessment
   8.1 Should the extension to the interim planning controls not be approved, the reputational impacts include:
      
      8.1.1 Not satisfying the requirements of the State Government Activity Centre Pilot Program.
     
     8.1.2 Delays in commencing the formal planning scheme amendment process.
     
     8.1.3 Lack of clarity and certainty of planning controls to guide appropriate development in MPAC in line with State policy and the MV2040 Strategy.
     
     8.1.4 Public concerns for the future of the activity centre, particularly regarding overdevelopment.

9. Financial implications
   9.1 Strategic Planning and Technical Services are the two primary departments involved in the MPAC project, and the costs associated with this project will be delivered through their respective operational budgets.
   
   9.2 Costs relating to the planning scheme amendment process will be funded through the Strategic Planning operational budget.
   
   9.3 As part of the State Government Activity Centre Pilot Program, Council was provided with $100,000 to undertake a review of the building heights in MPAC.

10. Sensitivity / scenario analysis
10.1 Should an extension to the interim planning controls not be granted, the previous planning controls for MPAC will be reinstated. For example, the mandatory maximum building height requirements will be removed.

10.2 This is not a favourable outcome given the original planning controls resulted in built form outcomes which did not align with approved structure plan - Moonee Ponds Activity Centre Structure Plan 2010 (updated 2012).

10.3 This has implications for the appropriateness of development that will occur in the activity centre, particularly given the original planning controls have resulted in development outcomes not in line with the vision and community expectation for MPAC.

11. Conflict of interest declaration

11.1 No officer involved in the preparation of this report has any direct or indirect interest in this matter or the decision.

12. Consultation undertaken or planned

12.1 Informal consultation took place from 23 April 2019 to 17 May 2019 and included: sending 3,249 newsletters to all owners and occupiers in MPAC; content on the Your Say page, Facebook and corporate website; two drop in sessions for the community; two sessions with the Moonee Ponds business community and five individual meetings with key stakeholders.

12.2 20 written submissions were received (including survey responses).

12.3 Outcomes of the informal consultation will be included as part of a future Council report.

12.4 During a formal planning scheme amendment process, there will be a public exhibition where the community will have further opportunity to provide their feedback.
10.4 Proposed sale of land from formerly discontinued road - 16 Emerald Street, Essendon

Author: Trish Curcuruto - Property and Right of Way Officer
Directorate: Asset Planning and Strategic Projects

1. Purpose

1.1 To consider the sale of land from a formerly discontinued road shown hatched on the plan attached to the Report at Attachment B, being part of the land contained in certificate of title volume 4015 folio 878 (Subject Land), and is currently occupied by the owners of the property known as 16 Emerald Street, Essendon.

2. Background

2.1 Council received a report at the Ordinary Council Meeting of 28 May 2019 in relation a proposal from the owners of the property known as 16 Emerald Street, Essendon to purchase the Subject Land from Council.

2.2 At the Ordinary Council Meeting of 28 May 2019, Council resolved to commence the statutory process in accordance with sections 189 and 223 of the Local Government Act 1989 (Act) to sell the Subject Land to the owner of 16 Emerald Street, Essendon, for a purchase price not less than the market valuation held by Council.

3. Issues

3.1 A public notice was published in the Moonee Valley Leader and on Council’s website on Wednesday 12 June 2019. Refer to a copy of the notice in Attachment C.

3.2 Abutting property owners at 14 and 18 Emerald Street, Essendon were also advised of the proposal on 12 June 2019 in writing and informed of their right to make a submission under section 223 of the Act.

3.3 The submission period closed on 10 July 2019. No submissions were received.

3.4 Council has fulfilled its requirements under the Act and can proceed with the proposal.

3.5 An impact assessment has been carried out in relation to the proposal and considers outcomes of the process in more detail in Attachment A.

Recommendation

That Council resolves to:

a. Sell the formerly discontinued road contained in certificate of title volume 4015 folio 878 (Subject Land) to the owners of 16 Emerald Street, Essendon, for not less than the market valuation held by Council;

b. Notify the adjoining owners of Council's decision to sell the Subject Land;
c. Authorise the Chief Executive Officer to facilitate the sale of the Subject Land and execute all relevant documentation required to effect the sale of the Subject Land.

Attachments

A: Impact Assessment - 2nd Council Report - Emerald Street, Essendon
B: Map - 16 Emerald St, Essendon - Area available for purchase (separately circulated)
C: Public Notice - Intention to sell land abutting 16 Emerald St, Essendon (separately circulated)
Impact assessment

1. Relationship to Council commitment MV2040 or Council Plan
   1.1 The proposed sale of the Subject land will contribute to strategic objective “a resilient organisation that is sustainable, innovative, engaging and accountable” in accordance with Council Plan 2017-21 Theme 6: Resilient organisation (Balit Djerring-dha, which means resilient organisation in Woi wurrung language).

2. Legislative obligations
   2.1 The statutory process for the sale of the Subject Land has been undertaken in accordance with the requirements of sections 189 and 223 of the Act.
   2.2 The Subject Land was vested in Council’s ownership pursuant to a notice published in the Victorian Government Gazette no. G39, page 2191, dated 30 September 1999.

3. Legal implications
   3.1 Council has received legal advice on whether it could rely on the road discontinuance process undertaken under the former Local Government Act 1958 to formalise the sale of the Subject Land to the applicant.
   3.2 Advice received indicated that previous statutory process may be considered stale and it would be advisable to undertake the requirements necessary under sections 189 and 223 of the Act.

4. Risks
   4.1 No key risks have been identified in the preparation of this report.

5. Social impact assessment
   5.1 There are no direct social impacts as a result of this report.

6. Economic impact assessment
   6.1 There are no direct economic impacts as a result of this report.

7. Environmental impact assessment
   7.1 There are no environmental implications as a result of this report.

8. Reputational impact assessment
   8.1 There are no reputational implications as a result of this report.

9. Financial implications
   9.1 A formal letter of offer to reimburse Council for reasonable costs of undertaking the proposed sale of land process has been signed by the applicant. The reimbursement of Council’s costs include the payment of Council’s legal and land surveyor fees and costs associated with the publication of a public notice.
   9.2 The land has been valued at $30,000 (excluding GST) in accordance with statutory requirements and the commercial terms to be agreed upon with the applicant should Council proceed with the sale of the subject land.
10. **Sensitivity / scenario analysis**

10.1 Not applicable.

11. **Conflict of interest declaration**

11.1 No officer involved in the preparation of this report has any direct or indirect interest in this matter or the decision.

12. **Consultation undertaken or planned**

12.1 All necessary Council departments and service authorities were consulted in respect to the proposal and no objections have been received.

12.2 City West Water advised it will require an easement in its favour due to the presence of a sewer main within the Subject Land.

12.3 In accordance with statutory procedures under section 223 of the Act Council gave public notice of its intention to sell land and invited submissions from affected parties.

12.4 A public notice was published in the Moonee Valley Leader and published on Council’s website on Wednesday 12 June 2019. No submissions were received.

12.5 Abutting property owners were advised of the proposal in writing and informed of their right to make a submission. No submissions were received.
10.5 Proposed disposal of 27 Kittyhawk Court, Airport West

Author: Jaci Underwood - Senior Commercial Property Officer
Directorate: Asset Planning and Strategic Projects

1. Purpose

1.1 To consider the sale of 27 Kittyhawk Court, Airport West shown outlined in red on the plan attached as Attachment B, being the land described as volume 10159 folio 668 (Land) which has been considered surplus to Council requirements.

2. Background

2.1 At the Ordinary Meeting on 27 November 2018, Council resolved to commence the statutory procedures in accordance with sections 189 and 223 of the Local Government Act 1989 (the Act) of its intention to sell the Land.

2.2 The Land is a vacant parcel of approximately 536sqm and is situated within a court bowl fronting Kittyhawk Court and Roberts Road in Airport West.

2.3 The Land is currently not serviced by utilities and is described as a reserve on title.

3. Issues

3.1 A public notice was published in the Moonee Valley Leader on Wednesday 19 June 2019 and on Council’s website. Refer a copy of the notice in Attachment C.

3.2 Abutting property owners were also advised of the proposal and informed of their right to make a submission under section 223 of the Act.

3.3 One submission was received. Refer to the submission and officer comments in Attachment D.

3.4 A valuation of the Land was conducted on the 8 July 2019, see confidential Attachment E. Under section 189 of the Act, Council is required to obtain a valuation which is made not more than 6 months prior to the sale or exchange of the Land. An updated valuation will be required closer to the potential sale date.

3.5 A detailed assessment of the servicing requirements has been undertaken. At its ordinary meeting on 27 November 2018, Council noted $140,000 from the operating budget is required to service utilities to the Land if Council proceeds with the sale.

3.6 The Land is described as a reserve on the title and plan of subdivision. Prior to selling the Land, Council will make a section 24A application under the Subdivision Act 1988, removing the reserve status and in the process creating a lot.
3.7 Servicing of utilities and the removal of the reserve status is expected to take a minimum of six months to complete.

3.8 An impact assessment is attached as Attachment A.

Recommendation
That Council resolves to:

a. Dispose of 27 Kittyhawk Court, Airport West, being the land contained in certificate of title volume 10159 folio 668 (Land) by public auction or by private sale.

b. Authorise the Chief Executive Officer to prepare the Land for sale and execute all relevant contract and transfer documents on behalf of the Council.

c. Notify the party that made a submission under section 223 of the Local Government Act 1989 of Council’s decision to sell the Land.

d. Note that the proceeds of any sale will be allocated to Open Space Reserve fund in accordance with section 20 of Subdivision Act 1988.

Attachments
A: Impact Assessment
B: Plan (separately circulated)
C: Public Notice (separately circulated)
D: Submission (separately circulated)
E: Confidential Valuation (separately circulated) (confidential)
Impact assessment

1. Relationship to Council commitment MV2040 or Council Plan
   1.1 By Council proceeding with the sale of Land Council is working to achieve its Council Plan Theme 4: Green – Wunwarren, which means ‘green’ in Woi wurrung language, with the revenue received from the disposal of an underutilised space reinvested into open space.

2. Legislative obligations
   2.1 The statutory process for the sale of the Land has been undertaken in accordance with the requirements of the Act sections 189 and 223.
   2.2 Under section 189 of the Act, Council is required to obtain a valuation which is made not more than 6 months prior to the sale or exchange of the Land.
   2.3 Council has fulfilled its legislative requirements under the Act and can proceed with the proposed sale of Land.

3. Legal implications
   3.1 There are no direct legal implications in proceeding with the sale of Land.
   3.2 Council will engage its lawyers to prepare contract of sale documentation and manage the transfer of land process.

4. Risks
   4.1 No risks have been identified in the preparation of this report.

5. Social impact assessment
   5.1 There is no direct social impact in proceeding with the sale of Land.

6. Economic impact assessment
   6.1 Airport West’s median house price has been declining since quarter 3 2018, while the unit median price has remained stagnant since quarter 3 2018.

7. Environmental impact assessment
   7.1 The Land is currently underutilised by residents and without vegetation significance.
   7.2 Proceeds from the disposal of Land would be allocated into the Open Space Reserve fund and reinvested into more appropriate or existing open space.

8. Reputational impact assessment
   8.1 It is recommended that the Land is offered for sale by a transparent public auction process. If Council’s reserve is not met at auction, sale by private treaty would be considered.
9. Financial implications

9.1 In accordance with the Local Government Best Practices Guidelines for the Sale and Exchange of Land 2009, Council should ensure that land is offered for sale in a manner that will ensure the maximum price is achieved while protecting both the Council and public interest.

9.1.1 A Planning Scheme Amendment was completed in August 2017, to rezone the Land from PPRZ to R1Z.

9.1.2 The Land is described as a reserve on the title and plan of subdivision. Prior to selling the Land, Council will make a section 24A application under the Subdivision Act 1988, removing the reserve status and in the process creating a lot.

9.1.3 Utility servicing of the Land should occur prior to the disposal to maximise the saleability of the Land.

9.1.4 Approximately $140,000 would be required from the operating budget to service the Land.

9.2 Council will incur real estate agent’s fees including advertising and legal fees in proceeding with the sale of Land.

9.3 Council has obtained a valuation of the Land on the 8 July 2019, shown in Attachment E. An updated valuation will be required closer to the sale date, due to the timeframe required to service the Land. The updated valuation will also address possible disparity in market conditions.

9.4 The Land should not be sold for less than market value as assessed by Council’s appointed valuer.

9.5 GST will be payable on the sale of Land and included in the sale price.

9.6 As the Land was vested in Council as public open space by way of a subdivision, section 20 of the Subdivision Act 1988 requires that any proceeds from the sale go to Open Space Reserve fund.

10. Sensitivity / scenario analysis

10.1 Not applicable.

11. Conflict of interest declaration

11.1 No officer involved in the preparation of this report has any direct or indirect interest in this matter or the decision.

12. Consultation undertaken or planned

12.1 Under sections 189 and 223 of the Act Council has met legislative requirements by publishing a public notice of its intention to sell the Land and undergoing the submission process.

12.1.1 A public notice was published in the Moonee Valley Leader on Wednesday 19 June 2019 and on Council’s website. Refer to a copy of the notice in Attachment C.
12.1.2 28 properties were also advised of the proposal in writing and informed of their right to make a submission under section 223 of the Act.

12.1.3 The submission period closed on 17 July 2019. One Submission was received refer to Attachment D. The submission was in support of the sale, however raised concerns around noise, traffic congestion and parking should the Land be developed in future.

12.2 Consultation to determine the Land is surplus to Councils requirements and consider the submission was conducted with necessary Council departments.

12.3 Further consultation with abutting owners and/or occupants might be required if the connection of services was likely to cause disruption or inconvenience in any way to owners and/or occupants.
10.6 Mayoral Attendance at Wellbeing Cities Forum

Author: Kate McCaughey - Manager Community Planning
Directorate: Planning and Development

1. Purpose

1.1 The purpose of this report is for Council to receive a report from the Mayor Cr Narelle Sharpe on her attendance at the Wellbeing Cities Forum, which includes attendance at the award ceremony in Montreal, Canada in June 2019.

2. Background

2.1 At the ordinary meeting of Council on Tuesday 9 April 2019, Council endorsed Mayor Cr Narelle Sharpe, to attend the Wellbeing Cities Forum (Forum) in Canada in mid-June 2019. Meetings with other cities including Victoria, Montreal, Gothenburg, New Haven and Toronto were conducted during the period both within and outside of the Forum.

2.2 In 2018, the NewCities Foundation launched a new award (the first international award of its kind) to recognise and raise the profile of cities placing their citizens’ wellbeing in the heart of their design. The Wellbeing City Award (Award) is given to an overall Wellbeing City Laureate nominee. In addition the Award includes four sub categories: Community; Economy and Opportunity; Public Health; and Sustainable Environment. Moonee Valley City Council was one of only 16 cities around the world who were shortlisted as an Award finalist. Moonee Valley was nominated under the Sustainable Environment category, being shortlisted for our Urban Forest initiative.

2.3 Moonee Valley City Council’s initiative ‘Enhancing our Urban Forest’ was selected amongst a total of 94 initiatives by 45 cities, across 28 countries and six continents. Only 16 cities across the world were shortlisted, with four cities per category. Moonee Valley was the only Australian city to be shortlisted.

2.4 Our application highlighted MV2040 as a bold and transformative approach to achieving a shared vision of a healthy city. The application included a focus on our commitment to increasing tree canopy for the wellbeing of our community and ecosystems. It outlined how the use of innovative spatial mapping and data analysis techniques will assist us to quantify and monitor changes in order to increase and enhance our urban forest.

2.5 The NewCities Foundation is a global non-profit foundation committed to shaping a better and more sustainable urban future; through both events and research. The international Wellbeing Award and annual Forum is designed to showcase and bring global communities together to showcase best practice examples from around the world and foster a global dialogue about cutting-edge knowledge on the world’s most pressing urban issues.
2.6 Under the Councillor Expenses and Reimbursement Policy, a Councillor who is approved to attend an interstate (and applied to overseas travel) events must provide a written report for Council by the third Council Meeting after their return from travel outlining:

2.6.1 Purpose of conference, seminar, event or study tour
2.6.2 Learning outcomes
2.6.3 Applicable benefits to Council
2.6.4 Issues for consideration of Council or Councillors
2.6.5 Conclusion and recommendations.

3. Issues

3.1 The Wellbeing Cities Forum was held in partnership with the City of Montréal from June 19 to 20 in Montréal, Canada (with activities for finalist cities on the 18 June). The Forum and Award Ceremony attracted more than 250 leaders, researchers, governments, businesses from around the world. The Forum’s purpose is to explore best practices in city-led action to improve citizen wellbeing through workshops, panels, and debates.

3.2 A summary of Forum highlights, key learning outcomes and issues for consideration can be found in Attachment A (separately circulated). These learnings and best practice examples are timely and will be useful references as Council prepares its Fair, Thriving, Green, Connected and Beautiful Action Plans moving forward.

3.3 Milan, Italy was selected as the 2019 Wellbeing City across all categories for their innovative Civic Crowdfunding project. The other category laureates included:

3.3.1 Community: Santa Monica, USA for their Wellbeing Index
3.3.2 Economy and Opportunity: Pune, India for their Lighthouse project
3.3.3 Public Health: Kigali, Rwanda for their Kigali Car Free Day
3.3.4 Sustainable Environment: Lisbon, Portugal for their Sustainable Environmental Strategy.

3.4 Moonee Valley was honoured in the formal ceremony for the 2019 Wellbeing City Award laureates and finalists on 19 June. This ceremony was followed by a private meeting hosted by the Mayor of Montréal, the Hon Valérie Plante and the female mayors and deputy mayors attending the Forum including Cr Narelle Sharpe, Mayor Moonee Valley, Cr Lisa Helps, Mayor Victoria (Canada), Cr Gleam Davis, Mayor Santa Monica (USA), and Cr Nina Miskovsky, Deputy Mayor Gothenberg (Sweden).

3.5 Moonee Valley’s Mayor, Cr Narelle Sharpe was invited to present as part of two panel discussion sessions during the Forum titled:

3.5.1 Incentivising Better Lifestyles in our Cities; and
3.5.2 Town Hall: Building Happy Cities.
3.6 Presentations and briefing materials were prepared to support the Mayor Cr Sharpe in her role as a Forum presenter (which highlighted Moonee Valley’s Urban Forest and other relevant initiatives). This supporting presentation material can be found in Attachments B and C (separately circulated). In addition to this material, Cr Sharpe also used other examples to highlight Moonee Valley’s work in sustainability and community development; including our support for beekeeping and Boomerang Bags, which were very well received by Forum delegates.

Recommendation
That Council resolves to receive and note the report from the Mayor Cr Narelle Sharpe, on her attendance at the Wellbeing Cities Forum in Canada in mid-June 2019.

Attachments
A: Wellbeing Cities Forum - Mayor report July 2019 (separately circulated)
B: Wellbeing Cities Forum - Enhancing our Urban Forest (separately circulated)
C: Wellbeing Cities Forum - Happy Cities and Town Hall session, 20 June 2019 (separately circulated)
D: Wellbeing Ceremony Briefing Notes August 2019 (separately circulated)
10.8 Revision to the grading of 15 Clarence Street Flemington in Amendments C200moon and C201moon

Author: Christina Collia - Strategic Planner
Directorate: Planning and Development

1. Purpose

1.1 To request the grading of 15 Clarence Street, Flemington in proposed HO461 be revised to non-contributory in Amendments C200moon and C201moon, which respectively propose to apply the Heritage Overlay on a permanent and interim basis to properties identified in the Moonee Valley 2017 Heritage Study.

2. Background

2.1 Heritage Gap Study and 2017 Heritage Study

2.1.1 On 25 November 2015, Council adopted the Heritage Gap Study 2014. The Gap Study identifies potential gaps in Moonee Valley’s heritage overlays and outlines a prioritised work program and structure to undertake future heritage studies.

2.1.2 On 13 June 2017, Council resolved to commence the Moonee Valley 2017 Heritage Study. The study focuses on interwar, Victorian and Edwardian places and precincts and extensions to existing Heritage Overlay precincts as recommended in the Heritage Gap Study.

2.1.3 The Moonee Valley 2017 Heritage Study recommends the application of the heritage overlay to 60 individual places, 18 precincts, one serial listing and nine precinct extensions (Attachment B).

2.1.4 On 12 March 2019, Council resolved to adopt the Moonee Valley 2017 Heritage Study and request a ministerial amendment under section 20(4) of the Planning and Environment Act 1987, to apply the interim Heritage Overlay to 60 individual places, 18 precincts, one serial listing and nine precinct extensions (Amendment C201moon).

2.1.5 Amendments C200moon (permanent controls) and C201moon (interim controls) were then formally submitted to the Minister for Planning on 21 March 2019.

2.1.6 The ‘Clarence Street and Marshall Street’ precinct (HO461) proposes the inclusion of 15 Clarence Street (the subject of this report) as contributory to the significance of the precinct (not as an individually significant property).

2.2 Planning permit application – 15 Clarence Street, Flemington

2.2.1 On 3 January 2018, Council received planning permit application MV/12/2018 for the construction of a dwelling on a lot less than 300 square metres and a reduction in car parking requirements at 15 Clarence Street, Flemington. The proposal included the full
demolition of the existing dwelling to accommodate the construction of the new dwelling. A previous planning permit application for the same proposal (MV/513/2017) lapsed on 27 November 2017 due to a failure by the applicant to respond to a request for further information by the specified lapse date.

2.2.2 The permit applicant made considerable effort to address Council’s requirements and the concerns of objectors throughout the planning application process.

2.2.3 As the property is identified in the Heritage Gap Study, the planning permit application was assessed against the threshold criteria adopted by Council on 26 May 2015 for seeking to apply interim heritage controls for buildings under threat of demolition (refer to Attachment C), where no completed Stage 2 heritage study exists.

2.2.4 The assessment established the dwelling is not a significant or landmark building, is not in good condition and is already reasonably well represented in the Heritage Overlay (Threshold Criteria 1, 2 and 3). Under the threshold criteria (refer to Attachment C) it is not possible to seek interim heritage protection on a property which does not meet all of criteria 1-3.

2.2.5 The property was therefore not deemed to meet the threshold for requesting interim heritage controls at the time and Heritage Adviser consent to the planning permit application was granted on 29 August 2018, subject to conditions relating to colour and material selections for the proposed dwelling façade and roof.

2.2.6 The planning permit application was approved at the Ordinary Council Meeting held on 26 February 2019 (prior to the resolution of 12 March 2019 to endorse the Moonee Valley 2017 Heritage Study) and a Notice of Decision to grant the planning permit was sent to the applicant and objectors shortly after on 4 March 2019. There were no appeals lodged with the Tribunal by either the permit applicant or objectors and as such the planning permit was issued on 8 April 2019 in accordance with Section 54(3)(a) of the Planning and Environment Act 1987.
Figure 1 - 15 Clarence Street, Flemington to left of image

Figure 2 - Depiction of approval Council granted 26 February 2019 which is sympathetic to the character of the area

3. Issues

3.1 On 18 July 2019 Council received a request for demolition of the existing dwelling (285/2019/DEMO1), in order to act on the issued planning permit.

3.2 Given a request for interim heritage controls was submitted to the Minister for Planning on 21 March 2019 (Amendment C201moon), Council officers issued a suspension notice on 22 July 2019 as per the requirements of the Building Act 1993. It is not possible to issue consent to demolition of a
contributory building where a decision on an interim heritage control request is pending.

3.3 Given the timing of the original Notice of Decision predating the endorsement of the *Moonee Valley 2017 Heritage Study*, it is considered appropriate to revise the grading of the building to non-contributory to precinct HO461 in order to allow the applicant to demolish the existing dwelling in accordance with planning permit MV12/2018.

3.4 The applicant has advised Council extensive preparations have been made to obtain endorsed planning drawings and to commence building works, including the appointment of a Building Surveyor and lodgement of the Section 29(A) Demolition Consent application.

3.5 At the time amendments C200moon (permanent controls) and C201moon (interim controls) were formally submitted to the Minister for Planning, Council had no way of knowing if and when the permit applicant intended to act on the recently granted planning permit, noting in some instances permits are never acted upon. Therefore rendering amending the heritage grading at that time inappropriate.

3.6 The issues discussed above represent a relatively unique set of circumstances regarding demolition and interim heritage controls, complicated by the timing of both processes.

3.7 Council has often experienced significant delays from DELWP in the issuing of interim heritage protection requests (for example, 89 Glass Street, Essendon; 66 Buckley Street, Essendon; and 5 Alma Street, Aberfeldie).

3.8 It should also be noted that Council has previously received advice from DELWP stipulating that interim Heritage Overlay requests are generally not supported where there is a live planning permit (for example, the refusal of interim controls for 16A Leonard Crescent, Ascot Vale).

3.9 Council officers have discussed the circumstances with officers from DELWP and Heritage Victoria who have confirmed it is at Council’s discretion to amend the grading of the property in the proposed planning scheme amendments (noting the approval of the planning permit having taken place prior to adoption to the heritage study). DELWP are not able to provide any indication of when the interim heritage controls may or may not be approved (submitted by Council officers on 21 March 2019).

3.10 The *City of Moonee Valley Permit Exemptions Policy – Heritage Overlay Precincts – February 2017*, which is incorporated within the Moonee Valley Planning Scheme, exempts the demolition of a non-contributory heritage place from requiring a planning permit. The permit exemptions policy does not apply to extension works to a non-contributory dwelling that are higher than the existing building or have reduced front or side setbacks than those of the existing dwelling. Similarly, the construction of a new dwelling at a non-contributory heritage place is not subject to exemptions listed in the policy. It is proposed under Amendment C200moon to include the HO461 precinct (and others) in an updated version of the incorporated permit exemptions policy.
3.11 Given Council’s previous decision to grant a planning permit for the construction of a new dwelling at 15 Clarence Street, Council officers consider it appropriate to request the grading of 15 Clarence Street in proposed HO461 be revised to non-contributory under Amendments C200moon and C201moon and grant consent to the currently suspended demolition request (refer to Attachment A).

3.12 In this way, the land owner/permit applicant can act on the granted planning permit and the property will be subject to future heritage controls as appropriate under the updated permit exemptions policy.

Recommendation

That Council:

a. Considers the specific circumstances outlined in this report pertaining to 15 Clarence Street, Flemington.

b. Requests the CEO to write to the Minister for Planning to request the grading of 15 Clarence Street, Flemington in proposed HO461 be revised to non-contributory in the previously requested Ministerial Amendment, Amendment C201moon, to the Moonee Valley Planning Scheme under Section 20(4) of the Planning and Environment Act 1987, which proposes to apply an interim Heritage Overlay to various heritage places within the City of Moonee Valley.

c. Authorises officers to request the grading of 15 Clarence Street, Flemington in proposed HO461 be revised to non-contributory in Council’s previous request for Authorisation to prepare Amendment C200moon to the Moonee Valley Planning Scheme, which would apply permanent heritage controls to the property and various other heritage places within the City of Moonee Valley.

d. Notifies the owner of 15 Clarence Street, Flemington of Council’s requests to revise the grading of the property under proposed Amendments C200moon and C201moon.

e. Authorises officers to issue consent to demolish the dwelling at 15 Clarence Street, Flemington in accordance with Section 29(A) of the Building Act 1993, enabling the property owners to enact their current planning permit MV/12/2018.

Attachments

A: Impact Assessment - Revision of grading of 15 Clarence Street Flemington in C200moon and C201moon
B: Moonee Valley 2017 Heritage Study Vol 1 Precincts and Precinct Extensions - Feb 2019 (separately circulated)
C: Process and threshold criteria for consideration of demolition requests and planning applications where property is in Heritage Gap Study (separately circulated)
Impact assessment

1. Relationship to Council commitment MV2040 or Council Plan
   1.1. Revising the grading of 15 Clarence Street, Flemington in proposed Amendments C200moon and C201moon achieves Council Plan objective 1.5 pursuant to the theme Fair QEENETE BOORDUP and MV2040 Strategic Direction 8.2.

2. Legislative obligations
   2.1. This item relates to Council’s obligations under the Planning and Environment Act 1987. The proposed changes to Amendments C200moon and C201moon have been discussed with DELWP who have advised Council has discretion to revise the grading of the property within the amendments. There are no human rights implications as a result of this report.

3. Legal implications
   3.1. The revised grading of 15 Clarence Street, Flemington is unlikely to result in legal implications.

4. Risks
   4.1. The risk rating for the proposal is High (10). The measure of consequence (Reputational) is assessed as minor and the measure of likelihood is almost certain.

5. Social impact assessment
   5.1. There are no social impacts as a result of this report.

6. Economic impact assessment
   6.1. Revising the grading of the property recognises the specific circumstances of the matter and gives due regard to the economic impacts pursuing heritage controls would have in this particular instance.

7. Environmental impact assessment
   7.1. There are no environmental impacts as a result of this report.

8. Reputational impact assessment
   8.1. Revising the grading of the property in Amendments C200moon and C201moon may be viewed by some members of the community as contrary to the Moonee Valley Heritage Study 2017 findings. However, the inclusion of the property as contributory to precinct HO461 in the amendments may also be viewed by the property owner and adjoining and surrounding residents as contrary to Council’s decision to approve planning permit application MV/12/2018.
9. Financial implications

9.1. There are no financial implications as a result of this report.

10. Sensitivity / scenario analysis

10.1. Council will honour existing planning and building permits that are affected by the Moonee Valley Heritage Study 2017 and corresponding amendments C200moon and C201moon. Given a valid planning permit exists for the construction of a replacement dwelling, it is considered reasonable to grant consent to the demolition in light of the circumstances outlined in the report.

11. Conflict of interest declaration

11.1. No officer involved in the preparation of this report has any direct or indirect interest in this matter or the decision.

12. Consultation undertaken or planned

12.1. The property owner will be notified of Council’s requests to revise the grading of 15 Clarence Street, Flemington in proposed Amendments C200moon and C201moon.
10.8 Return of the 2019 General Revaluation

Author: Damian Hogan - Manager Finance
Directorate: Organisational Performance

1. Purpose
1.1 Council’s valuers have returned the 2019 General Valuation of all properties in the City of Moonee Valley in accordance with the statutory requirements and under the auspices of the Valuer-General Victoria.

2. Background
2.1 Municipal property valuations have moved from being undertaken once every two years to every year. By undertaking annual valuations property values used to calculate council rates will be current, ensuring ratepayers’ notices reflect the value of their landholdings.

2.2 In accordance with Section 13DC(3) of the Valuation of Land Act 1960, a general revaluation of all properties within the City of Moonee Valley is required to be performed as at 1 January 2019.

2.3 All data and valuations must be provided to Council in a format outlined in Section 7 of the Valuation of Land (General and Supplementary Valuations) Regulations 2003, and contain information listed within Form 2 Schedule 1 of this Valuation of Land Act 1960 (refer Attachment A).

3. Issues
3.1 The table provided in Attachment B indicates the movement of rateable property valuations since the last general revaluation, which was adopted by Council in July 2018.

3.2 The general revaluation provides capital improved value, site value and the net annual value valuation data as at 1 January 2019. Council uses the capital improved value as the basis of valuation for the levying of rates and charges.

3.3 The movement between 2018 and 2019 demonstrates a decrease in the capital improved value of rateable property of 6.31 per cent compared to a 27.14 per cent increase in the previous revaluation period of 2018.

3.4 Council does not generate more revenue when property values increase or less revenue when property values decrease. The movement in property valuations helps determine how much a property will be charged.

3.5 The rate cap for 2019/20 is 2.50 per cent and applies to the overall rate revenue collected by all properties, not individual properties so in some cases, ratepayers will find their rate notice has changed by more or less than 2.50 per cent from the previous year. This is due to the valuation of a property relative to the valuation of other properties in the municipality. So if the value of a property increased by a greater percentage than others it pays a larger percentage of the combined rates total. If the value of a property increased by a lessor percentage than other properties, it pays a smaller percentage of the combined rates total.
Recommendation

That Council resolves to adopt the return of the 2019 General Revaluation of all properties within the municipality.

Attachments

A: 2019 General Valuation Report Form 2 (separately circulated)
B: General Revaluation 2019 (separately circulated)
10.9 Notices of Motion Quarterly Report

Author: Rosie Ferreira - Governance Officer
Directorate: Organisational Performance

1. Purpose

1.1 This report provides an update on the status of Notices of Motion that have been endorsed by Council since 1 May 2019.

1.2 This report also presents correspondence sent to Members of Parliament and Federal and State Government agencies that has resulted from a Notice of Motion for the same period.

2. Background

2.1 Notices of Motion can be used by Councillors to request action in relation to a specific matter or issue. Notices of Motion must be moved, seconded and adopted in the same manner as other motions that are presented to Council for resolution.

2.2 Pursuant to Council’s Meeting Procedure Protocol, it is a requirement for Notices of Motion to be lodged with the Chief Executive Officer at least five days prior to the meeting at which they are intended to be moved. In the event that a Councillor who has raised a particular Notice of Motion is absent from the meeting, it can be moved by any other Councillor.

2.3 From 1 May 2019 to 9 July 2019, there have been three Notices of Motion requesting Council write to a Member of Parliament or government agency.

3. Issues

3.1 Between 10 November 2016 and 9 July 2019, Council endorsed 67 Notices of Motion presented by Councillors. Of these 67 Notices of Motion, 58 have now been successfully completed (87 per cent), while nine are in progress. Attachment A provides details of Notice of Motion for the current council term which are either in progress or require ongoing action.

3.2 For the period 1 May 2019 to 9 July 2019 there have been three Notices of Motion requesting that Council write to a Member of Parliament or Government agency.

3.2.1 Correspondence relating to Notice of Motion no.2019/14 – Newmarket Bridge, from 14 May 2019 Ordinary Meeting of Council is included with this report as Attachment B.

3.2.2 Correspondence relating to Notice of Motion no.2019/15 – Sharing shed and library of things from 28 May 2019 Ordinary Meeting of Council is included with this report as Attachment C.

3.2.3 Correspondence relating to Notice of Motion no.2019/17 – Flemington Hub, from 25 June 2019 Ordinary Meeting of Council is included with this report as Attachment D.
Recommendation

That Council resolves to receive and note the report on the endorsed Notices of Motion that are currently in progress or ongoing, for the period 10 November 2016 to 9 July 2019.

Attachments

A: Notices of Motion - open and ongoing report (separately circulated)
B: Correspondence for Notice of Motion 2019/14 - Newmarket Bridge (separately circulated)
C: Correspondence for Notice of Motion 2019/15-Sharing shed and library of things (separately circulated)
D: Correspondence for Notice of Motion 2019/17 - Flemington Hub (separately circulated)
NOTICES OF MOTION

11.1 Notice of Motion No. 21 - Managing CEO Employment

From: Councillor Nicole Marshall

Take notice that at the Ordinary Meeting of Council to be held on 13 August 2019, it is my intention to move:

That Council resolves to:

1. Receive a report at a 2019 Ordinary Council meeting detailing:
   a) How Council’s existing practices compare with the recommendations and issues raised in the Local Government Inspectorate report “Protecting integrity: Leading the way, Managing the employment cycle of a council CEO” dated February 2019; and
   b) Where Council is not engaged in best practice or compliance with the recommendations, proposals to address those deficiencies.

2. A draft document for consideration setting out a clear process for dealing with complaints relating to a CEO of the Council, the policy to consider all relevant issues including:
   a) Ensuring all parties to a complaint have procedural fairness;
   b) Obligations under any applicable legislation, policies or contract;
   c) How to ensure all councillors have appropriate access to information relevant to the complaint and its management, including legal advice (and the ability to request councillors be briefed by legal advisers) and measures to ensure that information remains confidential;
   d) The role of the CEO Performance Review Special Committee in the management of any complaint.