



# City of Whitehorse

## MINUTES

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### Ordinary Council Meeting

Held in the  
Council Chamber  
Whitehorse Civic Centre

379 Whitehorse Road Nunawading  
on

**Monday 16 September 2019**

at 7:00pm

**Members:** Cr Bill Bennett (Mayor), Cr Blair Barker, Cr Raylene Carr,  
Cr Prue Cutts, Cr Andrew Davenport, Cr Sharon Ellis, Cr Tina Liu,  
Cr Denise Massoud, Cr Andrew Munroe, Cr Ben Stennett

**Mr Simon McMillan**  
Chief Executive Officer

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Meeting opened at 7.00pm

Present: Cr Bennett (Mayor), Cr Barker, Cr Carr, Cr Cutts, Cr Davenport  
Cr Ellis, Cr Liu, Cr Massoud, Cr Munroe

## **1 PRAYER**

### **1a Prayer for Council**

*We give thanks, O God, for the Men and Women of the past whose generous devotion to the common good has been the making of our City.*

*Grant that our own generation may build worthily on the foundations they have laid.*

*Direct our minds that all we plan and determine, is for the wellbeing of our City.*

***Amen.***

### **1b Aboriginal Reconciliation Statement**

*"In the spirit of reconciliation Whitehorse City Council acknowledges the Wurundjeri people as the traditional custodians of the land we are meeting on. We pay our respects to their Elders past and present."*

## **2 WELCOME AND APOLOGIES**

The Mayor welcomed all

APOLOGIES:

Cr Stennett has sought a leave of absence for tonight's Ordinary Council Meeting 16 September 2019.

### **RECOMMENDATION**

Moved by Cr Cutts, Seconded by Cr Ellis

***That the apology for Cr Stennett be received and leave of absence be granted for tonight's Ordinary Council Meeting 16 September 2019.***

**CARRIED UNANIMOUSLY**

## **3 DISCLOSURE OF CONFLICT OF INTERESTS**

None disclosed

## **4 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**

Minutes of the Ordinary Council Meeting 26 August 2019 and Confidential Ordinary Council Meeting 26 August 2019

### **COUNCIL RESOLUTION**

Moved by Cr Munroe, Seconded by Cr Liu

*That the minutes of the Ordinary Council Meeting 26 August 2019 and Confidential Ordinary Council Meeting 26 August 2019 having been circulated now be confirmed.*

**CARRIED UNANIMOUSLY**

## **5 RESPONSES TO QUESTIONS**

### **5.1 Ms D Kopecek, Box Hill North submitted two questions relating to Amendment C219**

The Chief Executive Officer Simon McMillan responded to Ms Kopecek and advised that a written response will be provided.

### **5.2 Ms A Salmon, Mitcham submitted two questions relating to the Nunawading Mega Mile review and the town planning meeting process**

The Chief Executive Officer Simon McMillan responded to Ms Salmon's questions.

## **6 NOTICES OF MOTION**

### **6.1 Notice of Motion No 124: Cr Stennett**

*That Council allow the Mitcham Sporting Clubs operating at Walker Park to extend the liquor licence in their temporary marquee to 10:30pm on a Friday, Saturday and Sunday evening.*

**LAPSED**

### **6.2 Notice of Motion No 125: Cr Stennett**

#### **COUNCIL RESOLUTION**

Moved by Cr Davenport

*That Council:*

- 1. Note a signalised pedestrian crossing has been constructed across Springvale Road Nunawading at the Nunawading Station*
- 2. Write to VicRoads, thanking them for constructing this crossing, as part of the Box Hill to Ringwood Shared Path, however also express its concerns to VicRoads about the number of pedestrian crossings and distance between them*
- 3. Request VicRoads undertake a review of the signalised crossings on Springvale Road Nunawading between Central Road and Whitehorse Road, considering the possibility of removing the pedestrian crossing at the Nunawading Post Office.*

**LAPSED for want of a Seconder**

## **7 PETITIONS**

### **7.1 Parking Restriction Changes to Eram Road, First Avenue and Cherry Orchard Rise, Box Hill North**

A petition signed by 29 signatories has been received requesting Council to change parking restrictions in Eram Road, First Avenue and Cherry Orchard Rise Box Hill North.

#### **COUNCIL RESOLUTION**

Moved by Cr Barker, Seconded by Cr Liu

***That the petition be received and referred to the General Manager City Development for appropriate action and response.***

**CARRIED UNANIMOUSLY**

## **8 URGENT BUSINESS**

None.

## **9 COUNCIL REPORTS**

### **9.1 CITY DEVELOPMENT**

#### **Statutory Planning**

#### **9.1.1 408 & 410 Burwood Highway, Vermont South (Lot 3 & 4 LP 84340) Buildings and works for the construction of a five storey apartment building for two or more dwellings, and associated tree removal**

FILE NUMBER: WH/2018/1270  
ATTACHMENT

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#### **SUMMARY**

*This application was advertised on 20 March 2019, and 1 objection was received. The objection raised issues with traffic, noise, and tree impacts (impacts to landscape and habitat). A Consultation Forum was not required due to the number of objections received. This application was called-in to Council for a decision by the Ward Councillors.*

*This report assesses the application against the relevant provisions of the Whitehorse Planning Scheme, as well as the objector concerns. It is recommended that the application be supported, subject to conditions.*

#### **RECOMMENDATION**

##### ***That Council:***

- A. *Being the Responsible Authority, having caused Application WH/2018/1270 at 408 and 410 Burwood Highway, Vermont South (Lot 3 and 4 LP 84340), to be advertised and having received and noted the objection is of the opinion that the granting of the current Planning Permit for Buildings and works for the construction of a five storey apartment building, and associated tree removal, is acceptable and should not unreasonably impact the amenity of adjacent properties.***
- B. *Issue a Notice of Decision to Grant a Permit under the Whitehorse Planning Scheme to the land described as 408 and 410 Burwood Highway, VERMONT SOUTH (LOT 3 and 4 LP 84340) which allows the 'Buildings and works for the Construction of a five storey apartment building, and associated tree removal, subject to the following conditions:***
  - 1. *Before the development starts, or vegetation removed, amended plans shall be submitted to and approved by the Responsible Authority in a digital format. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn scale, and be generally in accordance with the without prejudice plans dated July 2019, referenced as '180117', drawn by Clarke Hopkins, submitted with the application but modified to show:***
    - a) *The maximum building height reduced to 13.5 metres across the site, and otherwise reduced to 14.5 metres when the land slopes greater than 2.5 degrees***
    - b) *The yellow colour tone for the north-western corner of the approved building (affects the front and eastern side elevations in part), muted to alleviate the visual dominance of the building to boundary interfaces.***
    - c) *Side facing snorkel windows for dwellings 1.01, 1.05, 2.01 and 2.05, with a depth not exceeding 1.5 metres.***

**9.1.1**  
(cont)

- d) Dwelling G01 with the following modifications:**
    - i. The living area and front bedrooms on the ground floor reversed.**
    - ii. A suitably dimensioned entry foyer provided east of the reversed living area, extending up to the front-facing window of the reversed front bedroom.**
    - iii. The main entry doorway, compliant with Standards D9 and D18 of Clause 58, re-orientated to face eastwards of the entry foyer required by Condition 1d)(ii).**
    - iv. A pathway from the modified front entry required by Condition 1d)(iii), running along the front building wall of the reversed front bedroom, then heading north to the front boundary. The front boundary fence must be modified to delineate the front private open space area from the pathway, along with a graduated height reduction to 1.2 metres. Any changes to the planter box, landscaping, front gate, and current pathway alignment are included as part of this condition.**
    - v. Noise attenuation measures provided for the eastern building wall and rear entry door interfacing with the carpark.**
    - vi. Appropriate ventilation measures ensuring that any vehicular fumes do not enter into the floor space of this dwelling.**
  - e) The locations of Tree Protection Zones as described in Condition 5, with all nominated trees clearly identified and numbered on both site and landscape plans, and the requirements of conditions 4 and 5 to be annotated on the development and landscape plans.**
  - f) A Construction Management Plan in accordance with Condition 11.**
  - g) Notation that all treatments to prevent overlooking must not include 'Translucent film' on windows and must be in accordance with Standard B22 of Clause 55.**
  - h) The landscape plan updated to:**
    - i. Include a 6 month maintenance plan.**
    - ii. Include a maintenance schedule of how all plants, including planter boxes will be maintained.**
    - iii. Accommodate reflect all relevant Condition 1 requirements.**
  - i) An updated Sustainability Management Plan in accordance with Condition 7.**
  - j) Development plans to reflect all sustainability features indicated in the Sustainability Management Plan required by Condition 7**
  - k) The Waste Management Plan as required by Condition 12, revised to include the following additional detail:**
    - i. A plan to confirm a nominated vehicle position to carry out bin collection in the accessway.**
    - ii. Written confirmation that collection must take place during nominated time brackets outside peak periods, to the satisfaction of the Responsible Authority.**
- 2. The layout of the site and the size, design and location of the buildings and works permitted must always accord with the endorsed plan and must not be altered or modified without the further written consent of the Responsible Authority.**



**9.1.1**  
(cont)

**Landscaping and Tree Protection**

3. *Unless with the prior written consent, all tree planting and landscaping works as shown on the endorsed plans must be completed prior to the occupation of the development to the satisfaction of the Responsible Authority.*
4. *The garden areas shown on the endorsed plan must only be used as gardens and must be maintained in a proper, tidy and healthy condition to the satisfaction of the Responsible Authority. Should any tree or shrub be removed or destroyed it may be required to be replaced by a tree or shrub of similar size and variety.*
5. *Prior to commencement of any building or demolition works on the land, a Tree Protection Zones (TPZs) must be established on the subject site (and nature strip if required) and maintained during, and until completion of, all buildings and works including landscaping, around the following trees in accordance with the distances and measures specified below, to the satisfaction of the Responsible Authority:*
  - a) *Tree Protection Zone distances:*
    - i. *Tree 1 – Chamaecyparis lawsoniana – 3.4 metres radius.*
    - ii. *Tree 6 – Prunus cerasifera – 6.48 metres radius.*
    - iii. *Tree 7 – Viburnum tinus – 2.0 metres radius.*
    - iv. *Tree 8 – Prunus cerasifera – 5.88 metres radius.*
    - v. *Tree 9 – Cotoneaster glaucophylla – 2 metres radius.*
    - vi. *Tree 10 – Cotoneaster glaucophylla – 4.2 metres radius.*
    - vii. *Tree 11 – Photinia x fraseri – 4.56 metres radius.*
    - viii. *Tree 12 – Waterhousia floribunda – 2.0 metres radius.*
    - ix. *Tree 14 (in part) – Chamaecyparis lawsoniana – 2.76 metres radius.*
    - x. *Tree 18 – Picea abies – 3.24 metres radius.*
  - b) *Tree Protection Zone measures are to be established in accordance with Australian Standard 4970-2009 and are to include the following:*
    - i. *Erection of solid chain mesh or similar type fencing at a minimum height of 1.8 metres in height held in place with concrete feet.*
    - ii. *Signage placed around the outer edge of perimeter the fencing identifying the area as a TPZ. The signage should be visible from within the development, with the lettering complying with AS 1319.*
    - iii. *Mulch across the surface of the TPZ to a depth of 100mm and undertake supplementary provide watering/irrigation within the TPZ, prior and during any works performed.*
    - iv. *No excavation, constructions works or activities, grade changes, surface treatments or storage of materials of any kind are permitted within the TPZ unless otherwise approved within this permit or further approved in writing by the Responsible Authority.*
    - v. *All supports and bracing should be outside the TPZ and any excavation for supports or bracing should avoid damaging roots where possible.*
    - vi. *No trenching is allowed within the TPZ for the installation of utility services unless tree sensitive installation methods such as boring have been approved by the Responsible Authority.*
    - vii. *Where construction is approved within the TPZ, fencing and mulching should be placed at the outer point of the construction area.*

**9.1.1**  
(cont)

- viii. *Where there are approved works within the TPZ, it may only be reduced to the required amount by an authorized person only during approved construction within the TPZ, and must be restored in accordance with the above requirements at all other times.*

**Boundary Wall**

6. *Prior to the occupation of the development, all boundary walls must be constructed, cleaned and finished to the satisfaction of the Responsible Authority.*

**Sustainability Management Design**

7. *Prior to the commencement of any buildings or demolition works, an amended Sustainability Management Plan (SMP) must be submitted to an approved by the Responsible Authority. This SMP must be generally in accordance with the SMP submitted with the application but amended to include the following changes:*
- a) *A STORM Rating Report with a score of at least 100% or equivalent demonstrating that rainwater tanks are sized accordingly to ensure reliability/efficiency whilst minimising potential overflow.*
  - b) *A complete, published BESS Report, with an acceptable overall score that exceeds 50% and exceed the 'pass' marks in the categories of Water, Energy Stormwater and Indoor Environment Quality (IEQ).*
  - c) *Provide Preliminary NatHERS Assessments for 20% of the total amount of dwellings a part of the development. Ensure that the energy efficiency provisions of the Apartment Design Guidelines for Victoria 2017 are satisfied.*
  - d) *Provide glazing specifications including SHGC, VLT and U-values and ensure that such values are consistent with Preliminary NatHERS and energy efficiency specifications, as well as, Development Plans.*
  - e) *Control car park ventilation with CO sensors.*
  - f) *Control car park lighting (at least 75% of lighting fixtures) with motion sensors.*
  - g) *Commit to controlling all external, common, service and lift area lighting with sensors/timers.*
  - h) *Commit to controlling common, service and lift area ventilation with sensors/timers.*
  - i) *Commit to the inclusion of energy efficient heating, cooling and hot water systems indicating the associated COP and EER values and/or star ratings.*
  - j) *Commit to the inclusion of water efficient fixtures and appliances indicating the associated WELS ratings.*
  - k) *Connect the rainwater tanks to all toilet flushing systems.*
  - l) *Commit to diverting at least 80% of construction/demolition waste from landfill.*
  - m) *Submit a water balance calculation justifying the rainwater tank capacity, based on long-term average rainfall data, collection areas and expected end uses, which is in compliance with AS/NZS 6400:2016 of 1 full- and 4 half-flushes per person per day (providing 17.5 L/person/day for a 4 star WELS rated toilet). A rainwater tank size should be selected based on calculations, ensuring adequate reliability of supply is maintained with respect to managing potential overflow and considering the development's potable water demand. The rainwater tank should cater for all toilet flushing systems and service irrigative areas.*

### **9.1.1** (cont)

*Once submitted and approved to the satisfaction of the Responsible Authority, the SMP will form part of the endorsed plans under this permit.*

- 8. All works must be undertaken in accordance with the endorsed SMP to the satisfaction of the Responsible Authority, and the approved dwellings must operate in accordance with this Plan, to the satisfaction of the Responsible Authority. No alterations to the Reports may occur without the written consent of the Responsible Authority.**

#### **Building Services**

- 9. All building plant and equipment on the roofs, balcony areas, common areas, and public thoroughfares is to be concealed to the satisfaction of the Responsible Authority. Noise emitting plant equipment such as air conditioners, must be shielded with acoustic screening to prevent the transmission of noise having detrimental amenity impacts. The construction of any additional plant, machinery or other equipment, including but not limited to all service structures, down pipes, aerials, satellite dishes, telecommunication facilities, air-conditioners, equipment, ducts, flues, all exhausts including car parking and communication equipment must include appropriate screening measures to the satisfaction of the Responsible Authority.**
- 10. The development must be provided with external lighting capable of illuminating access to each garage and car parking space. Lighting must be located, directed and shielded and of limited intensity that no nuisance or loss of amenity is caused to any person within and beyond the site.**

#### **Construction Management Plan**

- 11. Prior to the and commencement of buildings or works on the land, a Construction Management Plan, prepared by an experienced person or firm, detailing how the owner will manage the environmental and construction issues associated with the development, must be submitted to and approved by Council. The Construction Management Plan must be prepared in consultation with Council's Engineering and Environmental Services Department, Building Department, ParksWide (Arboricultural) Department and Community Laws Department.**

*Once submitted to and approved by the Responsible Authority, the Construction Management Plan will form part of the documents endorsed as part of this planning permit. When approved the Construction Management Plan must be complied with, to the satisfaction of the Responsible Authority, to the extent that this is in the control of the owner of the land. The owner of the land is to be responsible for all costs associated with the works to be undertaken in accordance with the requirements of the Construction and Traffic Management Plans.*

#### **Waste Management**

- 12. The requirements of the Waste Management Plan prepared by Leigh Design, dated 1<sup>st</sup> November 2018, must be implemented by the building manager, owners and occupiers of the site for the duration of the building's operation in accordance with this permit, to the satisfaction of the Responsible Authority.**

#### **Assets Protection**

- 13. All storm water drains and on-site detention systems are to be connected to the legal point of discharge to the satisfaction of the Responsible Authority prior to the occupation of the building/s. The requirement for on- site detention will be noted on your storm water point of discharge report, or it might be required as part of the civil plans approval.**

### **9.1.1**

(cont)

- 14. Detailed storm water drainage and/or civil design for the proposed development are to be prepared by a suitably qualified civil engineer and submitted to the Responsible Authority for approval prior to occupation of the development. Plans and calculations are to be submitted with the application with all levels to Australian Height Datum (AHD). All documentation is to be signed by the qualified civil engineer.**
- 15. Storm water that could adversely affect any adjacent land during the construction period shall not be discharged from the subject site onto the surface of the adjacent land.**
- 16. Prior to works commencing the Applicant/Owner is to submit design plans for all proposed engineering works external to the site. The plans are to be submitted as separate engineering drawings for assessment by the Responsible Authority.**
- 17. The Applicant/Owner is responsible to pay for all costs associated with reinstatement and/or alterations to Council or other Public Authority assets as a result of the development. The Applicant/Owner is responsible to obtain all relevant permits and consents from Council at least 7 days prior to the commencement of any works on the land and is to obtain prior specific written approval for any works involving the alteration of Council or other Public Authority assets. Adequate protection is to be provided to Council's infrastructure prior to works commencing and during the construction process.**
- 18. The qualified civil engineer when undertaking civil design must ensure that the landscape plan/s and drainage plan/s are compatible. The storm water drainage and on site detention system must be located outside the tree protection zone (TPZ) of any trees to be retained.**

#### **Expiry**

- 19. 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;**
  - b) The development is not completed within four (4) years from the date of this permit.**

**The Responsible Authority may extend the periods referred to if a request is made in writing pursuant to the provisions of Section 69 of the Planning and Environment Act 1987.**

#### **Notes**

- A) The *Corymbia* species street tree (Tree 13) located in proximity to the proposed new crossover serving the approved development may be removed and replaced by Council subject to the payment of the Amenity Value of this tree. Please contact Parkside on 9262 6289 to arrange for a tax invoice to be forwarded in the mail. Tree removal by Council can be coordinated promptly following payment.**
- B) The granting of this permit does not obviate the necessity for compliance with the requirements of any other authority under any act, regulation or local law.**

### **9.1.1**

(cont)

- C) The design and construction of the storm water drainage system up to the point of discharge from an allotment is to be approved by the appointed Building Surveyor. That includes the design and construction of any required storm water on-site detention system. The Applicant/Owner is to submit certification of the design of any required on-site detention system from a registered consulting engineer (who is listed on the Engineers Australia National Professional Engineer Register or approved equivalent) to Council as part of the civil plans approval process.**
- D) The requirement for on- site detention will be noted on your storm water point of discharge report, or it might be required as part of the civil plans approval.**
- E) All proposed changes to the vehicle crossing are to be constructed in accordance with the submitted details, Whitehorse Council's – Vehicle Crossing General Specifications and standard drawings**
- F) Report and consent – Any proposed building over the easement is to be approved by the Responsible Authority prior to approval of the building permit. If Report and Consent contradicts with the Planning Permit, amendment of the Planning Permit might be required.**
- G) Report and consent – land liable to flooding is to be approved by the Responsible Authority prior to approval of the building permit. If a change of minimum floor levels for is required, amendment of the Planning Permit might be required.**
- H) The Applicant/Owner is to accurately survey and identify on the design plans all assets in public land that may be impacted by the proposed development. The assets may include all public authority services (i.e. gas, water, sewer, electricity, telephone, traffic signals etc.) and the location of street trees or vegetation. If any changes are proposed to these assets then the evidence of the approval is to be submitted to Council and all works are to be funded by the Applicant/Owner. This includes any modifications to the road reserve, including footpath, nature strip and kerb and channel.**
- I) The Applicant/Owner must obtain a certificate of hydraulic compliance from a suitably qualified civil engineer to confirm that the on-site detention works have been constructed in accordance with the approved plans, prior to Statement of Compliance is issued.**
- J) There is to be no change to the levels of the public land, including the road reserve or other Council property as a result of the development, without the prior approval of Council. All requirements for access for all-abilities (Disability Discrimination Access) are to be resolved within the site and not in public land.**
- K) No fire hydrants that are servicing the property are to be placed in the road reserve, outside the property boundary, without the approval of the Relevant Authority. If approval obtained, the property owner is required to enter into a S173 Agreement with Council that requires the property owner to maintain the fire hydrant"**
- C. Has made this decision having particular regard to the requirements of Section 58, 59, 60 and 61 of the Planning and Environment Act 1987.**

### **9.1.1**

(cont)

#### **MOTION**

Moved by Cr Carr, Seconded by Cr Ellis

#### **That Council:**

- A** *Being the Responsible Authority, having caused Application WH/2018/1270 at 408 and 410 Burwood Highway, Vermont South (Lot 3 and 4 LP 84340), to be advertised and having received and noted the objection is of the opinion that the granting of the current Planning Permit for Buildings and works for the construction of a five storey apartment building, and associated tree removal, is not acceptable and will likely unreasonably impact the amenity of adjacent properties.*
- B** *Issue a Notice of Decision to Refuse to Grant a Permit under the Whitehorse Planning Scheme to the land described as 408 and 410 Burwood Highway, VERMONT SOUTH (LOT 3 and 4 LP 84340) which allows the 'Buildings and works for the Construction of a five storey apartment building, and associated tree removal, subject to the following grounds:*
- 1. The proposed five storey building is contrary to the objective of Clause 32.07 of the Whitehorse Planning Scheme which is to provide housing at increased densities in buildings of up to and including four storey buildings and to encourage a scale of development that provides a suitable interface to and transition between areas of more intensive use and development and areas of restricted housing growth.*
  - 2. The proposed development proposes excessive building height, bulk, scale, width, and inadequate street setbacks that will result in an inappropriate and incongruous built form that will dominate the streetscape and surrounding properties. This would be contrary to Clauses 15.01 (Built Environment), 21.06 (Housing) and 22.03 (Residential Development Policy), as well as Standards D1 (Urban Context), D2 (Residential Policy) and D10 (Landscaping) of Clause 58 (Apartment Developments).*
  - 3. The proposed development will cause unreasonable offsite amenity impacts to both side and rear adjoining properties from a visual bulk, height and overshadowing perspective. This would be contrary to the provisions of Clauses 15.01 (Built Environment) 21.06 (Housing) and 65 (General Design Guidelines).*
  - 4. The proposed development is not site responsive with respect to maintaining the existing landscape character by not providing sufficient opportunity for landscaping and planting of canopy trees to sufficiently enhance the external amenity and visually relieve the building mass of the proposed development.*  
*This would be contrary to Clauses 21.05 (Environment), 22.04 (Tree Conservation) as well as Standards D1 (Urban Context), D2 (Residential Policy) and D10 (Landscaping) of Clause 58 (Apartment Developments).*
  - 5. The proposed development will not meet the intent and provisions of Clause 22.10 (Environmentally Sustainable Development).*
  - 6. The scale, height, setbacks and number of storeys of the proposed development will not be in accordance with the 'Residential Corridors Built Form Study' and associated 'Built Form Guidelines and Controls'.*

### **9.1.1**

(cont)

- 7. The proposed development fails to meet the following Objectives and Standards of Clause 58 (Apartment Developments):**
- a) D1 (Urban Context)**
  - b) D2 (Residential Policy)**
  - c) D6 (Energy Efficiency)**
  - d) D7 (Communal open space)**
  - e) D8 (Solar access to communal outdoor open space)**
  - f) D10 (Landscaping)**
  - g) D16 (Noise)**
  - h) D18 (Building Entry and Circulation)**
  - i) D26 (Windows)**
  - j) D27 (Natural Ventilation)**
- C. Has made this decision having particular regard to the requirements of Sections 58, 59, 60 and 61 of the Planning and Environment Act 1987.**

**LOST**

### **MOTION**

Moved by Cr Davenport, Seconded by Cr Munroe

**That Council:**

- A. Being the Responsible Authority, having caused Application WH/2018/1270 at 408 and 410 Burwood Highway, Vermont South (Lot 3 and 4 LP 84340), to be advertised and having received and noted the objection is of the opinion that the granting of the current Planning Permit for Buildings and works for the construction of a five storey apartment building, and associated tree removal, is acceptable and should not unreasonably impact the amenity of adjacent properties.**
- B. Issue a Notice of Decision to Grant a Permit under the Whitehorse Planning Scheme to the land described as 408 and 410 Burwood Highway, VERMONT SOUTH (LOT 3 and 4 LP 84340) which allows the 'Buildings and works for the Construction of a five storey apartment building, and associated tree removal, subject to the following conditions:**
- 1. Before the development starts, or vegetation removed, amended plans shall be submitted to and approved by the Responsible Authority in a digital format. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn scale, and be generally in accordance with the without prejudice plans dated July 2019, referenced as '180117', drawn by Clarke Hopkins, submitted with the application but modified to show:**
    - a) The maximum building height reduced to 13.5 metres across the site, and otherwise reduced to 14.5 metres when the land slopes greater than 2.5 degrees**
    - b) The yellow colour tone for the north-western corner of the approved building (affects the front and eastern side elevations in part), muted to alleviate the visual dominance of the building to boundary interfaces.**
    - c) Side facing snorkel windows for dwellings 1.01, 1.05, 2.01 and 2.05, with a depth not exceeding 1.5 metres.**

**9.1.1**  
(cont)

- d) Dwelling G01 with the following modifications:**
    - i. The living area and front bedrooms on the ground floor reversed.**
    - ii. A suitably dimensioned entry foyer provided east of the reversed living area, extending up to the front-facing window of the reversed front bedroom.**
    - iii. The main entry doorway, compliant with Standards D9 and D18 of Clause 58, re-orientated to face eastwards of the entry foyer required by Condition 1d)(ii).**
    - iv. A pathway from the modified front entry required by Condition 1d)(iii), running along the front building wall of the reversed front bedroom, then heading north to the front boundary. The front boundary fence must be modified to delineate the front private open space area from the pathway, along with a graduated height reduction to 1.2 metres. Any changes to the planter box, landscaping, front gate, and current pathway alignment are included as part of this condition.**
    - v. Noise attenuation measures provided for the eastern building wall and rear entry door interfacing with the carpark.**
    - vi. Appropriate ventilation measures ensuring that any vehicular fumes do not enter into the floor space of this dwelling.**
  - e) The locations of Tree Protection Zones as described in Condition 5, with all nominated trees clearly identified and numbered on both site and landscape plans, and the requirements of conditions 4 and 5 to be annotated on the development and landscape plans.**
  - f) A Construction Management Plan in accordance with Condition 11.**
  - g) Notation that all treatments to prevent overlooking must not include 'Translucent film' on windows and must be in accordance with Standard B22 of Clause 55.**
  - h) The landscape plan updated to:**
    - i. Include a 6 month maintenance plan.**
    - ii. Include a maintenance schedule of how all plants, including planter boxes will be maintained.**
    - iii. Accommodate reflect all relevant Condition 1 requirements.**
  - i) An updated Sustainability Management Plan in accordance with Condition 7.**
  - j) Development plans to reflect all sustainability features indicated in the Sustainability Management Plan required by Condition 7**
  - k) The Waste Management Plan as required by Condition 12, revised to include the following additional detail:**
    - i. A plan to confirm a nominated vehicle position to carry out bin collection in the accessway.**
    - ii. Written confirmation that collection must take place during nominated time brackets outside peak periods, to the satisfaction of the Responsible Authority.**
- 2. The layout of the site and the size, design and location of the buildings and works permitted must always accord with the endorsed plan and must not be altered or modified without the further written consent of the Responsible Authority.**



### **9.1.1** (cont)

#### **Landscaping and Tree Protection**

- 3. Unless with the prior written consent, all tree planting and landscaping works as shown on the endorsed plans must be completed prior to the occupation of the development to the satisfaction of the Responsible Authority.**
- 4. The garden areas shown on the endorsed plan must only be used as gardens and must be maintained in a proper, tidy and healthy condition to the satisfaction of the Responsible Authority. Should any tree or shrub be removed or destroyed it may be required to be replaced by a tree or shrub of similar size and variety.**
- 5. Prior to commencement of any building or demolition works on the land, a Tree Protection Zones (TPZs) must be established on the subject site (and nature strip if required) and maintained during, and until completion of, all buildings and works including landscaping, around the following trees in accordance with the distances and measures specified below, to the satisfaction of the Responsible Authority:**
  - a) Tree Protection Zone distances:**
    - i. Tree 1 – *Chamaecyparis lawsoniana* – 3.4 metres radius.**
    - ii. Tree 6 – *Prunus cerasifera* – 6.48 metres radius.**
    - iii. Tree 7 – *Viburnum tinus* – 2.0 metres radius.**
    - iv. Tree 8 – *Prunus cerasifera* – 5.88 metres radius.**
    - v. Tree 9 – *Cotoneaster glaucophylla* – 2 metres radius.**
    - vi. Tree 10 – *Cotoneaster glaucophylla* – 4.2 metres radius.**
    - vii. Tree 11 – *Photinia x fraseri* – 4.56 metres radius.**
    - viii. Tree 12 – *Waterhousia floribunda* – 2.0 metres radius.**
    - ix. Tree 14 (in part) – *Chamaecyparis lawsoniana* – 2.76 metres radius.**
    - x. Tree 18 – *Picea abies* – 3.24 metres radius.**
  - b) Tree Protection Zone measures are to be established in accordance with Australian Standard 4970-2009 and are to include the following:**
    - i. Erection of solid chain mesh or similar type fencing at a minimum height of 1.8 metres in height held in place with concrete feet.**
    - ii. Signage placed around the outer edge of perimeter the fencing identifying the area as a TPZ. The signage should be visible from within the development, with the lettering complying with AS 1319.**
    - iii. Mulch across the surface of the TPZ to a depth of 100mm and undertake supplementary provide watering/irrigation within the TPZ, prior and during any works performed.**
    - iv. No excavation, constructions works or activities, grade changes, surface treatments or storage of materials of any kind are permitted within the TPZ unless otherwise approved within this permit or further approved in writing by the Responsible Authority.**
    - v. All supports and bracing should be outside the TPZ and any excavation for supports or bracing should avoid damaging roots where possible.**
    - vi. No trenching is allowed within the TPZ for the installation of utility services unless tree sensitive installation methods such as boring have been approved by the Responsible Authority.**
    - vii. Where construction is approved within the TPZ, fencing and mulching should be placed at the outer point of the construction area.**

**9.1.1**  
(cont)

- viii. *Where there are approved works within the TPZ, it may only be reduced to the required amount by an authorized person only during approved construction within the TPZ, and must be restored in accordance with the above requirements at all other times.*

**Boundary Wall**

6. *Prior to the occupation of the development, all boundary walls must be constructed, cleaned and finished to the satisfaction of the Responsible Authority.*

**Sustainability Management Design**

7. *Prior to the commencement of any buildings or demolition works, an amended Sustainability Management Plan (SMP) must be submitted to an approved by the Responsible Authority. This SMP must be generally in accordance with the SMP submitted with the application but amended to include the following changes:*
- a) *A STORM Rating Report with a score of at least 100% or equivalent demonstrating that rainwater tanks are sized accordingly to ensure reliability/efficiency whilst minimising potential overflow.*
  - b) *A complete, published BESS Report, with an acceptable overall score that exceeds 50% and exceed the 'pass' marks in the categories of Water, Energy Stormwater and Indoor Environment Quality (IEQ).*
  - c) *Provide Preliminary NatHERS Assessments for 20% of the total amount of dwellings a part of the development. Ensure that the energy efficiency provisions of the Apartment Design Guidelines for Victoria 2017 are satisfied.*
  - d) *Provide glazing specifications including SHGC, VLT and U-values and ensure that such values are consistent with Preliminary NatHERS and energy efficiency specifications, as well as, Development Plans.*
  - e) *Control car park ventilation with CO sensors.*
  - f) *Control car park lighting (at least 75% of lighting fixtures) with motion sensors.*
  - g) *Commit to controlling all external, common, service and lift area lighting with sensors/timers.*
  - h) *Commit to controlling common, service and lift area ventilation with sensors/timers.*
  - i) *Commit to the inclusion of energy efficient heating, cooling and hot water systems indicating the associated COP and EER values and/or star ratings.*
  - j) *Commit to the inclusion of water efficient fixtures and appliances indicating the associated WELS ratings.*
  - k) *Connect the rainwater tanks to all toilet flushing systems.*
  - l) *Commit to diverting at least 80% of construction/demolition waste from landfill.*
  - m) *Submit a water balance calculation justifying the rainwater tank capacity, based on long-term average rainfall data, collection areas and expected end uses, which is in compliance with AS/NZS 6400:2016 of 1 full- and 4 half-flushes per person per day (providing 17.5 L/person/day for a 4 star WELS rated toilet). A rainwater tank size should be selected based on calculations, ensuring adequate reliability of supply is maintained with respect to managing potential overflow and considering the development's potable water demand. The rainwater tank should cater for all toilet flushing systems and service irrigative areas.*

**9.1.1**  
(cont)

*Once submitted and approved to the satisfaction of the Responsible Authority, the SMP will form part of the endorsed plans under this permit.*

- 8. All works must be undertaken in accordance with the endorsed SMP to the satisfaction of the Responsible Authority, and the approved dwellings must operate in accordance with this Plan, to the satisfaction of the Responsible Authority. No alterations to the Reports may occur without the written consent of the Responsible Authority.**

**Building Services**

- 9. All building plant and equipment on the roofs, balcony areas, common areas, and public thoroughfares is to be concealed to the satisfaction of the Responsible Authority. Noise emitting plant equipment such as air conditioners, must be shielded with acoustic screening to prevent the transmission of noise having detrimental amenity impacts. The construction of any additional plant, machinery or other equipment, including but not limited to all service structures, down pipes, aerials, satellite dishes, telecommunication facilities, air-conditioners, equipment, ducts, flues, all exhausts including car parking and communication equipment must include appropriate screening measures to the satisfaction of the Responsible Authority.**
- 10. The development must be provided with external lighting capable of illuminating access to each garage and car parking space. Lighting must be located, directed and shielded and of limited intensity that no nuisance or loss of amenity is caused to any person within and beyond the site.**

**Construction Management Plan**

- 11. Prior to the and commencement of buildings or works on the land, a Construction Management Plan, prepared by an experienced person or firm, detailing how the owner will manage the environmental and construction issues associated with the development, must be submitted to and approved by Council. The Construction Management Plan must be prepared in consultation with Council's Engineering and Environmental Services Department, Building Department, ParksWide (Arboricultural) Department and Community Laws Department.**

*Once submitted to and approved by the Responsible Authority, the Construction Management Plan will form part of the documents endorsed as part of this planning permit. When approved the Construction Management Plan must be complied with, to the satisfaction of the Responsible Authority, to the extent that this is in the control of the owner of the land. The owner of the land is to be responsible for all costs associated with the works to be undertaken in accordance with the requirements of the Construction and Traffic Management Plans.*

**Waste Management**

- 12. The requirements of the Waste Management Plan prepared by Leigh Design, dated 1<sup>st</sup> November 2018, must be implemented by the building manager, owners and occupiers of the site for the duration of the building's operation in accordance with this permit, to the satisfaction of the Responsible Authority.**

**Assets Protection**

- 13. All storm water drains and on-site detention systems are to be connected to the legal point of discharge to the satisfaction of the Responsible Authority prior to the occupation of the building/s. The requirement for on- site detention will be noted on your storm water point of discharge report, or it might be required as part of the civil plans approval.**

### **9.1.1**

(cont)

- 14. Detailed storm water drainage and/or civil design for the proposed development are to be prepared by a suitably qualified civil engineer and submitted to the Responsible Authority for approval prior to occupation of the development. Plans and calculations are to be submitted with the application with all levels to Australian Height Datum (AHD). All documentation is to be signed by the qualified civil engineer.**
- 15. Storm water that could adversely affect any adjacent land during the construction period shall not be discharged from the subject site onto the surface of the adjacent land.**
- 16. Prior to works commencing the Applicant/Owner is to submit design plans for all proposed engineering works external to the site. The plans are to be submitted as separate engineering drawings for assessment by the Responsible Authority.**
- 17. The Applicant/Owner is responsible to pay for all costs associated with reinstatement and/or alterations to Council or other Public Authority assets as a result of the development. The Applicant/Owner is responsible to obtain all relevant permits and consents from Council at least 7 days prior to the commencement of any works on the land and is to obtain prior specific written approval for any works involving the alteration of Council or other Public Authority assets. Adequate protection is to be provided to Council's infrastructure prior to works commencing and during the construction process.**
- 18. The qualified civil engineer when undertaking civil design must ensure that the landscape plan/s and drainage plan/s are compatible. The storm water drainage and on site detention system must be located outside the tree protection zone (TPZ) of any trees to be retained.**

#### **Expiry**

- 19. 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;**
  - b) The development is not completed within four (4) years from the date of this permit.**

**The Responsible Authority may extend the periods referred to if a request is made in writing pursuant to the provisions of Section 69 of the Planning and Environment Act 1987.**

#### **Notes**

- A) The *Corymbia* species street tree (Tree 13) located in proximity to the proposed new crossover serving the approved development may be removed and replaced by Council subject to the payment of the Amenity Value of this tree. Please contact Parkswide on 9262 6289 to arrange for a tax invoice to be forwarded in the mail. Tree removal by Council can be coordinated promptly following payment.**
- B) The granting of this permit does not obviate the necessity for compliance with the requirements of any other authority under any act, regulation or local law.**

### **9.1.1**

(cont)

- C) The design and construction of the storm water drainage system up to the point of discharge from an allotment is to be approved by the appointed Building Surveyor. That includes the design and construction of any required storm water on-site detention system. The Applicant/Owner is to submit certification of the design of any required on-site detention system from a registered consulting engineer (who is listed on the Engineers Australia National Professional Engineer Register or approved equivalent) to Council as part of the civil plans approval process.**
- D) The requirement for on- site detention will be noted on your storm water point of discharge report, or it might be required as part of the civil plans approval.**
- E) All proposed changes to the vehicle crossing are to be constructed in accordance with the submitted details, Whitehorse Council's – Vehicle Crossing General Specifications and standard drawings**
- F) Report and consent – Any proposed building over the easement is to be approved by the Responsible Authority prior to approval of the building permit. If Report and Consent contradicts with the Planning Permit, amendment of the Planning Permit might be required.**
- G) Report and consent – land liable to flooding is to be approved by the Responsible Authority prior to approval of the building permit. If a change of minimum floor levels for is required, amendment of the Planning Permit might be required.**
- H) The Applicant/Owner is to accurately survey and identify on the design plans all assets in public land that may be impacted by the proposed development. The assets may include all public authority services (i.e. gas, water, sewer, electricity, telephone, traffic signals etc.) and the location of street trees or vegetation. If any changes are proposed to these assets then the evidence of the approval is to be submitted to Council and all works are to be funded by the Applicant/Owner. This includes any modifications to the road reserve, including footpath, nature strip and kerb and channel.**
- I) The Applicant/Owner must obtain a certificate of hydraulic compliance from a suitably qualified civil engineer to confirm that the on-site detention works have been constructed in accordance with the approved plans, prior to Statement of Compliance is issued.**
- J) There is to be no change to the levels of the public land, including the road reserve or other Council property as a result of the development, without the prior approval of Council. All requirements for access for all-abilities (Disability Discrimination Access) are to be resolved within the site and not in public land.**
- K) No fire hydrants that are servicing the property are to be placed in the road reserve, outside the property boundary, without the approval of the Relevant Authority. If approval obtained, the property owner is required to enter into a S173 Agreement with Council that requires the property owner to maintain the fire hydrant"**
- C. Has made this decision having particular regard to the requirements of Sections 58, 59, 60 and 61 of the Planning and Environment Act 1987**

### **9.1.1**

(cont)

#### **AMENDMENT**

Moved by Cr Liu, Seconded by Cr Cutts

***That Council:***

- A. Being the Responsible Authority, having caused Application WH/2018/1270 at 408 and 410 Burwood Highway, Vermont South (Lot 3 and 4 LP 84340), to be advertised and having received and noted the objection is of the opinion that the granting of the current Planning Permit for Buildings and works for the construction of a five storey apartment building, and associated tree removal, is acceptable and should not unreasonably impact the amenity of adjacent properties.***
- B. Issue a Notice of Decision to Grant a Permit under the Whitehorse Planning Scheme to the land described as 408 and 410 Burwood Highway, VERMONT SOUTH (LOT 3 and 4 LP 84340) which allows the 'Buildings and works for the Construction of a five storey apartment building, and associated tree removal, subject to the following conditions:***
  - 1. Before the development starts, or vegetation removed, amended plans shall be submitted to and approved by the Responsible Authority in a digital format. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn scale, and be generally in accordance with the without prejudice plans dated July 2019, referenced as '180117', drawn by Clarke Hopkins, submitted with the application but modified to show:***
    - a) The maximum building height reduced to 13.5 metres across the site, and otherwise reduced to 14.5 metres when the land slopes greater than 2.5 degrees***
    - b) The yellow colour tone for the north-western corner of the approved building (affects the front and eastern side elevations in part), muted to alleviate the visual dominance of the building to boundary interfaces.***
    - c) Side facing snorkel windows for dwellings 1.01, 1.05, 2.01 and 2.05, with a depth not exceeding 1.5 metres.***
    - d) Dwelling G01 with the following modifications:***
      - i. The living area and front bedrooms on the ground floor reversed.***
      - ii. A suitably dimensioned entry foyer provided east of the reversed living area, extending up to the front-facing window of the reversed front bedroom.***
      - iii. The main entry doorway, compliant with Standards D9 and D18 of Clause 58, re-orientated to face eastwards of the entry foyer required by Condition 1d)(ii).***
      - iv. A pathway from the modified front entry required by Condition 1d)(iii), running along the front building wall of the reversed front bedroom, then heading north to the front boundary. The front boundary fence must be modified to delineate the front private open space area from the pathway, along with a graduated height reduction to 1.2 metres. Any changes to the planter box, landscaping, front gate, and current pathway alignment are included as part of this condition.***
      - v. Noise attenuation measures provided for the eastern building wall and rear entry door interfacing with the carpark.***
      - vi. Appropriate ventilation measures ensuring that any vehicular fumes do not enter into the floor space of this dwelling.***

### **9.1.1** (cont)

- e) *The locations of Tree Protection Zones as described in Condition 5, with all nominated trees clearly identified and numbered on both site and landscape plans, and the requirements of conditions 4 and 5 to be annotated on the development and landscape plans.*
  - f) *A Construction Management Plan in accordance with Condition 11.*
  - g) *Notation that all treatments to prevent overlooking must not include 'Translucent film' on windows and must be in accordance with Standard B22 of Clause 55.*
  - h) *The landscape plan updated to:*
    - i. *Include a 6 month maintenance plan.*
    - ii. *Include a maintenance schedule of how all plants, including planter boxes will be maintained.*
    - iii. *Accommodate reflect all relevant Condition 1 requirements.*
  - i) *An updated Sustainability Management Plan in accordance with Condition 7.*
  - j) *Development plans to reflect all sustainability features indicated in the Sustainability Management Plan required by Condition 7*
  - k) *The Waste Management Plan as required by Condition 13, revised to include the following additional detail:*
    - i. *A plan to confirm a nominated vehicle position to carry out bin collection in the accessway.*
    - ii. *Written confirmation that collection must take place during nominated time brackets outside peak periods, to the satisfaction of the Responsible Authority.*
  - l) *A Green Travel Plan in accordance with Condition 11 of this permit;*
2. *The layout of the site and the size, design and location of the buildings and works permitted must always accord with the endorsed plan and must not be altered or modified without the further written consent of the Responsible Authority.*

#### **Landscaping and Tree Protection**

- 3. *Unless with the prior written consent, all tree planting and landscaping works as shown on the endorsed plans must be completed prior to the occupation of the development to the satisfaction of the Responsible Authority.*
- 4. *The garden areas shown on the endorsed plan must only be used as gardens and must be maintained in a proper, tidy and healthy condition to the satisfaction of the Responsible Authority. Should any tree or shrub be removed or destroyed it may be required to be replaced by a tree or shrub of similar size and variety.*
- 5. *Prior to commencement of any building or demolition works on the land, a Tree Protection Zones (TPZs) must be established on the subject site (and nature strip if required) and maintained during, and until completion of, all buildings and works including landscaping, around the following trees in accordance with the distances and measures specified below, to the satisfaction of the Responsible Authority:*
  - a) *Tree Protection Zone distances:*
    - i. *Tree 1 – Chamaecyparis lawsoniana – 3.4 metres radius.*
    - ii. *Tree 6 – Prunus cerasifera – 6.48 metres radius.*
    - iii. *Tree 7 – Viburnum tinus – 2.0 metres radius.*

### **9.1.1** (cont)

- iv. *Tree 8 – Prunus cerasifera – 5.88 metres radius.*
  - v. *Tree 9 – Cotoneaster glaucophylla – 2 metres radius.*
  - vi. *Tree 10 – Cotoneaster glaucophylla – 4.2 metres radius.*
  - vii. *Tree 11 – Photinia x fraseri – 4.56 metres radius.*
  - viii. *Tree 12 – Waterhousia floribunda – 2.0 metres radius.*
  - ix. *Tree 14 (in part) – Chamaecyparis lawsoniana – 2.76 metres radius.*
  - x. *Tree 18 – Picea abies – 3.24 metres radius.*
- b) *Tree Protection Zone measures are to be established in accordance with Australian Standard 4970-2009 and are to include the following:*
- i. *Erection of solid chain mesh or similar type fencing at a minimum height of 1.8 metres in height held in place with concrete feet.*
  - ii. *Signage placed around the outer edge of perimeter the fencing identifying the area as a TPZ. The signage should be visible from within the development, with the lettering complying with AS 1319.*
  - iii. *Mulch across the surface of the TPZ to a depth of 100mm and undertake supplementary provide watering/irrigation within the TPZ, prior and during any works performed.*
  - iv. *No excavation, constructions works or activities, grade changes, surface treatments or storage of materials of any kind are permitted within the TPZ unless otherwise approved within this permit or further approved in writing by the Responsible Authority.*
  - v. *All supports and bracing should be outside the TPZ and any excavation for supports or bracing should avoid damaging roots where possible.*
  - vi. *No trenching is allowed within the TPZ for the installation of utility services unless tree sensitive installation methods such as boring have been approved by the Responsible Authority.*
  - vii. *Where construction is approved within the TPZ, fencing and mulching should be placed at the outer point of the construction area.*
  - viii. *Where there are approved works within the TPZ, it may only be reduced to the required amount by an authorized person only during approved construction within the TPZ, and must be restored in accordance with the above requirements at all other times.*

#### **Boundary Wall**

6. *Prior to the occupation of the development, all boundary walls must be constructed, cleaned and finished to the satisfaction of the Responsible Authority.*

#### **Sustainability Management Design**

7. *Prior to the commencement of any buildings or demolition works, an amended Sustainability Management Plan (SMP) must be submitted to an approved by the Responsible Authority. This SMP must be generally in accordance with the SMP submitted with the application but amended to include the following changes:*
- a) *A STORM Rating Report with a score of at least 100% or equivalent demonstrating that rainwater tanks are sized accordingly to ensure reliability/efficiency whilst minimising potential overflow.*
  - b) *A complete, published BESS Report, with an acceptable overall score that exceeds 50% and exceed the 'pass' marks in the categories of Water, Energy Stormwater and Indoor Environment Quality (IEQ).*



### **9.1.1**

(cont)

- c) Provide Preliminary NatHERS Assessments for 20% of the total amount of dwellings a part of the development. Ensure that the energy efficiency provisions of the Apartment Design Guidelines for Victoria 2017 are satisfied.*
- d) Provide glazing specifications including SHGC, VLT and U-values and ensure that such values are consistent with Preliminary NatHERS and energy efficiency specifications, as well as, Development Plans.*
- e) Control car park ventilation with CO sensors.*
- f) Control car park lighting (at least 75% of lighting fixtures) with motion sensors.*
- g) Commit to controlling all external, common, service and lift area lighting with sensors/timers.*
- h) Commit to controlling common, service and lift area ventilation with sensors/timers.*
- i) Commit to the inclusion of energy efficient heating, cooling and hot water systems indicating the associated COP and EER values and/or star ratings.*
- j) Commit to the inclusion of water efficient fixtures and appliances indicating the associated WELS ratings.*
- k) Connect the rainwater tanks to all toilet flushing systems.*
- l) Commit to diverting at least 80% of construction/demolition waste from landfill.*
- m) Submit a water balance calculation justifying the rainwater tank capacity, based on long-term average rainfall data, collection areas and expected end uses, which is in compliance with AS/NZS 6400:2016 of 1 full- and 4 half-flushes per person per day (providing 17.5 L/person/day for a 4 star WELS rated toilet). A rainwater tank size should be selected based on calculations, ensuring adequate reliability of supply is maintained with respect to managing potential overflow and considering the development's potable water demand. The rainwater tank should cater for all toilet flushing systems and service irrigative areas.*

*Once submitted and approved to the satisfaction of the Responsible Authority, the SMP will form part of the endorsed plans under this permit.*

- 8.** *All works must be undertaken in accordance with the endorsed SMP to the satisfaction of the Responsible Authority, and the approved dwellings must operate in accordance with this Plan, to the satisfaction of the Responsible Authority. No alterations to the Reports may occur without the written consent of the Responsible Authority.*

#### **Building Services**

**9.** *All building plant and equipment on the roofs, balcony areas, common areas, and public thoroughfares is to be concealed to the satisfaction of the Responsible Authority. Noise emitting plant equipment such as air conditioners, must be shielded with acoustic screening to prevent the transmission of noise having detrimental amenity impacts. The construction of any additional plant, machinery or other equipment, including but not limited to all service structures, down pipes, aerials, satellite dishes, telecommunication facilities, air-conditioners, equipment, ducts, flues, all exhausts including car parking and communication equipment must include appropriate screening measures to the satisfaction of the Responsible Authority.*

### **9.1.1**

(cont)

10. *The development must be provided with external lighting capable of illuminating access to each garage and car parking space. Lighting must be located, directed and shielded and of limited intensity that no nuisance or loss of amenity is caused to any person within and beyond the site.*

#### **Green Travel Plan**

11. *Before the development commences, a Green Travel Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Green Travel Plan will be endorsed and will form part of this permit. The Green Travel Plan must include, but not be limited to the following:*
  - a) *Information for residents and visitors about public transport options in the area;*
  - b) *Education and awareness initiatives and incentives for residents and visitors to encourage more sustainable modes of travel to/from the site.*
  - c) *Consider the provision of electric vehicle charging facilities.*
  - d) *Measures to encourage uptake of public transport to and from the approved development.*
  - e) *Details of bicycle spaces for visitors and residents.*
  - f) *Any other relevant matters.*

*When approved to the satisfaction of the Responsible Authority, the plan will be part of the documents endorsed as part of this planning permit. The Green Travel Plan must be implemented to the satisfaction of the Responsible Authority.*

#### **Construction Management Plan**

12. *Prior to the and commencement of buildings or works on the land, a Construction Management Plan, prepared by an experienced person or firm, detailing how the owner will manage the environmental and construction issues associated with the development, must be submitted to and approved by Council. The Construction Management Plan must be prepared in consultation with Council's Engineering and Environmental Services Department, Building Department, ParksWide (Arboricultural) Department and Community Laws Department.*

*Once submitted to and approved by the Responsible Authority, the Construction Management Plan will form part of the documents endorsed as part of this planning permit. When approved the Construction Management Plan must be complied with, to the satisfaction of the Responsible Authority, to the extent that this is in the control of the owner of the land. The owner of the land is to be responsible for all costs associated with the works to be undertaken in accordance with the requirements of the Construction and Traffic Management Plans.*

#### **Waste Management**

13. *The requirements of the Waste Management Plan prepared by Leigh Design, dated 1<sup>st</sup> November 2018, must be implemented by the building manager, owners and occupiers of the site for the duration of the building's operation in accordance with this permit, to the satisfaction of the Responsible Authority.*

**9.1.1**  
(cont)

**Assets Protection**

14. *All storm water drains and on-site detention systems are to be connected to the legal point of discharge to the satisfaction of the Responsible Authority prior to the occupation of the building/s. The requirement for on- site detention will be noted on your storm water point of discharge report, or it might be required as part of the civil plans approval.*
15. *Detailed storm water drainage and/or civil design for the proposed development are to be prepared by a suitably qualified civil engineer and submitted to the Responsible Authority for approval prior to occupation of the development. Plans and calculations are to be submitted with the application with all levels to Australian Height Datum (AHD). All documentation is to be signed by the qualified civil engineer.*
16. *Storm water that could adversely affect any adjacent land during the construction period shall not be discharged from the subject site onto the surface of the adjacent land.*
17. *Prior to works commencing the Applicant/Owner is to submit design plans for all proposed engineering works external to the site. The plans are to be submitted as separate engineering drawings for assessment by the Responsible Authority.*
18. *The Applicant/Owner is responsible to pay for all costs associated with reinstatement and/or alterations to Council or other Public Authority assets as a result of the development. The Applicant/Owner is responsible to obtain all relevant permits and consents from Council at least 7 days prior to the commencement of any works on the land and is to obtain prior specific written approval for any works involving the alteration of Council or other Public Authority assets. Adequate protection is to be provided to Council's infrastructure prior to works commencing and during the construction process.*
19. *The qualified civil engineer when undertaking civil design must ensure that the landscape plan/s and drainage plan/s are compatible. The storm water drainage and on site detention system must be located outside the tree protection zone (TPZ) of any trees to be retained.*

**Expiry**

20. *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;*
  - b) *The development is not completed within four (4) years from the date of this permit.*

*The Responsible Authority may extend the periods referred to if a request is made in writing pursuant to the provisions of Section 69 of the Planning and Environment Act 1987.*

**Notes**

- A) *The Corymbia species street tree (Tree 13) located in proximity to the proposed new crossover serving the approved development may be removed and replaced by Council subject to the payment of the Amenity Value of this tree. Please contact Parkswide on 9262 6289 to arrange for a tax invoice to be forwarded in the mail. Tree removal by Council can be coordinated promptly following payment.*

### **9.1.1**

(cont)

- B) The granting of this permit does not obviate the necessity for compliance with the requirements of any other authority under any act, regulation or local law.**
- C) The design and construction of the storm water drainage system up to the point of discharge from an allotment is to be approved by the appointed Building Surveyor. That includes the design and construction of any required storm water on-site detention system. The Applicant/Owner is to submit certification of the design of any required on-site detention system from a registered consulting engineer (who is listed on the Engineers Australia National Professional Engineer Register or approved equivalent) to Council as part of the civil plans approval process.**
- D) The requirement for on- site detention will be noted on your storm water point of discharge report, or it might be required as part of the civil plans approval.**
- E) All proposed changes to the vehicle crossing are to be constructed in accordance with the submitted details, Whitehorse Council's – Vehicle Crossing General Specifications and standard drawings**
- F) Report and consent – Any proposed building over the easement is to be approved by the Responsible Authority prior to approval of the building permit. If Report and Consent contradicts with the Planning Permit, amendment of the Planning Permit might be required.**
- G) Report and consent – land liable to flooding is to be approved by the Responsible Authority prior to approval of the building permit. If a change of minimum floor levels for is required, amendment of the Planning Permit might be required.**
- H) The Applicant/Owner is to accurately survey and identify on the design plans all assets in public land that may be impacted by the proposed development. The assets may include all public authority services (i.e. gas, water, sewer, electricity, telephone, traffic signals etc.) and the location of street trees or vegetation. If any changes are proposed to these assets then the evidence of the approval is to be submitted to Council and all works are to be funded by the Applicant/Owner. This includes any modifications to the road reserve, including footpath, nature strip and kerb and channel.**
- I) The Applicant/Owner must obtain a certificate of hydraulic compliance from a suitably qualified civil engineer to confirm that the on-site detention works have been constructed in accordance with the approved plans, prior to Statement of Compliance is issued.**
- J) There is to be no change to the levels of the public land, including the road reserve or other Council property as a result of the development, without the prior approval of Council. All requirements for access for all-abilities (Disability Discrimination Access) are to be resolved within the site and not in public land.**
- K) No fire hydrants that are servicing the property are to be placed in the road reserve, outside the property boundary, without the approval of the Relevant Authority. If approval obtained, the property owner is required to enter into a S173 Agreement with Council that requires the property owner to maintain the fire hydrant"**
- C. Has made this decision having particular regard to the requirements of Sections 58, 59, 60 and 61 of the Planning and Environment Act 1987.**

**CARRIED**

### **9.1.1**

(cont)

**A Division was called.**

#### **Division**

##### **For**

Cr Bennett  
Cr Carr  
Cr Cutts  
Cr Ellis  
Cr Liu  
Cr Massoud  
Cr Munroe

##### **Against**

Cr Barker  
Cr Davenport

**On the results of the Division the amendment was declared CARRIED**

**The motion moved by Cr Davenport, Seconded by Cr Munroe (as amended) was then put and CARRIED**

**A Division was called.**

#### **Division**

##### **For**

Cr Barker  
Cr Bennett  
Cr Cutts  
Cr Davenport  
Cr Liu  
Cr Massoud  
Cr Munroe

##### **Against**

Cr Carr  
Cr Ellis

**On the results of the Division the motion (as Amended) was declared CARRIED**

---

**9.1.1**  
(cont)

MELWAYS REFERENCE 46 K8

|                   |                                                                     |
|-------------------|---------------------------------------------------------------------|
| Applicant:        | Thousand Hills Property C/o Planning and Property Partners, Pty Ltd |
| Zoning:           | Residential Growth Zone, Schedule 1 (RGZ1)                          |
| Overlays:         | Significant Landscape Overlay, Schedule 9 (SLO9)                    |
| Relevant Clauses: |                                                                     |
| Clause 11         | Settlement                                                          |
| Clause 12         | Environmental and Landscape Values                                  |
| Clause 15         | Built Environment and Heritage                                      |
| Clause 16         | Housing                                                             |
| Clause 18.02-4S   | Car Parking                                                         |
| Clause 21.05      | Environment                                                         |
| Clause 21.06      | Housing                                                             |
| Clause 22.03      | Residential Development                                             |
| Clause 22.04      | Tree Conservation                                                   |
| Clause 22.10      | Environmentally Sustainable Development                             |
| Clause 32.07      | Residential Growth Zone, Schedule 1                                 |
| Clause 42.03      | Significant Landscape Overlay, Schedule 9                           |
| Clause 52.06      | Car Parking                                                         |
| Clause 58         | Apartment Developments                                              |
| Clause 65         | Decision Guidelines                                                 |
| Ward:             | Morack                                                              |



|  |  |              |  |            |          |       |
|--|--|--------------|--|------------|----------|-------|
|  |  | Subject site |  | 1 Property | Objector | North |
|--|--|--------------|--|------------|----------|-------|

### 9.1.1

(cont)

#### BACKGROUND

There are no known planning permits and no relevant history for the subject site.

#### The Site and Surrounds

The subject site is located on the south side of Burwood Highway, approximately 155 metres west from the intersection with Fortescue Grove, and 325 metres east of the Springvale Road / Burwood Highway intersection. The site, comprising two lots (408 and 410 Burwood Highway, Vermont South (Lots 3 and 4 of LP 84340) is rectangular in shape with a northern frontage of 33.52 metres to Burwood Highway, a maximum depth of 39.01 metres, and a total site area of 1308m<sup>2</sup>. The site is currently occupied by two single storey dwellings, both setback 13.5 metres from the Burwood Highway frontage. Separate accessways and crossovers currently serve both dwellings via Burwood Highway. There is a 2.44 metre wide drainage and sewerage easement that runs along the site's southern rear boundary.

#### *Adjoining properties*

The site adjoins 5 properties. Both side adjoining properties to the west (No. 406 Burwood Highway) and east (No. 412 Burwood Highway) contain single storey dwellings, both setback 13.6 metres from Burwood Highway. Both these adjoining properties also have rear secluded private open spaces that align with the rear portion of the subject site. Both adjoining properties have received planning permission for future development, which has yet to commence. Under Permit WH/2016/582, Nos 412-414 Burwood Highway have planning approval for the construction of a 35 apartment, six storey building, including basement. Under Permit WH/2018/80, Nos 404-406 Burwood Highway have planning approval for construction of 10 triple storey dwellings.

Adjoining to the south are the rear private open space areas of Nos 7, 9 and 11 Allawah Court. These adjoining properties also contain detached single storey dwellings, with outbuildings within rear yards.

#### *Surrounding Area*

There is an emergence of substantial change along Burwood Highway, with apartment developments both constructed and approved within the Vermont South, Burwood Highway streetscape as detailed below:

|               |                                                            |                                                                                                        |
|---------------|------------------------------------------------------------|--------------------------------------------------------------------------------------------------------|
| WH/2008/583/B | 391-399 Burwood Highway, Burwood                           | Staged construction of a part three, part four and part five storey building with basement car parking |
| WH/2016/623   | 407-409 Burwood Highway, Vermont South                     | Construction of eight triple storey and one double storey (total nine dwellings)                       |
| WH/2016/582   | 412-414 Burwood Highway, Vermont South                     | Construction of 35 Apartment, six storey building, and basement car parking                            |
| WH/2016/30    | 431-439 and 441 Burwood Highway, Vermont South             | Construction of 35 Apartments, six storey building, and basement car parking                           |
| WH/2015/1090  | 464 Burwood Highway, and 1-3 Charlnet Drive, Vermont South | Five storey (plus basement) residential building                                                       |

Scattered upper canopy trees amongst an ornamental garden setting is the consistent landscape character for the surrounding area.

### 9.1.1

(cont)

The site is located within proximity to the following services and facilities:

- Vermont South Shopping Centre (750 metres to north-east)
- Tally Ho Activity Centre (360 metres to west)
- Three primary schools within 900 metres.
- Bus and tram routes (Burwood Highway, adjacent)
- Public reserves (Billabong Park: 30 metres to east, Charlesworth Park: 560 metres to north-east, and Burwood East Reserve: 820 metres to west).
- Sport Link Vermont (1.1km east)
- Retirement Village (880 metres to east)
- Vermont South Library (870 metres east)

The Titles of 408 Burwood Highway (Covenant number E365824) and 410 Burwood Highway (Covenant Number E541893) both contain the same worded restriction that states the following:

*“...administrators and transferees that they shall not at any time hereafter erect construct or build or cause to be erected constructed or built on the said land or any part thereof any house or building not built of brick, stone, concrete or brick veneer.”*

VCAT case law commonly indicates that legally, this restriction does not isolate the provision of materials to only brick, brick veneer or stone, but rather that these materials must be relatively well reflected in the construction of the building. Also commonly understood in VCAT case law is that this restriction does not specifically refer to the ‘roofing’, but the building’s construction only.

The majority of the construction materials that make up the proposed building are a mix of concrete blockwork and brick construction to provide consistency with the covenant’s requirements. A variety of secondary materials are also provided comprising timber, metal sheet cladding, and metal batten screening, for external walls. Roofing will comprise steel Colorbond sheeting.

### Planning Controls

In accordance with Clause 32.07, ‘Residential Growth Zone’ (RGZ1) of the Whitehorse Planning Scheme, a planning permit is required for the construction of two or more dwellings on a lot.

Pursuant to Clause 42.03-2 of the Whitehorse Planning Scheme, a permit is required to remove, destroy or lop a tree within the minimum front setback in the RGZ1, at 5 metres or greater in height, and with a diameter base height of 1 metre or greater, measured at 1 metre above ground level. A permit is also required to construct a building or construct or carry out works within 4 metres of a tree protected under this Overlay.

### PROPOSAL

The application seeks the removal of the two existing dwellings on the consolidated site, and proposes buildings and works for the construction of a 5 storey building (31 dwellings), and associated tree removal (see *Attachments 1 and 2*). The key aspects of the proposal include:

- 31 dwellings arranged on five levels above two levels of car parking. There will be 5 one bedroom, 23 two bedroom and 3 three bedroom dwellings, and 34 car spaces within basement and ground floor levels.
- Basement boundary setbacks comprise 2.7 metres (front), and 3 metres (eastern, western and southern boundaries). The ground floor boundary setbacks consist of 3 metres to 6 metres (front), 3 metres (east side), 2 metres to 3 metres (west side), and 3.3 metres (rear).



### 9.1.1

(cont)

- The first floor boundary setbacks comprise 5.1 metres (front), and 3 metres (side and rear boundaries). The second floor boundary setbacks consist of 5.1 metres (front), 3 metres to 4.5 metres (side boundaries), and 3 metres (rear). The third floor boundary setbacks comprise 6 metres (front), 4.5 to 6.4 metres (east side boundary), 4.35 metres to 4.5 metres (west side boundary), and 3 metres to 4.9 metres (rear). The fourth floor boundary setbacks consist of 7 metres (front), 6.4 metres (east side boundary), 8 metres (west side boundary) and for the rear boundary, 6.1 metres (balcony) and 9.2 metres (wall).
- A 5.5 metre wide common vehicle accessway will provide access from Burwood Highway to/from the site along the central portion of this frontage to service private, commercial and waste vehicles.

The proposed development will have the following internal floor layouts:

- Basement level 1 (BO1) provides 21 resident car spaces, residential waste/refuse area, residential external storage areas, a services room, 20,000 litre water tank, lift and stairs core.
- The ground floor level will contain 2 dwellings (dwellings G.01 and G.02 being one 1 bedroom, and one 3 bedroom dwelling), private open space areas (court yards), 9 bicycle spaces, centrally located north-south orientated corridor, mail area, lifts and stairs, 3 'services' boxes both internal and external of the building, 13 car spaces, residential external storage areas, and waste chutes, and 1.7 metre high front metal slat fencing.
- The first and second floor levels will contain 9 dwellings (dwellings 1.01 to 1.09 and 2.01 to 2.09) comprising one 1 bedroom, eight 2 bedroom dwellings per floor, private open space areas (balconies and courtyard areas), centrally located north-south-orientated corridor, communal lifts and stairs, light-well and waste chutes.
- The third floor level will contain 7 dwellings (dwellings 3.01 to 3.07) comprising two 1 bedroom, 5 two bedroom dwellings, private open space areas (balconies), centrally located corridor, communal lifts and stairs.
- The fourth floor level will contain 4 dwellings (dwellings 4.01 to 4.04) comprising two 3 bedroom, 2 bedroom dwellings, private open space areas (balconies), centrally located corridor, communal lifts and stairs.
- The internal layout, area and bedroom numbers of each respective dwelling will vary throughout all floor levels, but all generally include an open plan living/dining/kitchen area, and service rooms. Private open space areas vary between 12m<sup>2</sup> and 82m<sup>2</sup> (ground and first floor terrace / court areas) and 8m<sup>2</sup> to 36m<sup>2</sup> (upper floor balconies).
- The building will have a contemporary design, utilising the building materials of face brickwork, concrete blockwork, rendered brick, lightweight sheet cladding, metal perforated and batten screening, metal cladding, timber-look cladding, battens and glazing.
- The maximum height of the development is 14.9 metres [*noting that building heights are accurately shown on the submitted cross section plans, whereas the height notations on the elevations plans are what is perceived from the boundary interfaces*]

### 9.1.1

(cont)

- The removal of ten (10) trees (some trees are grouped under one number) on site, 3 trees of which require a permit under the SLO9, as detailed below:

| Tree No.     | Botanical Name                  | Common Name     | Height (m) | Age (year) | Health/Structure    | DBH (m) |
|--------------|---------------------------------|-----------------|------------|------------|---------------------|---------|
| 2            | <i>Chamaecyparis lawsoniana</i> | Lawsons Cypress | 16         | Mature     | Moderate / Moderate | 0.27    |
| 3            | <i>Chamaecyparis lawsoniana</i> | Lawsons Cypress | 18         | Mature     | Good / Moderate     | 0.86    |
| 14 (in part) | <i>Chamaecyparis lawsoniana</i> | Lawsons Cypress | 8          | Mature     | Medium / Moderate   | 0.24    |

- The 7 trees for removal that are not protected under the SLO9 comprise Trees 4, 5, 14 (in part), 15, 16, 17 and Street Tree 13 for either being outside the minimum front setback for the RGZ, below 5 metres in height and/or having a DBH less than 1.0 metre. Council consent is required for the proposed removal of street tree 13. of Council.
- The proposal seeks to retain three (3) onsite trees (Trees 1, 18 and 14 (in part), and the protection of five (5) adjoining trees (Trees 6, 8, 10, 11 and 12).

## CONSULTATION

### Public Notice

The application was advertised by mail to the adjacent and nearby property owners and occupiers and by erecting a notice at the Burwood Highway frontage. One objection was received following the advertising period. The objection grounds are summarised as concerns with parking, traffic, noise, and tree impacts (landscape and habitat loss).

### Consultation Forum

A Consultation Forum was not required because only one objection was received.

### Without Prejudice Plans

Following the advertising period, amended plans were informally submitted as 'Without Prejudice Plans' seeking to address issues raised by Council officer's and the objector where possible (see *Attachment 3*). The key changes as indicated by the applicant include:

#### General

- Removal of 2 dwellings, one on each of floor levels 3 and 4 (reduced from a total of 31 dwellings to 29 dwellings)
- Reduction in one bedroom dwellings (from 5 to 4 dwellings) and two bedroom dwellings (from 23 to 22 dwellings).
- Floor layouts for all dwellings on levels 3 and 4 altered as a result of the deleted dwellings and/or altered boundary setbacks.
- Removal of 1 car space (resulting in total of 33 car spaces)

## 9.1.1

(cont)

### Setbacks

- East and west boundary setbacks on levels 3 and 4 generally increased as follows:
- East Boundary
  - Dwelling 3.03 – wall (increased from 6.4 metres to 7.4 metres) and balcony (increased from 4.5 metres to 4.65 metres).
  - Dwelling 3.04 – wall (increased from 5.5 metres to 7 metres) and balcony (increased from 4.5 metres to 4.65 metres).
  - Dwellings 4.02 and 4.03 are now dwellings 4.01 and 4.02 – wall increased from 6.4 metres to 7.4 metres.
- West Boundary
  - Dwellings 3.01 and 3.06 – wall (increased from 4.35 metres to 6.05 metres) and balcony (decreased from 4.35 metres to 4.06 metres)
  - Dwelling 3.02 – wall increased from 4.35 metres to 5.12 metres.
  - Dwellings 4.01 and 4.03 – wall increased from 8.06 metres to 9.06 metres.
- Rear Boundary
  - Dwellings 3.04 and 3.05 – wall (increased from 5.5 metres to 6.5 metres) and balcony (increased from 3.4 metres to 3.75 metres)
  - Dwellings 4.03 and 4.04 are now dwellings 4.02 and 4.03 –, reduced to between 8.15 metres and 8.48 metres.

### Floor layouts

- Other than alterations of dwellings on levels 3 and 4, the following alterations to dwellings G01 and G02 also apply:
  - Dwelling G01 – increase in floor area, car park entry altered and reduction of one car space (12 car spaces on ground floor level).
  - Dwelling G02 – decrease in floor area.
- Although some private open space areas will be reduced marginally, most upper floor balconies are larger in area varying between 8m<sup>2</sup> and 57m<sup>2</sup>.

The without prejudice plans, by their informal nature, were not formally readvertised, but were circulated to the objector for additional comment. No additional objection grounds were received. The recommendation contained within this report is based upon the without prejudice plans.

### **Referrals**

|          |                                                                                                     |
|----------|-----------------------------------------------------------------------------------------------------|
| VicRoads | Notice was given to VicRoads who provided consent without the inclusion of any required conditions. |
|----------|-----------------------------------------------------------------------------------------------------|

### 9.1.1

(cont)

#### Internal

|                              |                                                                                                                                                                                                                                                                                                 |
|------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Asset Engineering (Drainage) | The proposed plans have been reviewed by Council's Asset Engineer, who supports the proposal subject to standard drainage and assets conditions.                                                                                                                                                |
| Transport Engineer           | The proposed plans have been reviewed by Council's Transport Engineer who consented to the proposed parking location, parking provision, access traffic generation etc. Support was also provided for private waste vehicles to carryout bin collection within the accessway at basement level. |
| ESD officer                  | The proposed plans have been reviewed by Council's ESD officer, who supports the proposal subject to standard conditions.                                                                                                                                                                       |
| Waste Officer                | The proposed plans have been reviewed by Council's Waste Engineer, who provided consent.                                                                                                                                                                                                        |
| Parkswide                    | The proposed plans have been reviewed by Council's ParksWide arborist, who supports the removal of the street tree subject to an amenity contribution to reimburse Council in accordance with Councils Tree Amenity Removal Policy.                                                             |
| Arborist                     | The plans have been referred to Council's Arborist who provided consent subject to standard tree protection conditions.                                                                                                                                                                         |

#### DISCUSSION

In terms of whether the land is suitable for housing intensification, it is considered that the site adequately responds to the State Planning Policies being located within an established residential area on a major road, and having good access to public transport, services and facilities.

Being also located within a 'substantial change', Residential Growth Zoned area, the site can be considered an 'opportunity area' as defined by Clause 21.06 - Housing, which provides for increased housing growth and housing diversity. It is also envisaged that the bulk of new development will provide a substantial change or shift in building height, scale and massing within the surrounding public realm as encouraged by Clause 15.01-2S (Building Design). In response to Clause 22.03 (Residential Development), the scale of the proposed development supports a wide range of dwelling types and one, two and three bedroom dwelling layouts to ensure the provision of good dwelling diversity. Space for planting has been provided particularly within side and front setback areas to improve internal amenity and liveability for proposed dwellings.

From the discussion above, it is considered that the proposed building location and scale, and provision of dwelling diversity, density and design, generally comply with the State and Local Planning Policy Framework.

#### **Residential Growth Zone (RGZ1) and ResCode**

The purpose of the Residential Growth Zone (RGZ1) provides a clear indication that density and built form will be increased, and that the departure from the existing character, if the surrounding area is of low scale, can be considered. However, the development must also provide an appropriate building height, and building transition between areas of more intensive use (RGZ areas) and other residential areas, being the Neighbourhood Residential Zoned land (NRZ5) to the rear of the site. Under this zone, amenity impact in terms of Clause 55.04 in the areas of overlooking, overshadowing, and visual bulk must be taken into consideration.

### 9.1.1

(cont)

From a height perspective, the RGZ1 includes preferred maximum height considerations of 13.5 metres, which can be increased to 14.5 metres if the ground level measured at any cross section of the site of the building wider than 8 metres, is greater than 2.5 degrees. In this instance, the first 14 metres into the site from Burwood Highway, has slopes of greater than 2.5 degrees, with the balance of the land sloping at approximately 2.36 degrees. The RGZ1 therefore allows the front portion of the building to have a maximum height of 14.5 metres, while the balance of the building must be reduced to a maximum height of 13.5 metres. When referring to the cross section plans, the proposed development comprises 5 stories, at a maximum height of 14.9 metres (front portion of building), 14.2 metres (central portion of building), and 13.95 metres (rear portion of building) reduced down to 7.6 metres to 8.17 metres (rear building wall to rear adjoining properties).

When comparing the preferred maximum height limitations of the RGZ1 with the heights proposed as part of this development, the proposed building will exceed the 14.5 metre height limit by 400mm (height proposed at 14.9 metres), and the 13.5 metre height limit by between 450mm and 700mm (height proposed at between 13.95 metres and 14.2 metres). However, urban context must also be considered and balanced regarding the appropriateness of building height, and will be addressed in greater detail below under Clause 58 (Apartment Developments).

To achieve adequate building transition down to neighbourhood residentially zoned land adjoining the site's rear boundary interface, the RGZ demands compliance with a number of ResCode provisions concerning site layout and building massing (Standard B10: Energy efficiency), and amenity impacts (Standard B17: Side and rear boundary setbacks, Standard B18: Walls on boundaries, Standard B19: Daylight to existing windows, Standard B21: Overshadowing, and Standard B22: Overlooking). The proposed building will achieve adequate compliance with the above ResCode provisions as discussed below:

- Overshadowing will not affect adjoining rear-facing habitable room windows, and will ensure that at least 75% of adjoining private open space will receive sufficient northern access through the day as defined by Standard B21.
- The proposed building mass will be within the Standard B17 envelope, except on the western side elevation with a negligible amount of the building edges at first, second and third floor levels, and a small portion of balcony glazing at second and third floor levels, extending outside the envelope.
- The proposed building will not be situated on any property boundaries, will have adequate boundary setbacks, and will have upper floors (4<sup>th</sup> and 5<sup>th</sup> floors) stepped in from lower floor levels. The building will not adversely compromise the solar access to any existing adjoining windows, and will achieve the intent and provisions of Standards B10 (energy efficiency), B17 (side and rear setbacks), B18 (walls on boundaries), B19 (daylight to existing windows) and B21 (overshadowing).
- The building form, window and balcony orientation, and screening measures provided will ensure that all overlooking has been sufficiently mitigated from all adjoining primary secluded open space areas in accordance with Standard B22. The proposal has provided setbacks that enable equitable development with boundary setbacks predominantly being set at, and/or greater than, 4.5 metres from side adjoining properties. Where the building projects beyond this distance, windows have raised sill heights of 1.7 metres above floor level, while either horizontal screens (1.1 metre high) combined with planter boxes (0.6 metres high resulting in a screening height of 1.7 metres) are provided to balconies (particularly concerning the first and second floor levels), to address overlooking issues.

### 9.1.1

(cont)

As discussed above, compliance with the above specific Res Code standards indicates that the proposal has reasonably responded to and achieved adequate building transition down to the NRZ rear boundary interface, in context to the RGZ1 provisions. However, like 'height', the issue of building transition must also be considered in conjunction with the surrounding urban context, which is discussed in detail against Clause 58 (Apartment Developments) below. The building height, scale and massing, when combined with the relevant internal and external amenity impacts to the site, must also be applied within the surrounding urban context to which the site is located. This will now be discussed below.

#### **Clause 58 – Apartment Developments**

The scale and massing, design and layout of the proposed development will achieve acceptable compliance with Clause 58. The key issues can be summarised now.

#### ***Urban Context and Site Layout***

##### ***Immediately Surrounding Public Realm***

The scale and massing of the proposed apartment building will carry a high profile to the Burwood Highway road corridor, largely given the width and open character of the road corridor (which includes additional space from service lanes), the consolidated two-parcel-width of the development site, and absence of large canopy trees along the road corridor.

The proposal will also comprise of one solid building mass across the site, with no voids through the centre of the site to visually break the building into multiple forms or provide view-lines across the site. However, the boundary setbacks of the proposed development will be relatively consistent with the approved development on both side adjoining properties (404-406 Burwood Highway and 412-414 Burwood Highway). From a ground floor footprint perspective, the following comparison is made:

| Property                | Minimum Front Setback | Minimum Side Setbacks | Minimum Rear Setbacks |
|-------------------------|-----------------------|-----------------------|-----------------------|
| Subject Site            | 6.1 metres            | 3 metres              | 3.75 metres           |
| 404-406 Burwood Highway | 6 metres              | 3.5 metres            | 3.5 metres            |
| 412-414 Burwood Highway | 5 metres              | 3 metres              | 3 metres              |

It is considered that there is sufficient spacing around the proposed building to provide views across the site to landscape backdrops, creating an adequate sense of spacing and separation between buildings on and adjacent the site.

As indicated by the submitted plans, the proposed building will project forward of both existing detached dwellings adjoining the site on both sides boundaries. However, the proposed development will match the front boundary setbacks of both side adjoining approved developments. This will ensure that the proposed building will be sympathetic with the future prevailing street setback.

The massing of the building will comprise a 28 metre wide, 3 storey high podium or street wall that steps in from the lower floor levels by 7.5 metres (20.5 metre width) for the fourth storey, and then a further 3 metres (17.2 metre width) for the fifth storey. The top two levels will be recessive to the lower floor levels to alleviate boxy built form. Along with reduced floor-to-ceiling heights, pitched roofing and a high level of urban design detail, there will be strong visual interest to the contemporary building appearance.

### **9.1.1**

(cont)

Due to the fall of the land from west to east, there will be a noticeable drop down to the frontage for the initial 14 metres into the site, the proposed building's 5 storey appearance is exposed primarily to the northern front elevation and partially to the east side elevation. The ground floor is otherwise predominantly cut into the land to the west and rear portions of the site, presenting as an articulated 4 storey appearance to the western boundary, and with a 2 to 2.5 storey appearance to the rear boundary interface given the extensive stepping in of upper levels from lower floor levels and cross-slope from east to west.

Additionally, the basement, being setback 4.37 metres from the front boundary, and 3 metres from all side and rear setbacks, will provide deep soil planting of moderate width to accommodate medium to tall trees (4-8 metres high). This will ensure the provision of a strong landscape screen along the side and rear boundaries to reduce building massing to the mentioned boundary interfaces.

It is acknowledged that the 2.44 metre wide easement along the rear boundary, as an encumbered space, will prevent the replanting of new canopy trees in the rear setback area. The proposal addresses this constraint by retaining Tree 18 and protecting established canopy trees 6, 8 and 10 (screen height varying between 8 metres and 14 metres) along the rear boundary. Additionally, portions of the existing Lawson's Cypress landscape screen (Trees 1 and 14 (in part) with a height varying from 8 metres to 17 metres) along the front boundary will be retained, along with the retention of Trees 1 and 14 (in part) to partially retain an element of the site's landscape setting to the street and the wider landscape. The landscape plan has also indicated the provision of 2 canopy trees per respective side and front boundary setback area.

From this perspective, the overall landscape screen will be effective in alleviating the bulkiest elements of the proposed building's mass to all boundary interfaces.

Given the above considerations, from an immediate public realm perspective, reasonable measures have been implemented to address building mass, scale and height, comprising recessive upper floors, high grade urban design, good boundary setbacks, moderate deep soil planting areas for good landscape opportunities, canopy and screening tree retention. However, Standard D1 (Urban Context) takes into account a much wider scope of the surrounding area when considering urban context within the public realm. This will now be discussed.

### 9.1.1

(cont)

#### Wider Urban Context – Apartment Developments approved and/or constructed

Standard D1 of Clause 58.02-1 (Urban Context) requires consideration that the ‘*design responds to the existing urban context or contributes to the preferred future development of the area*’. This translates to whether similar apartment buildings have been approved and/or constructed in the area, providing support for the proposed apartment building within a surrounding urban context. A review of Council’s planning records and the Burwood Highway within Vermont South has confirmed the following examples approved and / or constructed:

| <b><u>Constructed</u></b>                              |                                                            |
|--------------------------------------------------------|------------------------------------------------------------|
| <b>Address</b>                                         | <b>Development</b>                                         |
| 464 Burwood Highway, Vermont South (WH/2015/1090)      | 5 storey (16.1 metre high) apartment building.             |
| <b><u>Approved, not constructed</u></b>                |                                                            |
| 391-399 Burwood Highway, Vermont South (WH/2008/583/B) | 6 storey (15.9 metre height) apartment building.           |
| 407-409 Burwood Highway, Vermont South (WH/2016/623)   | 3 storey (9.35 metre height) terrace dwelling development. |
| 431-441 Burwood Highway, Burwood East (WH/2016/30)     | 5 storey (18 metre high) apartment building.               |
| 412-414 Burwood Highway, Vermont South (WH/2016/582)   | 6 storey (17.1 metre high) apartment building              |
| 404-406 Burwood Highway, Vermont South (WH/2018/80)    | 3 storey terrace dwelling development (9.25 metres)        |

As detailed above, only 1 of the 6 examples has been constructed, being the 5 storey apartment building at 464 Burwood Highway, Vermont South (*see Attachment 4*). This building sets the tone within the public realm that a substantial shift in building scale, and dwelling diversity and density is emerging within the Burwood Highway, RGZ substantial change area in Vermont South. Whilst it is acknowledged that construction generally has not commenced for most approved apartment developments mentioned above, these do confirm the likely occurrence of an ongoing rate of substantial change in the years to come. This means that these examples of apartment development should be taken into consideration, as they will likely form part of the future public interface.

When comparing the 5 storey apartment building at 464 Burwood Highway with the proposed development, this constructed building is generally similar in width, scale, setbacks, but is greater in height at 16.1 metres. This nearby building provides a less articulated building form to the proposed development particularly at upper floor levels, and will have a more dominant appearance to the Burwood Highway road corridor.

Although not constructed, the most relevant apartment building approved in close proximity is 412-414 Burwood Highway which adjoins this site to the east. This building is greater in height (17.1 metres), and has a 6 storey appearance to Burwood Highway at the point of the front basement entry. This adjoining approved building will provide similar boundary setbacks to the proposed development. At 17.1 metres in height, this building did not achieve compliance with the RGZ preferred height limits, and will be 2 metres taller than the proposed apartment building. It is also noted that this was a VCAT decision, with officers seeking outcomes reflecting reduced building heights, comparable to those being contemplated for the subject site.



### 9.1.1

(cont)

This adjoining approved building is a less articulated building form than the proposed development, and the building form will present as a 4 to 5 storey building to all residential boundary interfaces, and as a 6 storey building to Burwood Highway. With little visual relief to upper floors and flat roofing, this building will present as a more dominant, boxy building mass to the proposed building. The added height and 4 to 6 storey appearance to building interfaces will also likely result in that building presenting in a more visually dominant manner, than the proposed building. Whilst this in itself is not reason enough to approve the proposed building, it does provide insight as to shifting expectations for how buildings respond to major road corridors.

Overall it is evident that the surrounding urban context supports 3 storey town house / terrace style dwelling development; existing development has adopted this approach in response to the RGZ building height limitations and transition to neighbouring lower scale zones. It also supports 4 to 6 storey apartment development that is at the upper limits of height expectations, or indeed exceeds it. This reflects a less integrated height and building transition within the RGZ1.

By contrast, the proposed apartment development is similar or smaller in height, scale, and massing to the apartment developments already approved, with boundary setbacks being similar or greater by relative comparison. The proposed development has sought to find a middle ground response between what the current predominant building form reflects, and what is anticipated as the emerging character.

The emergence of this higher building form has been identified through strategic work being undertaken by Council, and as such raises the question; does this align with the expectations of Council?

#### Residential Corridor Strategy Built Form Guidelines 'Corridor Strategy (as adopted)

The site is located within 'Study Area 4 of the 'Residential Corridor Built Form Study'. Adopted in January 2019, the Corridor Strategy is a background document that contains design guidelines focused on approved apartment development along the Whitehorse Road and Burwood Highway transport road corridors. The aim of this document is to supplement existing substantial change objectives in the planning scheme (including the RGZ) by providing additional contextual measures that modify preferred maximum building height of the RGZ depending on which lower order residential zone the relative RGZ land interfaces with. Further, the Guidelines provide prescriptive boundary setbacks for the first 4 stories, with more restrictive prescribed boundary setbacks for any floor above four stories. These measures are included to achieve appropriate building transition outcomes.

Although this document has no status in the Planning Scheme, it has importance as it attempts to 'bridge the gap' in aligning the expectations of Council with both the purpose of the RGZ1, and the existing and approved apartment development in the surrounding public realm, from a character, building height and transition, equity and external amenity perspective. This will now be discussed in greater detail.

#### *Height*

The subject site would be located within 'Study Area 4' which affects suburbs west of Springvale Road (Burwood and Burwood East), and east of Springvale Road (Vermont South). The section of the study area west of Springvale Road is flanked by 'Natural Change', General Residential Zone areas. The preferred maximum building height expectations for this area are greater than those set in the RGZ, identifying between 5 stories (16 metres) and 6 stories (19 metres) in height depending on whether land parcels can be consolidated into larger properties.

### **9.1.1**

(cont)

Relative to the site, the section of Study Area 4 east of Springvale Road in Vermont South is flanked by 'Limited Change', Neighbourhood Residential area. Being a lower density, traditional residential area, the preferred maximum building height is lowered below the RGZ expectations at 13 metres. Unlike the RGZ, land slope does not influence preferred maximum building height under the Corridor Strategy. From this perspective, the proposed development would exceed the 13 metre height limitations by up to 2 metres at various sections across the site and will not achieve compliance in this regard.

#### ***Building Transition***

The corridor strategy also includes measures to address building transition between RGZ land and the lower order NRZ or GRZ residential zoned land abutting RGZ land. The aim is to essentially alleviate visual impact of taller buildings through increased upper floor setbacks, creating a sense of openness and expansive sky views along the relevant road corridor. Specifically, the Corridor Study outcomes limit front setbacks (ground floor: 5 metres, extended by an additional 3 metres for the fourth storey and above), side setbacks (4.5 metres, extended to 9 metres for the fourth storey and above) and rear setbacks (9 metres).

From this perspective, the proposed development will have front setbacks between 5.1 metres and 6.1 metres for the first 3 stories, 8.35 metres (balconies reduced to 6.1 metres) for the fourth storey and 9.5 metres (balconies reduced to 7.03 metres) for the fifth storey. The side setbacks will be 3 metres (first 3 stories), between 5.12 metres and 7.1 metres (fourth storey) and between 7.4 metres and 9 metres (fifth storey), which will achieve general compliance with the corridor strategy guidelines. Rear boundary setbacks will vary between 3 metres and 6.5 metres (first three stories), and up to 8.6 metres for the 2 upper floors. While the proposal will not achieve full compliance with the Corridor design guidelines, the margin of non-compliance is not considered to be significant.

#### ***Weighting of Policies / Strategic Documents***

In summary, when comparing the preferred maximum building height and transition provisions of the RGZ with the examples of approved and constructed apartment development within urban public realm context, the proposed apartment building is more closely aligned with the expectations of the RGZ, and more sensitive to boundary interfaces as encouraged by the Corridor Strategy, than the surrounding examples, reflecting a more appropriate built form and massing outcome and, transition to NRZ properties.

It is also considered that building height requirements of the RGZ can be satisfied via conditions of approval through modifications to the extent of earthworks, floor width and ceiling height. This, when combined with the extent of vegetation being retained and planted across the site as part of the landscape plan, will ensure that the intent and provision of Clause 58.02 (Urban Context) and Standard D1 can be adequately satisfied.

#### ***Environmental Sustainability Development***

From an environmental sustainability design and energy efficiency perspective, the proposal has provided general compliance with dwelling, balcony and general internal floor layout concerning windows (Standard D26), natural ventilation (Standard D27), room depth (Standard D25), integrated water and stormwater management (Standard D13), and energy efficiency objective (Standard D6), concerning the submitted plans.

The Sustainability Management Plan, as well as the BESS, STORM and Preliminary NatHERS reports, all include scores that indicate a 6 star average and 5.5 star minimum throughout the proposed development. This will achieve compliance against Clause 22.10 (Environment Sustainability Development), subject to conditions of approval addressing the outstanding minor issues primarily concerning effective management of grey water overflow emanating from the site.

### **9.1.1**

(cont)

#### ***Site services***

All service boxes are provided on ground level externally (front setback area), or internal at ground floor level. Subject to conditions of approval, all locations can be sufficiently concealed, or their visual impact to the streetscape minimised. The site and proposed building will have the capacity to connect to all utility services in accordance with Standard D4 (Infrastructure).

#### ***Functional Layout***

All bedrooms, living areas, room depth, daylight access to all windows and ventilation of all bedrooms are compliant in their dimensions. Accessibility throughout the floor layout of all dwelling modules will also be compliant with table D4 and Standard D17 'Accessibility' of Clause 58.05-1. Dwellings 1.01, 1.05, 2.01 and 2.05, however have side-facing 'snorkel' window depths exceeding 1.5 metres, which will allow for limited adequate daylight access into the adjacent habitable rooms. This issue can be addressed as a condition of approval in appropriately reducing snorkel depth to achieve compliance with the Standard D26 (Windows). The building design does have capacity to achieve improved window layouts.

Building entries will generally have their own identity and will foster safe, functional and efficient movement to and from the lifts on each level to achieve compliance with Standards D9 and D18 (Building Entry and Circulation). The exception is dwelling G01 that is provided with no dedicated front entry. This issue can be addressed as a condition of approval requiring a dedicated front entry foyer, and pathway separate from the private open space area to meet both Standards.

Subject to conditions of approval, private open space areas for all dwellings will comply in width and area in accordance with Standard D19 (Private Open Space) of Clause 58.05-3.

Concerning communal spaces, corridors are limited in width at 1.6 metres. This is acceptable as they are not long sections and expand up to 3.8 metres in width where adjacent to lifts and stairs to accommodate efficient movement, and queuing adjacent the lifts. The corridors incorporate a number of corners, and at times wrapping around a light well, which introduces visibility and safety improvements for occupants wanting to return to, or leave from, their dwellings. It is further acknowledged that while corridors do not have direct access to an external wall to take advantage of natural ventilation and daylight, the multi-storey central light well and ventilation duct to the rear of the lift, is an adequate response.

The proposed apartment building will also provide sufficient external storage space for all dwellings fully or in part within the respective dwelling layout and/or the basement areas. This will satisfy Standard D20 (Storage) of Clause 58.05-4.

#### ***External Amenity Impacts***

With boundary setbacks varying from 3 metres and 9 metres, the proposed building will be sufficiently setback such that any overshadowing created, will not have an adverse detriment on the amenity of any adjoining residential property. A level of overshadowing will occur to side and rear adjoining properties. However, the extent and duration of overshadow over adjoining primary secluded private open space court areas, within the hours of 9am to 3pm as required by Standard B21 (Overshadowing Open Space), will be of limited impact. Overshadowing impacts to habitable room windows are less than 1 hour and thus, is an acceptable design response.

All POS balconies will employ a variety of internal screening devices, differing orientations and locations, to protect internal views into other proposed POS areas and habitable room windows. This will sufficiently address Standard D15 (Internal Views) of Clause 58.

### **9.1.1**

(cont)

It is considered that the colour, materials and finishes palette is acceptable and will provide a contemporary appearance to the proposed building. The exception to this is the brighter yellow colour applied to the eastern corner of the building. This needs to be altered to provide a more muted tone reflected in surrounding development, and can be addressed as a condition of approval.

Car parking is enclosed at ground floor level (partially cut into the natural ground level through the central and rear portions of the site) and contained within a basement floor level. This will ensure that all potential noise sources to external boundary interfaces will be mitigated. Internally however, the rear entry to dwelling G01 is directly from the basement, potentially being exposed to the main noise source of the site. This issue can however be addressed as a condition of approval ensuring that the rear entry door and eastern wall of this dwelling implement noise attenuation measures. This will address the provisions of Standard D16 (Noise Impacts).

Additionally, while all corridors generally have direct access to a building wall to gain access to natural daylight and ventilation, the rear access to dwelling G01 will be directly from the basement. There is a concern that vehicle fumes may impact the enclosed habitable floor space of this dwelling. This issue can however be addressed via a condition of approval ensuring appropriate ventilation in accordance with Standard D27 (Natural Ventilation).

#### **Significant Landscape Overlay (SLO9) / Landscaping (Standard D10)**

Due to the proximity of proposed basement, excavation and driveway works, Trees 2, 3, and 14 (in part) protected under the SLO9, will require removal within the front setback area. These trees do not have wide canopies that contribute to the wider landscape, but rather, play a more localised role internal to the site and landscape screening role external to the site.

An objection ground focused on the retention of vegetation on site to ensure that the wider landscape character will be protected and enhanced, and that the habitat of fauna can be maintained.

Council Officers raised concerns regarding this issue, seeking to retain as much of the existing vegetation as possible within both front and rear setback areas. This would enable an immediate landscape screen to visually alleviate building mass to both the streetscape and rear yard interface of properties adjoining the site to the rear. This was particularly relevant as the setbacks proposed do not allow for the replanting of tall canopy trees within easements along the rear boundary.

The applicant responded by increasing the front setback and the deep soil planting area to retain Tree 1 and the western part of Tree 14 (existing cypress screen) along the front boundary, while seeking to retain Trees 8 (Cherry Plum) and 18 (Norway Spruce), which currently provide a partial landscape screen to rear adjoining properties, through their varying heights of 8 metres to 10 metres. Additionally, Council's consulting arborist has confirmed that all adjoining trees can be retained and that their retention would support the existing landscape screening.

The site does not contain any significant established canopy trees that contribute to the wider landscape. However, the proposal does offer an acceptable level of retention of onsite vegetation, as well as including sufficient deep soil planting areas in boundary setback areas. This will provide a landscape theme that will be effective in partially screening the lower levels to all boundary interfaces, the bulkiest element of the proposed development.

### 9.1.1

(cont)

With a total site area of 1,308m<sup>2</sup>, the proposal will provide more than 7.5% of deep soil planting at minimum widths of 3 metres, as well as medium sized trees at a density greater than 1:50m<sup>2</sup> of area in accordance with table D2 of Standard D10 (Landscaping) of Clause 58.03. This will provide sufficient landscape opportunity for replacement planting. Constraints such as easement encumbered land along the rear boundary, can be addressed with the retention and protection of a number of the trees at the front and along boundaries of the site. This accords with the objectives of Clause 22.04 (Tree Conservation) and the SLO9.

A key objection ground focused on tree loss from a landscape and habitat loss perspective. The above discussion indicates that a suitable provision of existing trees are being retained and proposed canopy trees planted. This will ensure that an acceptable landscape setting is provided to the adjacent Burwood Highway road corridor, while providing a greater provision of canopy species to strengthen, not lessen, the potential habitat capacity of the site for local fauna. This addresses this objection ground.

#### **Clause 52.06 (Car Parking and Access) / Standard D11 and 12 of Clause 58.03 / Waste Management / Noise**

##### **Required Car spaces**

Clause 52.06 requires 1 car space for each 1 to 2 bedroom dwelling, 2 car spaces for dwellings with 3 or more bedrooms, and 1 visitor car space for every 5 dwellings proposed. Also applicable is the site's location within the Principal Public Transport Network Area, which removes the visitor parking requirement under Clause 52.06. Based on these parking rates, the following calculations on the proposal are provided:

| Usage                            | Required Spaces | Spaces Proposed |
|----------------------------------|-----------------|-----------------|
| Dwellings                        |                 |                 |
| • Four 1 bedroom dwellings       | 4               | 4               |
| • Twenty-two 2 bedroom dwellings | 22              | 23              |
| • Three 3 bedroom dwellings      | 6               | 6               |
| • Visitor parking                | 0               | 0               |
| Total                            | 32              | 33              |

##### **Required bicycle spaces**

| Usage     | Number | Employee Rate           | Visitor Rate             | Required Spaces         | Provided Spaces |
|-----------|--------|-------------------------|--------------------------|-------------------------|-----------------|
| Dwellings | 42     | 1 space per 5 dwellings | 1 space per 10 dwellings | 5 resident<br>2 visitor |                 |
|           |        |                         | Total spaces required    | 7                       | 9               |

### 9.1.1

(cont)

A key objection ground focused on increased traffic, limited on-site parking capacity and noise as a result of the development. As detailed above, the development provides sufficient on-site car parking meeting the requirements of Clause 52.06 and as such will not cause any unreasonable traffic impact to Burwood Highway or any other nearby street within the surrounding road network.

As shown above, the number of bicycle spaces and design of the bike spaces are satisfactory with 9 bike racks at ground floor level, which will meet Clause 52.34. Council's Transport Engineering officer has consented to the proposed development on access and parking provision and location, except the access arrangements for private waste vehicles, which can be addressed as a condition of approval. Council's Waste officer has nevertheless consented to the waste management arrangements in this regard.

#### Objections

Parking – This issue has been addressed under the 'External Amenity Impacts' section earlier in this report.

Traffic – This issue has been addressed under the 'External Amenity Impacts' section earlier in this report.

Noise – This issue has been addressed under the 'External Amenity Impacts' section earlier in this report.

Vegetation Loss – This has been addressed under the SLO9 / Landscape earlier in this report.

### CONCLUSION





The proposed development is consistent with the relevant planning controls and policies, including the State and Local Planning Policies and provisions of the Residential Growth Zone Schedule 1. The scale, height, width, siting, form and appearance of the proposed development, and retention of landscape trees and landscape opportunities to provide for the replanting of numerous medium sized trees, is consistent with the substantial change policies contained within the State and Planning Policy Framework, as well as meeting the expectations of the RGZ subject to conditions of approval.

The proposal will be consistent with the existing and preferred pattern of development and neighbourhood character, and will not cause adverse amenity impacts to the adjoining properties, the adjacent streetscape and surrounding public realm.

The application has been advertised and 1 objection has been received. The issues have been discussed above.

As the proposed development is appropriate in form and appearance, approval is recommended.

### ATTACHMENT

- 1     Advertised Development Plans 
- 2     Advertised Landscape Plans 
- 3     Without Prejudice Plans 
- 4     Substantial Change Apartment Examples 

**9.1.2 2 Sergeant Street, Blackburn (Lot 11 LP 6826) Construction of a four storey apartment building, buildings and works within 4 metres of protected trees (SLO9).**

FILE NUMBER: WH/2018/619  
ATTACHMENT

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**SUMMARY**

*This application was advertised, and a total of eight (8) objections were received, at the end of the advertising period. A Consultation Forum was conducted on 23<sup>rd</sup> April 2019, chaired by Councillor Massoud. At the meeting, issues were explored, however no resolution was reached between the parties. An additional fourteen (14) objections were received after the Consultation Forum, resulting in a total of twenty two (22) objections being received. The objections raised issues including overdevelopment, amenity impacts, traffic and parking, loss of vegetation and habitat, and deficiencies in landscaping.*

*Council was notified on the 29<sup>th</sup> of August, 2019 that the applicant had lodged an application for review to the Victorian Civil and Administrative Tribunal (VCAT) against Council's failure to determine the application within the prescribed statutory timeframe.*

*The purpose of this report is to provide Council's assessment of the application against the relevant provisions of the Whitehorse Planning Scheme, as well as the objector concerns, and recommends approval of the application, subject to modification to be addressed by way of permit conditions.*

**RECOMMENDATION**

***That Council:***

- A. Being the Responsible Authority, having caused Application WH/2018/619 for 2 Sergeant Street, BLACKBURN (LOT 11 LP 6826) to be advertised and having received and noted the objections is of the opinion that the granting of a Planning Permit for the construction of a four storey apartment building, and buildings and works within 4 metres of protected trees (SLO9) is acceptable and should not unreasonably impact the amenity of adjacent properties.***
- B. Has formed a position to support the application in relation to the land described as 2 Sergeant Street, BLACKBURN (LOT 11 LP 6826) for the construction of a four storey apartment building, and buildings and works within 4 metres of protected trees (SLO9), and notification of this position be given to VCAT, subject to the following conditions:***
  - 1. Before the development starts, or vegetation is removed, amended plans shall be submitted to and approved by the Responsible Authority in a digital format. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale, with dimensions, and be generally in accordance with the plans submitted with the application but modified to show:***
    - a) The north facing balcony areas, associated with Dwellings 102, 103 and 104 at the first floor level setback a minimum of 3.5 metres from the northern boundary.***
    - b) The north facing balcony areas, associated with Dwellings 202, 203 and 204 at second floor level setback a minimum of 3.5 metres from the northern boundary.***
    - c) The south facing balcony areas, associated with Dwellings 105, 106 and 107 at first floor area setback a minimum of 4.5 metres from the southern boundary.***

**9.1.2**  
(cont)

- d) *The south facing balcony areas, associated with Dwellings 205, 206 and 207 at first floor area setback a minimum of 4.5 metres from the southern boundary.*
- e) *All habitable room/area(s) with dual aspect, must be provide with a minimum of two (2) openable windows, to provide further cross ventilation for each of the respective room/area.*
- f) *All habitable room windows must satisfy the requirement of Standard B22.*
- g) *The private open space (balcony) size and width must achieve:*
  - i. *Eight (8) square metres, with minimum width of 2 metres, for all two bedroom dwellings.*
  - ii. *Twelve (12) square metres, with a minimum width of 2.4 metres, for all three bedroom dwellings.*
  - iii. *Compliance with the objective of Standard B43, Clause 55 (private open space above ground floor),*
- h) *Cross section shadow diagrams, showing shadow movements for every hour between 10am to 3pm, demonstrating the north habitable room windows at 4 Sergeant Street, not detrimentally affected by overshadowing.*
- i) *Protruding nib walls between abutting balconies for privacy protection.*
- j) *Detail of proposed materials/presentation of all windows and balcony screens.*
- k) *Roof plan illustrating all plant and equipment to be screened from all street interfaces.*
- l) *Submission of colour photographs of cladding finishes demonstrating variation to the cladding finishes whereby the dark/grey themed material palette to incorporate warmer colour tones and/or materials. This could include (but not limited to) alternative screen colours and warmer timber look materials upon the under-side of balconies.*
- m) *Amendments in accordance with Council's Transport Engineer recommendations as follows:*
  - i. *The two southern tandem parking spaces, adjacent to the northern wall of the entry ramp be deleted and substituted by two double stackers to be accommodated within the basement area.*
  - ii. *Any subsequent increase to the internal floor and ceiling height of the basement area, resulting from modification under condition h(i), must not alter the finished floor level and building height at the ground level and the overall building height.*
  - iii. *A passing area to be located within the basement area at the bottom end of the basement entry ramp, and must have a minimum dimension of 6m length and 6.1m wide.*
  - iv. *The location of columns within the car park are to be designed in accordance with Clause 52.06-8 of the Whitehorse Planning Scheme.*
  - v. *Any proposed car stacker make and model are required to be nominated on the proposed layout plans. The car stacker spaces are required to accommodate a 1.8 metres vehicle (i.e 2 metres of clear headroom) in ground level stacker spaces.*
  - vi. *The proposed pits for any proposed car stackers must have an internal clear length of 5.4 metres so that the vehicle can park in the stacker.*



**9.1.2**  
(cont)

- vii. The proposed ramp grades to demonstrate the design requirements of AS 2890.2.*
- viii. The available sight distance at access driveways in accordance with Clause 52.06 of the Whitehorse Planning Scheme.*
- n) *A Car Parking Management Plan, in accordance with Condition 5 and the basement plan must be amended to show allocation of parking spaces as follows:*
  - i. Each pair of tandem parking spaces must be allocated to a 3 bedroom dwelling, with the remaining spaces to be designated to the remaining dwellings.*
  - ii. Detail any access controls to the parking area, such as boom gates which shall take into the required queue length required as per section 3.4 of AS 2890.1.*
  - iii. All other requirements of Parking Management Plan in Condition 5.*
- o) *All modification to plans in accordance with Condition 18, Sustainable Management Plan (SMP) including:*
  - i. All operable windows, doors and vents in elevation drawings.*
  - ii. Exterior shading for all east, north and west windows greater than 1.5 square metres, to shade at least 30% from 11am to 3pm on 1 February or otherwise provide renewable (photovoltaic) technology.*
  - iii. Include glazing specifications for all residential glazing, including solar heat gain coefficient (SHGC), visual light transmittance (VLT) and U-value.*
  - iv. Location of clotheslines.*
  - v. Any exterior building services equipment, including any heating, cooling, ventilation, hot water systems, as well as, electric vehicle (EV) charging facilities.*
  - vi. Where measures cannot be visually shown, include a notes table providing details of the requirements (i.e. energy and water efficiency ratings for heating/cooling systems and plumbing fittings and fixtures, etc.).*
- p) *Landscape Plan in accordance with Condition 3, including the following:*
  - i. A revised landscaping scheme, within the easement area, western boundary, with appropriate species of tree/shrubs capable of providing dense screen planting along this interface.*
  - ii. All canopy trees are to be a minimum 2.0 metres in height at the time of planting.*
  - iii. Review of canopy tree planting species.*
  - iv. Notation(s) on landscape and development plans stating “no alteration to existing ground surface levels, within the northern setback”, in lieu of the existing notation, relating to ‘maintaining existing grades’.*
- q) *The location of the Structural Root Zone and Tree Protection Zone for Tree 1 (street tree) described in Condition 4, with the nominated tree clearly identified and numbered on the site plans and the requirements of conditions 4 and 5 to be annotated on the development and landscape plans.*

**9.1.2**  
(cont)

- r) An amended Sustainability Management Plan (SMP), in accordance with Condition 18.*
- s) An amended Waste Management Plan (WMP) in accordance with Condition 19.*

*All of the above must be to the satisfaction of the Responsible Authority. Once approved these plans become the endorsed plans of this permit.*

- 2. The layout of the site and the size, design and location of the buildings and works permitted must always accord with the endorsed plan and must not be altered or modified without the further written consent of the Responsible Authority.*
- 3. No building or works shall be commenced (and no trees or vegetation shall be removed) until a landscape plan prepared by a suitably qualified and experienced person or firm has been submitted to and endorsed by the Responsible Authority. This plan when endorsed shall form part of this permit. This plan shall show -*
  - a) A survey of all existing vegetation, abutting street trees, natural features and vegetation.*
  - b) Buildings, outbuildings and trees in neighbouring lots that would affect the landscape design.*
  - c) Planting within the easement area, along the southern boundary of the site comprising trees and shrubs capable of:*
  - d) Providing a complete garden scheme,*
  - e) softening the building bulk along the southern elevation,*
  - f) A schedule of the botanical name of all trees and shrubs proposed to be retained and those to be removed incorporating any relevant requirements of condition No. 1.*
  - g) The proposed design features such as paths, paving, lawn and mulch.*
  - h) 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.*
  - i) Landscaping in accordance with this approved plan and schedule must be completed before the building is occupied.*

*Once approved these plans become the endorsed plans of this permit.*

**Tree Protection**

- 4. Prior to commencement of any building or demolition works on the land, Tree Protection Zones (TPZ) must be established on the subject site and within the nature strip and maintained during, and until completion of, all buildings and works including landscaping, around the following trees in accordance with the distances and measures specified below, to the satisfaction of the Responsible Authority:*
  - a) Tree Protection Zone distances:*
    - i. Tree 1 – 7.1 metre radius from the centre of the tree base.*
    - ii. Tree 2 – 2.2 metre radius from the centre of the tree base.*
    - iii. Tree 3 – 2.0 metre radius from the centre of the tree base.*
    - iv. Tree 4 – 4.3 metre radius from the centre of the tree base.*
    - v. Tree 5 – 2.4 metre radius from the centre of the tree base.*
    - vi. Tree 6 – 3.0 metre radius from the centre of the tree base.*
    - vii. Tree 7 – 2.0 metre radius from the centre of the tree base.*

**9.1.2**  
(cont)

- viii. Tree 8 – 2.0 metre radius from the centre of the tree base.*
- ix. Tree 13 – 3.6 metre radius from the centre of the tree base.*
- x. Tree 14 – 3.0 metre radius from the centre of the tree base.*
- xi. Tree 15 – 2.0 metre radius from the centre of the tree base.*
- xii. Tree 16 – 2.0 metre radius from the centre of the tree base.*
- b) Tree protection zone measures are to be established in accordance to Australian Standard 4970-2009 and including the following:**
  - i. Erection of solid chain mesh or similar type fencing at a minimum height of 1.8 metres held in place with concrete feet.*
  - ii. Signage placed around the outer edge of perimeter fencing identifying the area as a TPZ. The signage should be visible from within the development, with the lettering complying with AS 1319.*
  - iii. Mulch across the surface of the TPZ to a depth of 100mm and undertake supplementary watering in summer months as required.*
  - iv. No excavation, constructions works or activities, grade changes, surface treatments or storage of materials of any kind are permitted within the TPZ unless otherwise approved within this permit or further approved in writing by the Responsible Authority.*
  - v. All supports, and bracing should be outside the TPZ and any excavation for supports or bracing should avoid damaging roots where possible.*
  - vi. No trenching is allowed within the TPZ for the installation of utility services unless tree sensitive installation methods such as boring have been approved by the Responsible Authority.*
  - vii. Where construction is approved within the TPZ, fencing and mulching should be placed at the outer point of the construction area.*
  - viii. Where there are approved works within the TPZ, it may only be reduced to the required amount by an authorised person only during approved construction within the TPZ and must be restored in accordance with the above requirements at all other times.*
- c) During construction of any buildings, or during other works, the following tree protection requirements are to be adhered to, to the satisfaction of the Responsible Authority:**
  - i. A project arborist must be appointed by the applicant or builder and must supervise all approved works within or in the vicinity of the TPZs of Tree numbers 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16. The project Arborist must ensure that any buildings and works (which includes excavation works) do not adversely impact the health or stability of the tree(s) now or into the future.*
  - ii. Applicant to confirm in writing to the Responsible Authority the contracted arborist to be on site to supervise protection of trees, prior to commencement of buildings and works.*
  - iii. For Trees numbers 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16 no roots greater than 40mm in diameter are to be cut or damaged during any part of the construction process.*

**9.1.2**  
(cont)

- iv. All buildings and works for the demolition of the site and excavation and construction of the basement car park and building (as shown on the endorsed plans) must not alter the existing ground level or topography of the land within greater than 10% of the TPZs of Tree numbers 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16.*
- v. The project arborist and builder must ensure that TPZ Fencing Conditions are being adhered to throughout the entire building process, including site demolition, levelling and landscape works.*
- vi. Any excavation within the TPZ of the street tree must be undertaken by hand, hydro excavation or air spading to ensure adequate protection of the trees root network.*

**Parking Management Plan**

- 5. Prior to the commencement of any demolition, buildings or works on the land, a Parking Management Plan must be prepared to the satisfaction of the Responsible Authority, detailing:**
  - a) The designated parking spaces to the individual dwellings.*
  - b) Pedestrian access and movement within the car parking areas, including strategies to minimise the potential for conflict between pedestrians and vehicles. This may include line marking such as hatched shared areas, directions signs and/or physical barriers.*
  - c) Location of bicycle parking signs in accordance with Clause 52.34-5.*
  - d) Line marking of parking spaces.*
  - e) Detail how access to the proposed parking spaces will be secured for residential and use; and*
  - f) Detail any access controls to the parking area, such as boom gates which shall take into account the required queue length required as per section 3.4 of AS 2890.1.*
  - g) Details of how access to the waste collection areas will be achieved by waste collection vehicles and how these areas will be secured.*
  - h) How the car park will be managed to ensure that all vehicles exit the site in a forwards direction.*

*Once submitted and approved to the satisfaction of the Responsible Authority, the Parking Management Plan will form part of the endorsed plans under this permit.*
- 6. The car parking areas and accessways as shown on the endorsed plans must be formed to such levels so that they may be used in accordance with the plan, and shall be properly constructed, surfaced, drained and line-marked (where applicable). The car park and driveways shall be maintained to the satisfaction of the Responsible Authority.**
- 7. The car spaces in the car parking area on the site must be appropriately designed and must be suitably line marked at all times, to the satisfaction of the Responsible Authority.**

## **9.1.2**

(cont)

### **Building Services**

- 8. All building plant and equipment on the roofs is to be concealed to the satisfaction of the Responsible Authority. Noise emitting plant equipment such as air conditioners, must be shielded with acoustic screening to prevent the transmission of noise having detrimental amenity impacts. The construction of any additional plant, machinery or other equipment, including but not limited to all service structures, down pipes, aerials, satellite dishes, air-conditioners, equipment, ducts, flues, all exhausts including car parking and communication equipment must include appropriate screening measures to the satisfaction of the Responsible Authority.**
- 9. All treatments to prevent overlooking must not include 'Translucent film' on windows.**

### **Construction Management Plan**

- 10. Prior to the commencement of buildings or works on the land, a Construction Management Plan, detailing how the owner will manage the environmental and construction issues associated with the development, must be submitted to and approved by Council.**

**The Construction Management Plan must be prepared and managed by a suitably qualified person who is experienced in preparing Construction Management Plans in accordance with the City of Whitehorse Construction Management Plan Guidelines.**

**When approved the Construction Management Plan will form part of this permit and must be complied with, to the satisfaction of the Responsible Authority, to the extent that this is in the control of the owner of the land. The owner of the land is to be responsible for all costs associated with the works to be undertaken in accordance with the requirements of the Construction Management Plan.**

### **Assets**

- 11. No excavation and/or fill is permitted within the easement.**
- 12. All stormwater drains and on-site detention systems are to be connected to the legal point of discharge to the satisfaction of the Responsible Authority prior to the occupation of the building/s. The requirement for on-site detention will be noted on your stormwater point of discharge report, or it might be required as part of the civil plans approval.**
- 13. Detailed stormwater drainage and/or civil design for the proposed development are to be prepared by a suitably qualified civil engineer and submitted to the Responsible Authority for approval prior to occupation of the development. Plans and calculations are to be submitted with the application with all levels to Australian Height Datum (AHD). All documentation is to be signed by the qualified civil engineer.**
- 14. Stormwater that could adversely affect any adjacent land shall not be discharged from the subject site onto the surface of the adjacent land.**
- 15. Prior to works commencing the Applicant/Owner is to submit design plans for all proposed engineering works external to the site. The plans are to be submitted as separate engineering drawings for assessment by the Responsible Authority.**

### **9.1.2** (cont)

- 16. The Applicant/Owner is responsible to pay for all costs associated with reinstatement and/or alterations to Council or other Public Authority assets as a result of the development. The Applicant/Owner is responsible to obtain all relevant permits and consents from Council at least 7 days prior to the commencement of any works on the land and is to obtain prior specific written approval for any works involving the alteration of Council or other Public Authority assets. Adequate protection is to be provided to Council's infrastructure prior to works commencing and during the construction process.**
- 17. The qualified civil engineer when undertaking civil design must ensure that the landscape plan/s and drainage plan/s are compatible. The stormwater drainage and on site detention system must be located outside the tree protection zone (TPZ) of any trees to be retained.**

#### **Environmentally Sustainable Development**

- 18. Prior to the commencement of any buildings or demolition works, an amended Sustainability Management Plan (SMP) must be submitted to and approved by the Responsible Authority. This SMP must be generally in accordance with the SMP submitted with the application but amended to include the following changes:**
  - a) A STORM Rating Report with a score of at least 100% or equivalent.**
  - b) A complete, published BESS Report, with an acceptable overall score that exceeds 50% and exceed the 'pass' marks in the categories of Water, Energy Stormwater and Indoor Environment Quality (IEQ).**
  - c) Include a preliminary sample set of NatHERS scores as per Guide to NatHERS Sample Sizes – see <http://bit.ly/NatHERS-sampleset>. Ensure that the energy efficiency provisions of the Apartment Design Guidelines are satisfied.**
  - d) Provide glazing specification, including SHGC, VLT and U-values, and ensure that this is consistent among: any daylight modelling.**
  - e) Control car park ventilation with CO sensors.**
  - f) Control car park lighting (at least 75% of lighting fixtures) with motion sensors.**
  - g) Commit to controlling all common, service and lift area lighting with sensors/timers.**
  - h) Commit to controlling common, service and lift area ventilation with sensors/timers.**
  - i) Commit to the inclusion of improved energy efficient heating and cooling systems indicating the associated COP and EER values and/or star ratings.**
  - j) Commit to the inclusion of water efficient fixtures and appliances indicating the associated WELS ratings.**
  - k) Connect the rainwater tanks to all toilet flushing systems.**
  - l) Commit to diverting at least 80% of construction/demolition waste from landfill.**

## 9.1.2 (cont)

- m) Submit a water balance calculation justifying the rainwater tank capacity, based on long-term average rainfall data, collection areas and expected end uses, which is in compliance with AS/NZS 6400:2016 of 1 full- and 4 half-flushes per person per day (providing 17.5 L/person/day for a 4 star WELS rated toilet). A rainwater tank size should be selected based on calculations, ensuring adequate reliability of supply is maintained given that the rainwater tank must cater for all toilets and recommended to facilitate irrigative and bin wash-down areas. The size of the rainwater tank must consider water efficiency/reliability with respect to overflow.*

*Once submitted and approved to the satisfaction of the Responsible Authority, the SMP will form part of the endorsed plans under this permit.*

*The requirements of the SMP must be demonstrated on the plans and elevations submitted for endorsement, and the requirements of this plan must be implemented by the building manager, owners and occupiers of the site when constructing and fitting out the building, and for the duration of the building's operation in accordance with this permit, to the satisfaction of the Responsible Authority.*

### **Waste Management Plan**

- 19. Prior to the commencement of any buildings or demolition works, an amended Waste Management Plan (WMP) must be submitted to and approved by the Responsible Authority. This WMP must be generally in accordance with the WMP submitted with the application but amended to include the following changes:*

- a) Waste bins for transfer to the waste collection vehicles for the entire development are to be stored in the basement car park area.*
- b) Waste bins for the entire development are to be collected internally from the basement car park area.*
- c) The bin storage room is to be re-sized to allow for the storage of all the waste bins and is to include the following elements:*
  - i. The bin storage area shown as part of the WMP/plans is to meet the requirements as stated below:*
    - MGB layout that allows access to all of the bins.*
    - Adequate size to allow easy movement / transfer of the required number of MGBs.*
    - Adequate space for MGBs, hard waste and for bulk items (cardboard etc.).*
    - Secure location.*
    - Vermin proof.*
    - Adequate lighting.*
    - Adequate drainage.*
    - MGB washing facilities. Storage for MGB tug device (if required for transfer).*

*Once submitted and approved to the satisfaction of the Responsible Authority, the WMP will form part of the endorsed plans under this permit.*

- 20. The requirements of the endorsed Waste Management Plan must be implemented by the building manager, owners and occupiers of the site for the duration of the building's operation in accordance with this permit, to the satisfaction of the Responsible Authority.*

## 9.1.2

(cont)

- 21. All bins and receptacles must be kept in a storage area screened from view and maintained in a clean and tidy condition and free from offensive odour, to the satisfaction of the Responsible Authority.**

### **Expiry**

- 22. 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;**
- b) The development is not completed within four (4) years from the date of this permit.**

**The Responsible Authority may extend the periods referred to if a request is made in writing pursuant to the provisions of Section 69 of the Planning and Environment Act 1987.**

### **Permit Note:**

- a. The design and construction of letterboxes is to accord with Australian Standard AS-NZ 4253-1994.**
  - b. All proposed changes to the vehicle crossing are to be constructed in accordance with the submitted details, Whitehorse Council's – Vehicle Crossing General Specifications and standard drawings.**
  - c. Report and consent – Any proposed building over the easement is to be approved by the Responsible Authority prior to approval of the building permit. If Report and Consent contradicts with the Planning Permit, amendment of the Planning Permit might be required.**
  - d. The Applicant/Owner is to accurately survey and identify on the design plans all assets in public land that may be impacted by the proposed development. The assets may include all public authority services (i.e. gas, water, sewer, electricity, telephone, traffic signals etc.) and the location of street trees or vegetation. If any changes are proposed to these assets then the evidence of the approval is to be submitted to Council and all works are to be funded by the Applicant/Owner. This includes any modifications to the road reserve, including footpath, naturestrip and kerb and channel.**
  - e. No fire hydrants that are servicing the property are to be placed in the road reserve, outside the property boundary, without the approval of the Relevant Authority. If approval obtained, the property owner is required to enter into a S173 Agreement with Council that requires the property owner to maintain the fire hydrant".**
  - f. All downpipes, internal stormwater drainage and guttering must cater for the 1 in 10 year ARI storm event.**
  - g. No trees are permitted to be planted within the easement.**
- C. Has formed this position having particular regard to the requirements of Sections 58, 59, 60 and 61 of the Planning and Environment Act 1987.**



## **9.1.2**

(cont)

### **MOTION**

Moved by Cr Massoud, Seconded by Cr Munroe

***That Council:***

- A. Being the Responsible Authority, having caused Application WH/2018/619 for 2 Sergeant Street, BLACKBURN (LOT 11 LP 6826) to be advertised and having received and noted the objections is of the opinion that the granting of a Planning Permit for the construction of a four storey apartment building, and buildings and works within 4 metres of protected trees (SLO9) is acceptable and should not unreasonably impact the amenity of adjacent properties.***
- B. Has formed a position to support the application in relation to the land described as 2 Sergeant Street, BLACKBURN (LOT 11 LP 6826) for the construction of a four storey apartment building, and buildings and works within 4 metres of protected trees (SLO9), and notification of this position be given to VCAT, subject to the following conditions:***
  - 1. Before the development starts, or vegetation is removed, amended plans shall be submitted to and approved by the Responsible Authority in a digital format. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale, with dimensions, and be generally in accordance with the plans submitted with the application but modified to show:***
    - a) The north facing balcony areas, associated with Dwellings 102, 103 and 104 at the first floor level setback a minimum of 3.5 metres from the northern boundary.***
    - b) The north facing balcony areas, associated with Dwellings 202, 203 and 204 at second floor level setback a minimum of 3.5 metres from the northern boundary.***
    - c) The south facing balcony areas, associated with Dwellings 105, 106 and 107 at first floor area setback a minimum of 4.5 metres from the southern boundary.***
    - d) The south facing balcony areas, associated with Dwellings 205, 206 and 207 at first floor area setback a minimum of 4.5 metres from the southern boundary.***
    - e) All habitable room/area(s) with dual aspect, must be provide with a minimum of two (2) openable windows, to provide further cross ventilation for each of the respective room/area.***
    - f) All habitable room windows must satisfy the requirement of Standard B22.***
    - g) The private open space (balcony) size and width must achieve:***
      - i. Eight (8) square metres, with minimum width of 2 metres, for all two bedroom dwellings.***
      - ii. Twelve (12) square metres, with a minimum width of 2.4 metres, for all three bedroom dwellings.***
      - iii. Compliance with the objective of Standard B43, Clause 55 (private open space above ground floor),***
    - h) Cross section shadow diagrams, showing shadow movements for every hour between 10am to 3pm, demonstrating the north habitable room windows at 4 Sergeant Street, not detrimentally affected by overshadowing.***
    - i) Protruding nib walls between abutting balconies for privacy protection.***

**9.1.2**  
(cont)

- j) Detail of proposed materials/presentation of all windows and balcony screens.*
- k) Roof plan illustrating all plant and equipment to be screened from all street interfaces.*
- l) Submission of colour photographs of cladding finishes demonstrating variation to the cladding finishes whereby the dark/grey themed material palette to incorporate warmer colour tones and/or materials. This could include (but not limited to) alternative screen colours and warmer timber look materials upon the under-side of balconies.*
- m) Amendments in accordance with Council's Transport Engineer recommendations as follows:*
  - i. The two southern tandem parking spaces, adjacent to the northern wall of the entry ramp be deleted and substituted by two double stackers to be accommodated within the basement area.*
  - ii. Any subsequent increase to the internal floor and ceiling height of the basement area, resulting from modification under condition h(i), must not alter the finished floor level and building height at the ground level and the overall building height.*
  - iii. A passing area to be located within the basement area at the bottom end of the basement entry ramp, and must have a minimum dimension of 6m length and 6.1m wide.*
  - iv. The location of columns within the car park are to be designed in accordance with Clause 52.06-8 of the Whitehorse Planning Scheme.*
  - v. Any proposed car stacker make and model are required to be nominated on the proposed layout plans. The car stacker spaces are required to accommodate a 1.8 metres vehicle (i.e 2 metres of clear headroom) in ground level stacker spaces.*
  - vi. The proposed pits for any proposed car stackers must have an internal clear length of 5.4 metres so that the vehicle can park in the stacker.*
  - vii. The proposed ramp grades to demonstrate the design requirements of AS 2890.2.*
  - viii. The available sight distance at access driveways in accordance with Clause 52.06 of the Whitehorse Planning Scheme.*
- n) A Car Parking Management Plan, in accordance with Condition 5 and the basement plan must be amended to show allocation of parking spaces as follows:*
  - i. Each pair of tandem parking spaces must be allocated to a 3 bedroom dwelling, with the remaining spaces to be designated to the remaining dwellings.*
  - ii. Detail any access controls to the parking area, such as boom gates which shall take into the required queue length required as per section 3.4 of AS 2890.1.*
  - iii. All other requirements of Parking Management Plan in Condition 5.*
- o) All modification to plans in accordance with Condition 19, Sustainable Management Plan (SMP) including:*
  - i. All operable windows, doors and vents in elevation drawings.*
  - ii. Exterior shading for all east, north and west windows greater than 1.5 square metres, to shade at least 30% from 11am to 3pm on 1 February or otherwise provide renewable (photovoltaic) technology.*

## **9.1.2**

(cont)

- iii. Include glazing specifications for all residential glazing, including solar heat gain coefficient (SHGC), visual light transmittance (VLT) and U-value.*
      - iv. Location of clotheslines.*
      - v. Any exterior building services equipment, including any heating, cooling, ventilation, hot water systems, as well as, electric vehicle (EV) charging facilities.*
      - vi. Where measures cannot be visually shown, include a notes table providing details of the requirements (i.e. energy and water efficiency ratings for heating/cooling systems and plumbing fittings and fixtures, etc.).*
    - p) Landscape Plan in accordance with Condition 3, including the following:*
      - i. A revised landscaping scheme, within the easement area, western boundary, with appropriate species of tree/shrubs capable of providing dense screen planting along this interface.*
      - ii. All canopy trees are to be a minimum 2.0 metres in height at the time of planting.*
      - iii. Review of canopy tree planting species.*
      - iv. Notation(s) on landscape and development plans stating “no alteration to existing ground surface levels, within the northern setback”, in lieu of the existing notation, relating to ‘maintaining existing grades’.*
    - q) The location of the Structural Root Zone and Tree Protection Zone for Tree 1 (street tree) described in Condition 4, with the nominated tree clearly identified and numbered on the site plans and the requirements of conditions 4 and 5 to be annotated on the development and landscape plans.*
    - r) All modification to plans in accordance with Condition 8, Green Travel Plan.*
    - s) An amended Waste Management Plan (WMP) in accordance with Condition 20.*
- All of the above must be to the satisfaction of the Responsible Authority. Once approved these plans become the endorsed plans of this permit.*
- 2. The layout of the site and the size, design and location of the buildings and works permitted must always accord with the endorsed plan and must not be altered or modified without the further written consent of the Responsible Authority.*
  - 3. No building or works shall be commenced (and no trees or vegetation shall be removed) until a landscape plan prepared by a suitably qualified and experienced person or firm has been submitted to and endorsed by the Responsible Authority. This plan when endorsed shall form part of this permit. This plan shall show -*
    - a) A survey of all existing vegetation, abutting street trees, natural features and vegetation.*
    - b) Buildings, outbuildings and trees in neighbouring lots that would affect the landscape design.*
    - c) Planting within the easement area, along the southern boundary of the site comprising trees and shrubs capable of:*
    - d) Providing a complete garden scheme,*
    - e) softening the building bulk along the southern elevation,*

## **9.1.2**

(cont)

- f) A schedule of the botanical name of all trees and shrubs proposed to be retained and those to be removed incorporating any relevant requirements of condition No. 1.*
- g) The proposed design features such as paths, paving, lawn and mulch.*
- h) 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.*
- i) Landscaping in accordance with this approved plan and schedule must be completed before the building is occupied.*

*Once approved these plans become the endorsed plans of this permit.*

### **Tree Protection**

- 4. Prior to commencement of any building or demolition works on the land, Tree Protection Zones (TPZ) must be established on the subject site and within the nature strip and maintained during, and until completion of, all buildings and works including landscaping, around the following trees in accordance with the distances and measures specified below, to the satisfaction of the Responsible Authority:*
  - a) Tree Protection Zone distances:*
    - i. Tree 1 – 7.1 metre radius from the centre of the tree base.*
    - ii. Tree 2 – 2.2 metre radius from the centre of the tree base.*
    - iii. Tree 3 – 2.0 metre radius from the centre of the tree base.*
    - iv. Tree 4 – 4.3 metre radius from the centre of the tree base.*
    - v. Tree 5 – 2.4 metre radius from the centre of the tree base.*
    - vi. Tree 6 – 3.0 metre radius from the centre of the tree base.*
    - vii. Tree 7 – 2.0 metre radius from the centre of the tree base.*
    - viii. Tree 8 – 2.0 metre radius from the centre of the tree base.*
    - ix. Tree 13 – 3.6 metre radius from the centre of the tree base.*
    - x. Tree 14 – 3.0 metre radius from the centre of the tree base.*
    - xi. Tree 15 – 2.0 metre radius from the centre of the tree base.*
    - xii. Tree 16 – 2.0 metre radius from the centre of the tree base.*
  - b) Tree protection zone measures are to be established in accordance to Australian Standard 4970-2009 and including the following:*
    - i. Erection of solid chain mesh or similar type fencing at a minimum height of 1.8 metres held in place with concrete feet.*
    - ii. Signage placed around the outer edge of perimeter fencing identifying the area as a TPZ. The signage should be visible from within the development, with the lettering complying with AS 1319.*
    - iii. Mulch across the surface of the TPZ to a depth of 100mm and undertake supplementary watering in summer months as required.*
    - iv. No excavation, constructions works or activities, grade changes, surface treatments or storage of materials of any kind are permitted within the TPZ unless otherwise approved within this permit or further approved in writing by the Responsible Authority.*
    - v. All supports, and bracing should be outside the TPZ and any excavation for supports or bracing should avoid damaging roots where possible.*

**9.1.2**  
(cont)

- vi. *No trenching is allowed within the TPZ for the installation of utility services unless tree sensitive installation methods such as boring have been approved by the Responsible Authority.*
- vii. *Where construction is approved within the TPZ, fencing and mulching should be placed at the outer point of the construction area.*
- viii. *Where there are approved works within the TPZ, it may only be reduced to the required amount by an authorised person only during approved construction within the TPZ and must be restored in accordance with the above requirements at all other times.*
- c) *During construction of any buildings, or during other works, the following tree protection requirements are to be adhered to, to the satisfaction of the Responsible Authority:*
  - i. *A project arborist must be appointed by the applicant or builder and must supervise all approved works within or in the vicinity of the TPZs of Tree numbers 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16. The project Arborist must ensure that any buildings and works (which includes excavation works) do not adversely impact the health or stability of the tree(s) now or into the future.*
  - ii. *Applicant to confirm in writing to the Responsible Authority the contracted arborist to be on site to supervise protection of trees, prior to commencement of buildings and works.*
  - iii. *For Trees numbers 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16 no roots greater than 40mm in diameter are to be cut or damaged during any part of the construction process.*
  - iv. *All buildings and works for the demolition of the site and excavation and construction of the basement car park and building (as shown on the endorsed plans) must not alter the existing ground level or topography of the land within greater than 10% of the TPZs of Tree numbers 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16.*
  - v. *The project arborist and builder must ensure that TPZ Fencing Conditions are being adhered to throughout the entire building process, including site demolition, levelling and landscape works.*
  - vi. *Any excavation within the TPZ of the street tree must be undertaken by hand, hydro excavation or air spading to ensure adequate protection of the trees root network.*

**Parking Management Plan**

- 5. *Prior to the commencement of any demolition, buildings or works on the land, a Parking Management Plan must be prepared to the satisfaction of the Responsible Authority, detailing:*
  - a) *The designated parking spaces to the individual dwellings.*
  - b) *Pedestrian access and movement within the car parking areas, including strategies to minimise the potential for conflict between pedestrians and vehicles. This may include line marking such as hatched shared areas, directions signs and/or physical barriers.*
  - c) *Location of bicycle parking signs in accordance with Clause 52.34-5.*
  - d) *Line marking of parking spaces.*
  - e) *Detail how access to the proposed parking spaces will be secured for residential and use; and*

## **9.1.2**

(cont)

- f) Detail any access controls to the parking area, such as boom gates which shall take into account the required queue length required as per section 3.4 of AS 2890.1.*
- g) Details of how access to the waste collection areas will be achieved by waste collection vehicles and how these areas will be secured.*
- h) How the car park will be managed to ensure that all vehicles exit the site in a forwards direction.*

*Once submitted and approved to the satisfaction of the Responsible Authority, the Parking Management Plan will form part of the endorsed plans under this permit.*

- 6. The car parking areas and accessways as shown on the endorsed plans must be formed to such levels so that they may be used in accordance with the plan, and shall be properly constructed, surfaced, drained and line-marked (where applicable). The car park and driveways shall be maintained to the satisfaction of the Responsible Authority.*
- 7. The car spaces in the car parking area on the site must be appropriately designed and must be suitably line marked at all times, to the satisfaction of the Responsible Authority.*

### **Green Travel Plan**

- 8. Prior to occupation of the development, a Green Travel Plan must be prepared to the satisfaction of the Responsible Authority. The Green Travel Plan is to include details of design initiatives and sustainable management practices to reduce car usage and improve sustainable transport options (including walking, cycling, public transport and car pooling) available to residents and visitors. The Green Travel Plan must include, but not be limited to the following:*
  - a) Education and awareness initiatives and incentives for residents and visitors to encourage more sustainable modes of travel to/from the site.*
  - b) Management practices identifying sustainable transport alternatives.*
  - c) Consider the provision of electric vehicle charging facilities.*
  - d) Details of bicycle spaces for visitors and residents.*
  - e) Any other relevant matters.*

*When approved to the satisfaction of the Responsible Authority, the plan will be part of the documents endorsed as part of this planning permit. The Green Travel Plan must be implemented to the satisfaction of the Responsible Authority.*

### **Building Services**

- 9. All building plant and equipment on the roofs is to be concealed to the satisfaction of the Responsible Authority. Noise emitting plant equipment such as air conditioners, must be shielded with acoustic screening to prevent the transmission of noise having detrimental amenity impacts. The construction of any additional plant, machinery or other equipment, including but not limited to all service structures, down pipes, aerials, satellite dishes, air-conditioners, equipment, ducts, flues, all exhausts including car parking and communication equipment must include appropriate screening measures to the satisfaction of the Responsible Authority.*
- 10. All treatments to prevent overlooking must not include 'Translucent film' on windows.*

**9.1.2**  
(cont)

**Construction Management Plan**

11. *Prior to the commencement of buildings or works on the land, a Construction Management Plan, detailing how the owner will manage the environmental and construction issues associated with the development, must be submitted to and approved by Council.*

*The Construction Management Plan must be prepared and managed by a suitably qualified person who is experienced in preparing Construction Management Plans in accordance with the City of Whitehorse Construction Management Plan Guidelines.*

*When approved the Construction Management Plan will form part of this permit and must be complied with, to the satisfaction of the Responsible Authority, to the extent that this is in the control of the owner of the land. The owner of the land is to be responsible for all costs associated with the works to be undertaken in accordance with the requirements of the Construction Management Plan.*

**Assets**

12. *No excavation and/or fill is permitted within the easement.*
13. *All stormwater drains and on-site detention systems are to be connected to the legal point of discharge to the satisfaction of the Responsible Authority prior to the occupation of the building/s. The requirement for on-site detention will be noted on your stormwater point of discharge report, or it might be required as part of the civil plans approval.*
14. *Detailed stormwater drainage and/or civil design for the proposed development are to be prepared by a suitably qualified civil engineer and submitted to the Responsible Authority for approval prior to occupation of the development. Plans and calculations are to be submitted with the application with all levels to Australian Height Datum (AHD). All documentation is to be signed by the qualified civil engineer.*
15. *Stormwater that could adversely affect any adjacent land shall not be discharged from the subject site onto the surface of the adjacent land.*
16. *Prior to works commencing the Applicant/Owner is to submit design plans for all proposed engineering works external to the site. The plans are to be submitted as separate engineering drawings for assessment by the Responsible Authority.*
17. *The Applicant/Owner is responsible to pay for all costs associated with reinstatement and/or alterations to Council or other Public Authority assets as a result of the development. The Applicant/Owner is responsible to obtain all relevant permits and consents from Council at least 7 days prior to the commencement of any works on the land and is to obtain prior specific written approval for any works involving the alteration of Council or other Public Authority assets. Adequate protection is to be provided to Council's infrastructure prior to works commencing and during the construction process.*
18. *The qualified civil engineer when undertaking civil design must ensure that the landscape plan/s and drainage plan/s are compatible. The stormwater drainage and on site detention system must be located outside the tree protection zone (TPZ) of any trees to be retained.*

## **9.1.2**

(cont)

### **Environmentally Sustainable Development**

- 19. Prior to the commencement of any buildings or demolition works, an amended Sustainability Management Plan (SMP) must be submitted to and approved by the Responsible Authority. This SMP must be generally in accordance with the SMP submitted with the application but amended to include the following changes:**
- a) A STORM Rating Report with a score of at least 100% or equivalent.**
  - b) A complete, published BESS Report, with an acceptable overall score that exceeds 50% and exceed the 'pass' marks in the categories of Water, Energy Stormwater and Indoor Environment Quality (IEQ).**
  - c) Include a preliminary sample set of NatHERS scores as per Guide to NatHERS Sample Sizes – see <http://bit.ly/NatHERS-sampleset>. Ensure that the energy efficiency provisions of the Apartment Design Guidelines are satisfied.**
  - d) Provide glazing specification, including SHGC, VLT and U-values, and ensure that this is consistent among: any daylight modelling.**
  - e) Control car park ventilation with CO sensors.**
  - f) Control car park lighting (at least 75% of lighting fixtures) with motion sensors.**
  - g) Commit to controlling all common, service and lift area lighting with sensors/timers.**
  - h) Commit to controlling common, service and lift area ventilation with sensors/timers.**
  - i) Commit to the inclusion of improved energy efficient heating and cooling systems indicating the associated COP and EER values and/or star ratings.**
  - j) Commit to the inclusion of water efficient fixtures and appliances indicating the associated WELS ratings.**
  - k) Connect the rainwater tanks to all toilet flushing systems.**
  - l) Commit to diverting at least 80% of construction/demolition waste from landfill.**
  - m) Submit a water balance calculation justifying the rainwater tank capacity, based on long-term average rainfall data, collection areas and expected end uses, which is in compliance with AS/NZS 6400:2016 of 1 full- and 4 half-flushes per person per day (providing 17.5 L/person/day for a 4 star WELS rated toilet). A rainwater tank size should be selected based on calculations, ensuring adequate reliability of supply is maintained given that the rainwater tank must cater for all toilets and recommended to facilitate irrigative and bin wash-down areas. The size of the rainwater tank must consider water efficiency/reliability with respect to overflow.**

**Once submitted and approved to the satisfaction of the Responsible Authority, the SMP will form part of the endorsed plans under this permit.**

**The requirements of the SMP must be demonstrated on the plans and elevations submitted for endorsement, and the requirements of this plan must be implemented by the building manager, owners and occupiers of the site when constructing and fitting out the building, and for the duration of the building's operation in accordance with this permit, to the satisfaction of the Responsible Authority.**



**9.1.2**  
(cont)

**Waste Management Plan**

**20. Prior to the commencement of any buildings or demolition works, an amended Waste Management Plan (WMP) must be submitted to and approved by the Responsible Authority. This WMP must be generally in accordance with the WMP submitted with the application but amended to include the following changes:**

- a) Waste bins for transfer to the waste collection vehicles for the entire development are to be stored in the basement car park area.**
- b) Waste bins for the entire development are to be collected internally from the basement car park area.**
- c) The bin storage room is to be re-sized to allow for the storage of all the waste bins and is to include the following elements:**
  - i. The bin storage area shown as part of the WMP/plans is to meet the requirements as stated below:**
    - MGB layout that allows access to all of the bins.**
    - Adequate size to allow easy movement / transfer of the required number of MGBs.**
    - Adequate space for MGBs, hard waste and for bulk items (cardboard etc.).**
    - Secure location.**
    - Vermin proof.**
    - Adequate lighting.**
    - Adequate drainage.**
    - MGB washing facilities. Storage for MGB tug device (if required for transfer).**

**Once submitted and approved to the satisfaction of the Responsible Authority, the WMP will form part of the endorsed plans under this permit.**

- 21. The requirements of the endorsed Waste Management Plan must be implemented by the building manager, owners and occupiers of the site for the duration of the building's operation in accordance with this permit, to the satisfaction of the Responsible Authority.**
- 22. All bins and receptacles must be kept in a storage area screened from view and maintained in a clean and tidy condition and free from offensive odour, to the satisfaction of the Responsible Authority.**

**Expiry**

**23. 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;**
- b) the development is not completed within four (4) years from the date of this permit.**

**The Responsible Authority may extend the periods referred to if a request is made in writing pursuant to the provisions of Section 69 of the Planning and Environment Act 1987.**

## 9.1.2

(cont)

### **Permit Note:**

- a) *The design and construction of letterboxes is to accord with Australian Standard AS-NZ 4253-1994.*
  - b) *All proposed changes to the vehicle crossing are to be constructed in accordance with the submitted details, Whitehorse Council's – Vehicle Crossing General Specifications and standard drawings.*
  - c) *Report and consent – Any proposed building over the easement is to be approved by the Responsible Authority prior to approval of the building permit. If Report and Consent contradicts with the Planning Permit, amendment of the Planning Permit might be required.*
  - d) *The Applicant/Owner is to accurately survey and identify on the design plans all assets in public land that may be impacted by the proposed development. The assets may include all public authority services (i.e. gas, water, sewer, electricity, telephone, traffic signals etc.) and the location of street trees or vegetation. If any changes are proposed to these assets then the evidence of the approval is to be submitted to Council and all works are to be funded by the Applicant/Owner. This includes any modifications to the road reserve, including footpath, naturestrip and kerb and channel.*
  - e) *No fire hydrants that are servicing the property are to be placed in the road reserve, outside the property boundary, without the approval of the Relevant Authority. If approval obtained, the property owner is required to enter into a S173 Agreement with Council that requires the property owner to maintain the fire hydrant".*
  - f) *All downpipes, internal stormwater drainage and guttering must cater for the 1 in 10 year ARI storm event.*
  - g) *No trees are permitted to be planted within the easement.*
- C. *Has formed this position having particular regard to the requirements of Sections 58, 59, 60 and 61 of the Planning and Environment Act 1987.*

**CARRIED**

A Division was called.

### **Division**

| <b>For</b>   | <b>Against</b> |
|--------------|----------------|
| Cr Barker    | Cr Carr        |
| Cr Bennett   |                |
| Cr Cutts     |                |
| Cr Davenport |                |
| Cr Ellis     |                |
| Cr Liu       |                |
| Cr Massoud   |                |
| Cr Munroe    |                |


**On the results of the Division the motion was declared CARRIED**

## 9.1.2 (cont)

MELWAYS REFERENCE 47 H10

|                                |                                                         |
|--------------------------------|---------------------------------------------------------|
| Applicant:                     | Zone Constructions                                      |
| Zoning:                        | Residential Growth Zone – Schedule 2 (RGZ2)             |
| Overlays:                      | Significant Landscape Overlay – Schedule 9 (SLO9)       |
| Neighbourhood Character study: | Garden Suburban 13                                      |
| Relevant Clauses:              |                                                         |
| Clause 11.01-1R                | Settlement                                              |
| Clause 15.01                   | Built Environment and Heritage                          |
| Clause 15.01-1R                | Urban Design – Metropolitan Melbourne                   |
| Clause 15.01-2S                | Building Design                                         |
| Clause 16                      | Housing                                                 |
| Clause 16.01                   | Residential Development                                 |
| Clause 18                      | Transport                                               |
| Clause 21.03                   | A Vision for the City of Whitehorse                     |
| Clause 21.06                   | Housing                                                 |
| Clause 22.03                   | Residential Development                                 |
| Clause 22.04                   | Tree Conservation                                       |
| Clause 22.10                   | Environmentally Sustainable Development                 |
| Clause 32.07                   | Residential Growth Zone                                 |
| Clause 42.03                   | Significant Landscape Overlay – Schedule 9              |
| Clause 52.06                   | Car Parking                                             |
| Clause 52.34                   | Bicycle Facilities                                      |
| Clause 55                      | Two or More Dwellings on a Lot or Residential Buildings |
| Clause 65                      | Decision Guidelines                                     |
| Ward:                          | Central Ward                                            |



|  |  |              |  |                                              |                                                                                                |
|--|--|--------------|--|----------------------------------------------|------------------------------------------------------------------------------------------------|
|  |  | Subject site |  | 22 Objector Properties<br>(8 outside of map) | <br>North |
|--|--|--------------|--|----------------------------------------------|------------------------------------------------------------------------------------------------|

## 9.1.2

(cont)

### BACKGROUND

#### The Site and Surrounds

The site is located at 2 Sergeant Street, Blackburn and comprises one allotment, being Lot 11 on Plan of Subdivision 6826, Volume 1161981, and Folio 317. The site is situated on the western side of Sergeant Street, and has the following key features:

- The site is regular in shape with a frontage width of 22.86 metres, side boundaries (north and south) length of 60.35 metres and a site area of approximately 1380 square metres.
- The subject site is currently vacant and has no vegetation except for one existing canopy tree, a *Corymbia citriofora*, Lemon-scented Gum (Tree 1), located within the site's frontage. Refer to Figure 1 – Aerial photograph, below.
- The land has a slope of 1.3 metres falling from north-east (front) to the south-west (rear) corner of the site.
- There are no existing street trees located along the subject site's frontage.
- A 1.52 metre wide drainage easement extends along the western (rear) boundary of the site.
- The site is located within an established residential area. The street contains a mix of traditional detached dwellings, dual occupancies, attached contemporary two-storey townhouses, row developments and multi storey apartment development.
- Sergeant Street is a two way street with kerbside parallel parking on either side. It extends from Whitehorse Road and terminates in a courtbowl at the railway line.
- Along the railway line is a walking track through to Laburnum Station from the end of Sergeant Street.
- The site is located in proximity to a range of commercial and community facilities including:
  - Laburnum Village neighbourhood centre is located within walking distance of the subject site, approximately 250 metres south-west by foot;
  - Middleborough Road and Whitehorse Road shops 300 metres to the west;
  - Blackburn Neighbourhood Centre / Megamile activity centre 600 metres to the east;
  - Box Hill Activity Centre 1.5 kilometres to the west;
  - Laburnum train station and Blackburn train station 150 and 500 metres respectively from the site.
  - Various bus routes, areas of public open space and educational facilities.
- The wider area comprises both low-rise (4-5 storey) as well as a mix single and double storey dwellings.



## 9.1.2

(cont)

### **Figure 1 – Aerial photograph Planning Controls**

The subject site is zoned Residential Growth Zone – Schedule 2 (RGZ2).

There are multiple purposes to the Residential Growth Zone including:

- *To provide housing at increased densities in buildings up to and including four storey buildings.*
- *To encourage a diversity of housing types in locations offering good access to services and transport including activity centres and town centres.*
- *To encourage a scale of development that provides a transition between areas of more intensive use and development and other residential areas.*

A planning permit is required for the construction of two or more dwellings on a lot in the RGZ2.

The site is included in the Significant Landscape Overlay – Schedule 9 (SLO9).

The purpose of the Significant Landscape Overlay includes:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To identify significant landscapes.*
- *To conserve and enhance the character of significant landscapes.*

Pursuant to Schedule 9 of the Significant Landscape Overlay, a planning permit is required to 'construct a building or carry out works within 4 metres from the base of any tree protected under the provisions of this Schedule 9.

### **PROPOSAL**

It is proposed to construct a four-storey building (comprising of 22 dwellings) over one level of basement car parking. The vehicle accessway is to be altered by removal of the existing crossover and relocating it to south-east corner of the site.

The main components of the application are:

- Number of dwellings – 22 dwellings, comprising of eighteen (18) two bedrooms and four (4) three bedroom dwellings.
- Car parking – 26 resident car parking spaces within basement level. No visitor parking provided.
- Bicycle parking – 24 bicycle parking spaces, comprising of 22 residents and 2 visitors spaces, located within the lobby entrance area.
- Maximum building height – maximum height comprises:
  - 13.80 metres, measured to the top of the lift over-run.
  - 13.38 metres, at top of parapet walls.
- Setbacks – The proposed setbacks from all common boundaries are as follows:
  - Sergeant Street – will achieve varying front setbacks between 9.1 (ground level) and 7.2 metres at upper floor levels.
  - Northern boundary – side setbacks varying between 2.4 and 7.28 metres, with balconies/terraces encroaching at various points by up to 2.0 metres into the setback.
  - Southern boundary – side setbacks varying between zero and 7.58 metres, with balconies/terraces encroaching at various points into the setback.
  - Western (rear) boundary – setbacks varying between 4.42 metres and 13.82 metres, with the third floor balcony area of Dwelling 302 encroaching 4.82 metres into this setback.

## 9.1.2

(cont)

- Site coverage – 57 percent (791 square metres).
- Permeability – 23 percent (317 square metres).
- Vehicular access – New crossover and vehicular access ramp will be located at the south-east corner, providing direct access to the basement area.
- Pedestrian entry – A pedestrian path is provided along Sergeant Street frontage, directly connecting to the residential lobby area, which abuts the access ramp (along the south).
- Waste Storage – A shared refuse and recyclables area is provided within the ground level area, abutting the entry lobby. Waste proposed to be collected by private contractor along Sergeant Street frontage.
- Landscaping – Landscaping features will include:
  - Retention of the existing canopy Tree 1 (Lemon-scented Gum) within the frontage setback.
  - New canopy trees are proposed around the site's periphery, concentrated along the western and southern boundaries, with taller screening shrubs generally proposed along the northern boundary.
- Design details – Design features include:
  - Cladding proposed comprises a combination of roughcast render profile, profiled aluminium cladding panel, prefinished fibre cement sheet and a variety of glazed finishes.
  - Planter boxes proposed for each landing area of the internal stairwell area.
  - Privacy screen, in the form of verticle trellis proposed external of the stair-well window area (north elevation)
  - Sub-stations and service cabinets generally incorporated into the building, or setback from the frontage to be accessible via the internal lobby area.
  - Post boxes located within the entry lobby area.

### Public Notice

The application was advertised by mail to the adjacent and nearby property owners and occupiers and by erecting a notice on the Sergeant Street frontage. At the time of writing this report a total of 22 objections have been received raising the following issues:

1. Non-compliance with the Whitehorse Planning Scheme:
  - a. Clause 21 (MSS) - Clauses 21.05 (Environment) and 21.06 (Housing)
  - b. Clause 22 (Local Planning Policies) - Clauses 22.03 (Residential Development) and 22.04 (Tree Conservation)
  - c. Clause 32.09 (Residential Growth Zone) and
  - d. Clause 42.03 (Significant Landscape Overlay) with particular reference to the SLO 9 Schedule and Guidelines.
  - e. Garden Suburban 13
  - f. Strategic Context, zoning maximum height 13.5 metres
2. Overdevelopment:
  - a. Building footprint too large.
  - b. Lack of meaningful landscaping/ no opportunity for landscape softening.
  - c. Loss of mature trees
3. Amenity impacts:
  - a. Overlooking/ loss of privacy
  - b. Overshadowing
  - c. Blocking daylight and sunlight
  - d. Increase noise

### **9.1.2**

(cont)

4. Traffic/Parking:
  - a. Increase traffic problems in the area
  - b. Increase traffic with additional movements
  - c. Parking congestion
  - d. No car parking for visitors
  - e. Single/access way and entry point
5. Vegetation and Landscaping:
  - a. Loss of vegetation/removal of trees
  - b. Insufficient landscaping
6. Others:
  - a. Set precedents for height and development scale
  - b. Devaluation of property value
  - c. Incorrect description of the development at 1-3 Sergeant Street.
  - d. Errors in the application documentation

### **Consultation Forum**

A consultation forum was held on the 23<sup>rd</sup> April 2019. The meeting was chaired by Cr Denise Massoud. Attendees included the applicant and their consultants, nine (9) objectors and Council planning officer. All issues raised in objections were discussed, with the, key issues relating to offsite amenity impacts, including overdevelopment, overlooking, overshadowing, blocking of daylight, increased noise, all traffic matters and vegetation/landscaping. No resolution of concerns was achieved at this meeting.

### **Referrals**

#### **External**

The application was not required to be referred to any external authorities or agencies.

#### **Internal**

##### Engineering and Environmental Services Department

- Transport Engineer

The proposal was referred to Council's Transport Engineers who do not object to the proposed development, subject to the inclusion of conditions on any approval issued.

- Waste Engineer

The proposal was referred to Council's Waste Services Engineers who do not support waste collection from the front of the site in the road reservation. Consequently, it is required that all collection to occur internal to the development. This can be addressed by way of permit condition, should any approval is issued.

- Assets Engineer

Council's Asset Engineers has reviewed the proposed plans and provided no objection to the proposal, subject to conditions on any approval issued.

##### Planning Arborist

The proposal was referred to Council's Planning Arborist who does not object to the proposed development, subject to the inclusion of conditions on any approval issued.

### **9.1.2**

(cont)

#### ESD Advisor

The proposal was referred to Council's ESD Advisor who does not object subject to the inclusion of conditions on any approval issued.

### **DISCUSSION**

The proposal has been assessed against the relevant state and local planning policies, the zone and overlay and the relevant particular provisions and general provisions of the Whitehorse Planning Scheme.

The following assessment is made under the headings of:

- Planning Policy Framework;
- Neighbourhood Character, Built Form and Amenity Impacts;
- Car Parking and Traffic;
- Other matters, and
- Objector concerns.

#### **Planning Policy Framework**

Key objectives of the PPF and LPPF seek to identify appropriate areas for housing growth, including a focus on increasing housing densities in areas surrounding existing services, jobs, public transport and infrastructure in order to accommodate Melbourne's future population growth in a sustainable manner.

Clause 15.01-1R (Urban Design - Metropolitan Melbourne) and 15.01-2S (Building Design) continue to require assessment of matters such as urban design, suitability of design response to context, and minimising detrimental impacts on amenity. Such matters are discussed in further detail within the assessment sections to follow.

These objectives are further developed at a local level through the Local Planning Policy Framework, particularly the policy at Clause 21.03, A Vision for City of Whitehorse. Clause 21.03 *Housing* recognises the need to reduce developmental pressure on areas of established environmental significance, through appropriate infill development and consolidation. This is implemented through the separation of Whitehorse's residential land into three residential categories of housing change (minimal, natural and substantial change), aligned with the neighbourhood character statements for each area of the municipality. The substantial change category seeks to focus increased housing densities around activity centres and main roads, where maximum facilities and services are available.

The subject site is located within a Substantial Change area. The higher density outcomes for Substantial Change areas are further supported through Council's Local Policy outlined at Clause 22.03 – Residential Development, which encourages the preferred built form to be flats and apartments.

Due to the site's location and proximity to Laburnum Train Station, the Laburnum shopping centre, which has been identified as a Neighbourhood Activity Centre (Clause 21.06 – Housing), and Whitehorse Road, the site is considered appropriate for 'apartment style' developments, and more intense building forms.



### **9.1.2**

(cont)

Contextually, the site meets the fundamental principles for urban consolidation which are sought at both the State and Local levels. High quality urban design outcomes are achieved in that the proposed development contributes positively to the public realm and urban fabric through a mix of contemporary building form, scale and mass that steps down with the topography of the site, and materials that soften the modulated form. The development proposes a scale and intensity, subject to some minor design form changes, which is considered appropriate to the neighbourhood and site context, and is generally consistent with the strategic intentions of local policies.

The Residential Growth Zoning applicable to the site encourages increased densities within apartment buildings of up to, and including four storeys and with heights of up to 13.5 metres. The development achieves this by providing a maximum building height, measured to the top parapet wall, of 13.38 metres, below the preferred height limit. The site area of 1380 square metres and frontage width supports a greater intensity of built form. The development also offers increased housing diversity to support the changing demographics and ageing population, and greater housing choice from the traditional single homes evident in the surrounding area.

The proposed development, having been assessed against the relevant provisions of the Planning Scheme including the policy directions contained in the PPF, MSS and LPPF reflects the type of residential outcomes sought within this location, and is appropriate given this strategic context.

#### **Neighbourhood Character, Built Form and Amenity**

The proposal is considered to meet the relevant provisions of Clause 55 – Two or More Dwellings on a Lot and Residential Building. The key matters are discussed in the following section of the report.

#### **Neighbourhood Character**

Contextually, the site meets the fundamental principles for urban consolidation which are sought at both the State and Local levels. It should be noted that, the character of the broader neighbourhood is quite varied, seeing an amalgamation of single homes, medium density housing and higher density “apartment” style development. New development is steadily emerging along both Sergeant Street and the wider area between Blackburn and Laburnum Train Station, with building scales and heights increasing in the east-ward approach into Blackburn Activity Centre.

The proposal provides for a high quality urban design outcome which would contribute positively to the existing public realm and urban fabric. The development proposes a scale and intensity which is appropriate to the neighbourhood and site context, and is generally consistent with the strategic intentions of local policies, for redevelopment of up to four storeys in scale.

The development meets the expectations for outcomes sought for this area and subject to conditions can achieve compliance with the building setbacks as outlined at Standard B17 (ResCode), further discussed below.

#### **Integration with the Street**

The proposal provides an acceptable presentation to the street, with upper levels stepped back to modify the building’s overall scale. Subject to minor modification, the upper level façade treatments will provide both vertical and horizontal articulation across the building.

### **9.1.2**

(cont)

The building has a less traditional form than typically seen in apartment design in the area. From the street frontage, it adopts a very uniform module and palette selection, with extensive glazing surfaces and a light roughcast framing border, creating a distinct podium feel. The building has a balanced form and scale, with minor variation at ground level, and the entry foyer located to one side of the building adding a subtle variation, without appearing foreign to the building rhythm.

The balconies at first and second floor of the building above appear as “floating” elements, which highlight its sense of address and entry.

The graduation of colouring from dark to light achieves a sense of articulation and ensures the overall appearance is not too heavy, or monotonous. It is also well balanced with strong glazing elements.

The architectural presentation overall is considered attractive and of high quality. The rear elevation and side elevations in part are treated quite differently. The darker colour, aluminium cladding is used quite prominently across the two middle levels of the south, and northern elevations, though broken up with an equal use of light grey fibre cement sheet cladding.

The western elevation is quite heavily finished in the dark grey aluminium cladding. There are bands of the aluminium featured across the first and second floor levels and a mixture of tinted and clear glazing, to window openings, which are generally relied upon to break-up this elevation and provide interest.

Whilst the high use of the dark grey aluminium cladding upon the northern and southern elevations may make the building more understated and subdued within the landscape, it may also appear quite stark and repetitive. To add depth to the dark/grey toned colour palette, a condition will require the inclusion of some warmer/lighter colour tones. Subtle material changes could reasonably achieve this outcome by way of alternative privacy screen colours or warmer timber look materials on the under-side of balconies.

### **Built Form**

#### *Street Setback*

The building is setback a minimum of 8.9 metres and the proposed southern boundary wall is setback a minimum of 17 metres from Sergeant Street frontage, at ground level. These setbacks meet the varied Standard B6 requirements, outlined in Schedule 2 of the Residential Growth Zone. Furthermore, the proposed setback exceeds the average setback of north, and southern property where a minimum of 8.6 metres is required.

At the first and second floor level, the balconies of Dwellings 101 and 201, encroach approximately 1.8 metres into this setback. As these balconies are situated 3.6 metres high, the proposal seeks a variation to the front setback requirement at these levels. Overall, this encroachment into the prescribed minimum front setback is considered minor and is acceptable, as both balconies in this instance present as being absorbed into the main building footprint. This is due to the slight recess of the balconies and the use of transparent balustrade along the street frontage. This assists in minimising the bulk and solidness of the balconies, and further creating a floating affect which helps to maintain a visual impression of a more substantial front setback overall.

## 9.1.2

(cont)

### Building Height

The building has a maximum height of 13.38 metres, measured to the top of the parapet wall (south elevation), with the lift over-run extending 0.42 metres above this, measuring 13.8 metres. The overall height is consistent with the zoning intention, and is appropriate with regards to this specific site and neighbourhood context. The sectional diagrams submitted with the application demonstrate that the more substantial four storey building heights are confined centrally within the site, and are adequately setback from all the shared common boundaries. At the periphery, the built form is confined to either a single storey built form height, or has achieved a minimum setback of 4.20 metres, where the height increases.

The width and size of the site allows for a four storey building scale with graduated setbacks from the side and rear boundaries. The “stepping” of the building down toward the rear and side boundaries is an appropriate design response, particularly given the fall within the land, and gives due consideration to the amenity of the adjoining properties and anticipated future built form.

The fourth storey is also appropriately treated in a contrasting lighter colour to the aluminium cladding panel on lower levels, (dark-grey colour) to provide a “capping” effect, which acts to reduce the perceived height, whilst contributing to the overall interest and design detailing. Its location is suitably inset from the side boundaries, and is a recessive element to both the streetscape and neighbouring perspectives.

It is also considered that the proposal suitably meets the intent of the building height objective, outlined at Clause 55.03-2 (Standard B7).

### Site Coverage

It has been submitted by the applicant that the proposed building has a site coverage of approximately 57% (791 square metres). However, a review of the basement floor plan suggests a larger building footprint, with a difference in area of approximately 100 square metres. Consequently, Officer assessment is that the site coverage is approximately 65%, 898 square metres, not 57% as outlined in the development schedule provided by the permit applicant. Standard B8 states that the site area covered by building should not exceed 60%. As the proposal seeks to exceed the nominated coverage, a variation to this standard is required.

The surrounding area exhibits many multi dwelling development sites, including recent apartment developments, which comprises of built form that extends deep into each of the respective allotment(s). Subsequently, this is a reflection of an area undergoing transition with higher density development, which has resulted in built form of higher density and coverage. Therefore, the proposed development at 65% site coverage, is considered an appropriate design response and reflective of the high density built form within the immediate context of the site. That said, the centralised design/built form of the proposal, together with sufficient setbacks from all boundaries, has enabled the proposal to provide reasonable landscaping opportunities, which echoes the softer character elements within Sergeant Street and its surrounds.

From the perspective of the relevant ResCode standard, the proposal has provided for a building and hard surface coverage under the 80%, maximum allowable under Standard B9, whilst at the same time providing for adequate level of deep soil planting areas along the side and rear setbacks, ensuring appropriate level of permeability is maintained onsite.

### **9.1.2**

(cont)

#### **Side and Rear Setbacks**

Along the northern interface, in the location of Dwelling 204 on the second floor, the building (parapet wall) reaches a height of 9.63 metres and is setback 4.20 metres in lieu of the 4.72 metres. Similarly, Dwelling 302 on the third floor is setback 7.28 in lieu of 7.47 metres. It is not considered that the above non-compliances would result in detriment to the abutting properties to the north. However, of concern are the non-compliances attributed with the locations of the balcony areas associated with the north facing dwellings, at the first and second floor level, which encroach 2.0 metres into the northern setbacks.

Consequently, it is considered that modification to the upper level built form, along the northern elevation, is required to address further setbacks of all north facing balconies from this interface to achieve a fair and equitable development setback and to avoid amenity impact to the existing dwellings at 2A Sergeant Street and 32-34 Whitehorse Road. To achieve this, it is considered that the following changes should be incorporated into current layout:

The balcony areas associated with Dwellings 102, 103, 104 at first floor and Apartments 202, 203 and 204 at second floor, be setback a minimum of 3.5 metres from the northern boundary. This is to be achieved either through the relocation of these balconies, providing further recession or a combination of both.

Subject to the above changes, it is considered that the proposed built form would ensure that equitable development opportunity is offered for the adjoining property to the north of site and will not result in additional detriment.

At the southern interface, the current proposal exhibits similar non-compliances. At this interface however, the site abuts a common driveway, for the majority of the southern boundary length. It is therefore considered that the non-compliances associated with the setback would not result in unacceptable amenity impacts to the existing dwellings 4 and 4A Sergeant Street through shadowing.

From an equitable development perspective however, it is considered that all balconies along this southern interface should be setback a minimum of 4.5 metres. Similar to the northern interface, a condition for any permit approval should require the balcony areas associated with Dwellings 105, 106 and 107 at first floor and Apartments 205, 206 and 207 at second floor, be setback a minimum of 4.5 metres from the southern boundary. This is to be achieved either through the relocation of these balconies, providing further recession, or a combination of both.

Overall, subject to the above changes, it is considered that the proposed built form would ensure that equitable development opportunities are offered for the adjoining properties to the north and south of the site and will further reduce any perception or measure of detriment.

#### **Amenity Impacts**

##### **Overshadowing**

Based on the submitted shadow diagrams, areas in excess of 40 square metres of all adjoining secluded private open space areas will continue to receive at least 5 hours of sunlight between 9am and 3pm during the September Equinox. Whilst the properties to the south will experience some shadowing during the “measurable time period”, the shadows cast are mainly over the common driveway area, only extending marginally beyond the existing fence shadows with some additional shadows over the northern wall of 4 Sergeant Street. The vast majority of the total private open spaces, of both dwellings (4 and 4A Sergeant Street), remain unaffected.

### **9.1.2**

(cont)

Notwithstanding this, it is unclear in relation to the extent of shadow effect on the existing north facing habitable windows of the property at 4 Sergeant Street. To ensure that these windows are not unduly affected, a condition of permit will require a sectional diagram showing the extent of shadow cast, vertically along this elevation, to the satisfaction of the Responsible Authority.

Shadowing to the adjoining property to the west and south west appears to only occur between 9-10am, however impacts only affect small segments along the rear boundary of the property, again leaving the majority of the total area unaffected.

#### Overlooking

Screening devices overall have been suitably selected to maintain a good balance between neighbouring privacy and internal amenity. However, there is a general absence of detailing regarding the type and appearance of screening devices to affected balconies and windows. Such detailing will be required via condition.

#### Internal Views

A condition will require plans detailing dividing balcony walls to ensure privacy is achieved. The internally facing balconies are substantially separated which negates the need for screening.

#### Energy efficiency

An SMP has been submitted with the application, which will require further detailing and some modifications prior to approval. The approved sustainability measures will be required to be incorporated into the building's design.

Given the orientation of the site, it is inevitable that there would be common living areas of the southern dwellings oriented to face the southern boundary. Subsequently, the orientation of the building on the lot has maximised available solar access, where possible.

The western elevation does feature some highly exposed windows between the ground and third storey which are only partly inset into the external wall cladding, and therefore require solar treatment.

A condition to any approval granted will therefore require a more appropriate design which achieves solar protection and shading (such as vertical louvres) for all west facing windows of the development.

#### Deep soil areas and canopy trees

The proposal provides an area of approximately 370 square metres of deep soil planting, along the building setbacks areas, exceeding the required 7.5% (approximately 103.5 square metres) specified under Clause 55.07-4. Planting within the easement area, on the west (rear) boundary cannot be supported. Excluding the west boundary planting, the proposal will provide for an area of approximately 163.4 square metres of deep soil area within the frontage setback, achieving compliance. Furthermore, the retention of the canopy tree (Tree 1, Lemon Scented Gum) within the frontage setback of the site is considered an additional benefit of the development.

It should be noted that Sergeant Street, and the surrounding area, is not characterised by a dominant landscape theme, furthermore, the zoning of the land (RGZ) contemplates more intensive developments with compact and robust built form for the site. Notwithstanding this, the submitted landscape concept plan is considered acceptable and meets objectives of Council's Tree Conservation Policy (Clause 22.04) through provision of adequate landscape areas to assist in the softening of the built form and enhance the amenity of the area.

### 9.1.2

(cont)

A landscape concept design has been submitted to demonstrate a potential planting theme for the site, with sufficient setbacks (minimum 2.2 metres) to provide deep soil zones to support a good level of planting throughout the periphery of the site, with the exception of the front half of the southern boundary of the site. A more formalised plan will be required by way of condition to demonstrate the precise numbers and locations of plants, and ensure that the existing tree indicated within the frontage is adequately protected.

Similarly, to ensure neighbouring trees within proximity to the site are not adversely impacted, the recommendations of the Arborist report will be implied via condition

#### Private open space above ground floor

The proposed balconies are generally compliant with the minimum area requirement, however it is unclear whether some of the balconies achieve compliance with the minimum width (dimension) specified under Standard B43 (Private open space above ground floor). This can be addressed by way of permit condition, requiring full compliance with Standard B43.

#### Natural ventilation

All habitable rooms within the development benefit from direct solar access, ensuring there is no reliance on borrowed light. Maximum breeze paths not exceeding 18 metres are provided through dwellings which will provide effective cross-ventilation. These breeze paths are measured from openings on different orientations of the building. However, it is considered that the development would further benefit from provision of additional windows in habitable rooms throughout the development to provide further cross ventilation of internal spaces. This can be achieved through permit conditions requiring modification to plans.

#### **Car Parking and Traffic**

The planning scheme (through Amendment VC148) and in particular Clause 52.06, specify Column B rates applicable to the assessment of the proposal (as the land is identified within the Principal Public Transport Network Area (PPTN)). The proposal does not require the provision of visitor parking as a result of VC148 amendment, and as such the statutory requirements are fully complied with. The proposal will provide for the following car parking allocation onsite:

| <i>Usage</i>           | <i>Number</i> | <i>Rate</i>           | <i>Required Spaces</i> | <i>Spaces Provided</i> |
|------------------------|---------------|-----------------------|------------------------|------------------------|
| Dwellings              |               |                       |                        |                        |
| • 2 bedroom dwellings  | 18            | 1 space per dwelling  | 18                     | 18                     |
| • 3+ Bedroom dwellings | 4             | 2 spaces per dwelling | 8                      | 8                      |
| • Visitor parking      | 0             | 0                     | 0                      | 0                      |
|                        |               | Total spaces required | 26                     | 26                     |

Council's Transport Engineers are also satisfied that the onsite parking provision is sufficient to support the car parking demand, in accordance with the Planning Scheme requirements.

Conditions also list requirements for functional and efficient layout for the basement car parking area.

### 9.1.2

(cont)

Similarly, conditions of permit also address the proposed ramp grades to meet the design requirements of AS 2890.2, provision of a swept path diagram of the design vehicle accessing the loading area is required and the required headroom clearance specified in AS 2890.3.

Car parking facilities are securely located within the basement and provide for direct access into the lobby area and all levels, via the lift cores and stairwells.

Ventilation to the basement level is provided via mechanical means. Habitable room windows on the abutting property to the south is located with a setback of approximately 4.1 metres from the accessway, hence it is not anticipated that these windows would experience unreasonable adverse noise impacts from the use of the accessway.

In relation to objector concerns relating to traffic generation and congestion, Council's Transport Engineers have commented that car parking facilities are satisfactory and traffic generated by this development can be accommodated in the surrounding street network.

With respect to objector concerns relating to no visitor parking provision onsite, it is noted that the proposal is exempt from the need to provide visitor parking, as the site is located within the PTTN.

#### **Other Matters**

As has been discussed earlier in this assessment, there is an emergence of apartment developments both constructed and approved within the surrounding area of Blackburn and particularly within proximity to the Laburnum train station. Of relevance however, is the recent VCAT case for a proposed apartment building in Downing Street, Blackburn. In this decision the Tribunal was critical in its assessment of the development for its poor response to side setbacks, interfaces to adjoining residential properties and lack of landscaping opportunities. The VCAT final order, provided the following commentary in its written order:

- Whilst *'it is to be expected that a multi-level apartment-style development as envisaged by the purpose of the RGZ2 and by policy for substantial change areas will stand in marked contrast to the original dwelling stock which characterises Downing Street and the surrounding neighbourhood.'* The member further noted that this *'does not mean that the site's constraints and context can be disregarded. Achieving the outcomes sought by policy will mean that development will need to respond in a meaningful way to the site and its surrounds'*.
- *'The height and setbacks of the development do not respond acceptably to the frontage and to the northern boundary, in particular, resulting in it manifesting a dominant presence within its context'*. Of particular concern was the level of non-compliance associated with front setbacks (Standard B6) and the side and rear setbacks (Standard B17). *'The required third-floor setback from the common boundary with this property in order to meet standard B17 ranges between 9.6 metres at the western end of the building to 8.6 metres at the eastern end. A minimum 3.7-metre setback is proposed. At the second floor level, the setback required to meet standard B17 ranges from 5.19 metres at the eastern end to 6.19 metres at the western end. Again, a minimum 3.7 metre setback is proposed. At this setback, the development is positioned too close to the boundary and will have an overpowering presence when viewed from the neighbouring property. An unacceptable level of visual bulk and mass will be presented'*.
- The extent of tree removal was also of particular concern, with a total of 19 trees identified for removal in that proposal.
- In light of the above, the VCAT Member considered the proposed design as having *'the appearance of "crowding" the site'* and not *'a site-responsive design'*.

### 9.1.2

(cont)

In comparing the current proposal, at 2 Sergeant Street, to the above case, the following noticeable differences are evident:

- i. The subject site (2 Sergeant Street) has a greater frontage width, being 22.86 metres instead of 15.24 metres.
- ii. The proposal provides a front setback of 8.9 metres, at ground level, which exceeds the requirement specified under Standard B6. Whilst the proposal seeks a variation to the front setback requirement at the first and second-floor level, resulting from balcony encroachments, these encroachments are considered minimal and can be adequately absorbed into the building footprint, to not appear dominant when viewed along Sergeant Street interface.
- iii. It is acknowledged that the current proposal would result in non-compliance with Standard B17, up to 2.5 metres in various parts of the development, as a result of balcony encroachments. However, given the width of the site, conditions of permit require these setbacks to be increased. The nature of such conditions has been discussed in the earlier section of this report.
- iv. The proposed landscape plan adequately demonstrates the planting theme for the site, particularly through the provision of adequate landscaping areas throughout the side and rear boundaries and within the frontage setback. This is able to be achieved to a greater extent than that for 20 Downing Street because of the increase setbacks from the front and rear boundaries.
- v. The proposed development does not involve the removal of any canopy trees onsite. The proposal enables the retention of the existing canopy tree within the frontage setback of the proposed building. This is considered consistent with Council's Tree Conservation Policy (Clause 22.04) and the Significant Landscape Overlay – Schedule 9 (SLO9), and is a feature of the site that enables the integration of the development into the surrounding neighbourhood.

The commentary provided by the VCAT member for the Downing Street decision is relevant in recognising the importance of finding the right balance between increased building density within a RGZ and landscaping opportunities. The proposal being considered in this report is considerably different, both in terms of context and site constraints. Overall, the proposal, subject to conditions, would present adequately to the Sergeant Street context, in terms of bulk, scale, setbacks and landscaping, providing greater softening of the building to the key interfaces and as such responds to the neighbourhood character of the wider Blackburn area.

#### **Objectors concerns not previous addressed**

- Removal of existing trees onsite

The site has no vegetation present except for the large canopy tree at the front of the site. This canopy tree is to be retained as part of the development. A review of historic aerial photos show that the site has been devoid of vegetation since around 2014. The redevelopment of this site is supported by State and Local Policies, and Council's strategic direction provides for other residential zones and policy categories to be the primary area for the retention of trees and habitat. Tree retention and planting is not the critical focus of residential growth zone, where intensive development is prioritised, especially when well serviced by public transport (train station), however the retention of the existing canopy tree will make a contribution to the streetscape and broader landscape.

- Noise and Construction Noise

The residential use of the site does not require a planning permit. Residential noise associated with a dwelling is considered normal in an urban setting. Any future issues of noise emission can be pursued as a civil matter, by reference to EPA regulations and the Health Act.



### **9.1.2**

(cont)

It is acknowledged off site impacts are inevitable when any construction occurs. To manage any future offsite amenity impacts during construction, a Construction Management Plan will be required as a condition of any approval granted.

In addition, the permit holder will be required to meet all relevant Building and EPA regulations during the construction stage.

- Set precedents for height and development scale

The Residential Growth Zone allows for development up to four storeys in height (or greater). This proposal complies with these requirements.

Regardless, each application is assessed in relation to the relevant planning controls, its site context, the prevailing neighbourhood character and merits of the development design.

- Devaluation of property value

The Victorian Civil and Administrative Tribunal and its predecessors have generally found subjective claims that a proposal will reduce property values are difficult, if not impossible to gauge and of no assistance to the determination of a planning permit application. It is considered the impacts of a proposal are best assessed through an assessment of the amenity implications rather than any impacts upon property values.

- Incorrect description of the development at 1-3 Sergeant Street and Errors in the application documentation

During the Consultation Forum meeting several concerns were raised by adjoining properties owners, suggesting that there are anomalies with regard to the description of the development at 1-3 Sergeant Street (opposite the subject site). Additionally, it was further suggested that there are inconsistencies with the windows, open space and trees on the adjoining properties, in particular the western and south-west properties. However, it is unclear if this refers to the plans, or accompanying written submission. The information has been derived from a Licensed Surveyor and appears generally consistent with site conditions. Albeit, the plans will ensure compliance is achieved with respect to overlooking toward this property, and sufficient boundary setbacks are maintained from the common boundaries.

### **9.1.2**

(cont)

#### **CONCLUSION**

The proposed buildings and works to construct a four storey building to provide 22 dwellings is an acceptable response and achieve satisfactory compliance with the relevant planning provisions, including the State and Local planning policies, the purpose and decision guidelines of the Residential Growth Zone and Clause 55 – Two or more dwellings on a Lot and Residential Buildings.





Notably, the proposal achieves the State Government's urban consolidation objectives, Council's preference to direct higher density residential development within principal transport nodes (Laburnum Train Station), contributing to meeting Whitehorse's future housing needs.

The building has been designed to respond to the site's varying interfaces, to provide a high level of amenity for future residents and to activate the street frontage.

A total of twenty two (22) objections were received as a result of public notice and all of the issues raised have been considered as part of this assessment.

Council was notified on the 29<sup>th</sup> of August, 2019 that the applicant had appealed to VCAT against Council's failure to determine the application within the prescribed statutory timeframe. However, were council in a position to determine the application, it is recommended that the application be approved, subject to conditions

#### **ATTACHMENT**

- 1 Architectural Plans  
- 2 Landscape Plan  

### **9.1.3 92 Kenmare Street, Mont Albert (Lot 98 LP 8375) Construction of three double storey dwellings with basement garages and associated tree removal**

FILE NUMBER: WH/2018/1044  
ATTACHMENT

#### **SUMMARY**

*This application was originally advertised in January 2019 and a total of 15 objections were received, including an objection from Melbourne Water. In order to address Melbourne Water's concerns, the development was redesigned and re-advertised in June, attracting seven further submissions from original objectors, but also resulting in Melbourne Water withdrawing its objection. The objections raised issues with amenity impacts, neighbourhood character, car parking, traffic, landscaping and flooding. A Consultation Forum was held on 25 July, 2019, chaired by Councillor Liu, at which the issues were explored, however no resolution was reached between the parties. This report assesses the application against the relevant provisions of the Whitehorse Planning Scheme, as well as the objector concerns. It is recommended that the application be supported, subject to conditions.*

#### **COUNCIL RESOLUTION**

Moved by Cr Liu, Seconded by Cr Barker

#### **That Council:**

- A Being the Responsible Authority, having caused Application WH/2018/1044 for 92 Kenmare Street, MONT ALBERT (LOT 98 LP 8375) to be advertised and having received and noted the objections is of the opinion that the granting of a Planning Permit for the construction of three double storey dwellings with basement garages and associated tree removal is acceptable and should not unreasonably impact the amenity of adjacent properties.**
- B Issue a Notice of Decision to Grant a Permit under the Whitehorse Planning Scheme to the land described as 92 Kenmare Street, MONT ALBERT (LOT 98 LP 8375) for the construction of three double storey dwellings with basement garages and associated tree removal, subject to the following conditions:**
  - 1. Before the development starts, or vegetation removed, amended plans must be submitted to and approved by the Responsible Authority in a digital format. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn scale, and be generally in accordance with the plans submitted with the application but modified to show:**
    - a) Any alterations to plans required to meet Melbourne Water's conditions, and written confirmation from Melbourne Water that the plans are compliant.**
    - b) The locations of the Structural Root Zone and Tree Protection Zones described in condition 5, with all nominated trees clearly identified and numbered on both site and landscape plans, and the requirements of conditions 5 and 6 to be annotated on the development and landscape plans.**
    - c) The location of all service trenches to serve the dwellings (for example: gas, water, electricity, stormwater, sewerage, telecommunications), including the extent of trenching required in easements over adjoining lots (if any) and the locations of protected trees within 4 metres of these trenches (if any). The service trenches must be located and dug (including boring or hand digging) to ensure that protected trees are not damaged, to the satisfaction of the Responsible Authority.**

### **9.1.3**

(cont)

- d) Swept path diagrams using a B85 design vehicle template (AS 2890.1 2004) prepared by a suitably qualified traffic engineer using industry-recognised swept path software to be provided to demonstrate compliant vehicle turning movements to and from Garage 1.*
- e) The pedestrian door to Garage 3 must not swing into the parking area.*
- f) Plans to show compliant garage dimensions and door opening widths.*
- g) The length of the 1:8 grade at the southern end of the accessway to be extended to 2.5 metres to avoid vehicle scraping.*
- h) The headroom clearance to be shown at a minimum of 2.1 metres on the elevations.*
- i) The Dwelling 2 retreat windows on the west elevation to be screened with fixed opaque glazing up to 1.7 metres above finished floor level.*
- j) The heights of east and west side boundary fences to be tapered to 1.2 metres high forward of Dwelling 1*
- k) Details of any external services (i.e; heating, cooling, hot water, etc) and the location of service meters.*
- l) Development plans to reflect all sustainability features indicated in the submitted, amended and approved Sustainability Design Assessment (SDA). Where features cannot be visually shown, include a notes table providing details of the requirements (i.e. energy and water efficiency ratings for heating/cooling systems and plumbing fixtures, etc.).*
- m) Alterations to the plans required by the amended Waste Management Plan, as required.*
- n) The cladding colours and materials schedule updated to indicate that all obscured glazing be manufactured obscured glass.*
- o) An amended landscape plan to show:*
  - i. The trees to be planted to be a mix of indigenous and exotic species.*
  - ii. The retention of Tree 3 and the western portion of the Tree 2 hedge, and associated alterations to the proposed plantings.*
  - iii. The proposed row of closely planted Pyrus 'Capital' in the frontage to be amended to provide a minimum 3 metre separation between trees and Dwelling 1, and to provide for tree spacing that will allow for mature tree canopy growth.*

*All of the above must be to the satisfaction of the Responsible Authority. Once approved these plans become the endorsed plans of this permit.*

- 2. The layout of the site and the size, design and location of the buildings and works permitted must always accord with the endorsed plan and must not be altered or modified without the further written consent of the Responsible Authority.*
- 3. Landscaping and tree planting must be undertaken in accordance with the endorsed landscape plan that forms part of this permit, to the satisfaction of the Responsible Authority.*
- 4. The garden areas shown on the endorsed plan must only be used as gardens and must be maintained in a proper, tidy and healthy condition to the satisfaction of the Responsible Authority. Should any tree or shrub be removed or destroyed it may be required to be replaced by a tree or shrub of similar size and variety.*

### 9.1.3

(cont)

5. *Prior to commencement of any building or demolition works on the land, a Tree Protection Zones (TPZs) must be established on the subject site and nature strip and maintained during, and until completion of, all buildings and works including landscaping, around the following trees in accordance with the distances and measures specified below, to the satisfaction of the Responsible Authority:*

a) *Tree Protection Zone distances:*

- i. *Tree 1 (Lophostemon confertus) – 2.0 metre radius from the centre of the tree base.*
- ii. *Tree 2 western portion of hedge (Pittosporum eugenoides) – 2.0 metre radius from the centre of the tree base.*
- iii. *Tree 3 (Fraxinus angustifolia) – 3.0 metre radius from the centre of the tree base.*
- iv. *Tree 15 (Syzygium smithii) – 5.0 metre radius from the centre of the tree base.*
- v. *Tree 17 (Liquidambar styraciflua) – 6.7 metre radius from the centre of the tree base.*
- vi. *Tree 18 (Jacaranda mimosifolia) – 2.4 metre radius from the centre of the tree base.*
- vii. *Tree A (Ligustrum lucidum, location referenced in Appendix 1) – 2.0 metre radius from the centre of the tree base.*

b) *Tree Protection Zone measures are to be established in accordance with Australian Standard 4970-2009 and are to include the following:*

- i. *Erection of solid chain mesh or similar type fencing at a minimum height of 1.8 metres in height held in place with concrete feet.*
- ii. *Signage placed around the outer edge of perimeter the fencing identifying the area as a TPZ. The signage should be visible from within the development, with the lettering complying with AS 1319.*
- iii. *Mulch across the surface of the TPZ to a depth of 100mm and undertake supplementary provide watering/irrigation within the TPZ, prior and during any works performed.*
- iv. *No excavation, constructions works or activities, grade changes, surface treatments or storage of materials of any kind are permitted within the TPZ unless otherwise approved within this permit or further approved in writing by the Responsible Authority.*
- v. *All supports and bracing should be outside the TPZ and any excavation for supports or bracing should avoid damaging roots where possible.*
- vi. *No trenching is allowed within the TPZ for the installation of utility services unless tree sensitive installation methods such as boring have been approved by the Responsible Authority.*
- vii. *Where construction is approved within the TPZ, fencing and mulching should be placed at the outer point of the construction area.*
- viii. *Where there are approved works within the TPZ, it may only be reduced to the required amount by an authorized person only during approved construction within the TPZ, and must be restored in accordance with the above requirements at all other times.*

### **9.1.3**

(cont)

6. *During construction of any buildings, or during other works, the following tree protection requirements are to be adhered to, to the satisfaction of the Responsible Authority:*
  - a) *A project arborist must be appointed by the applicant or builder. Project arborist qualifications must read 'Arboriculture' for example 'Diploma in Horticulture (Arboriculture)'. The project arborist must have a minimum Diploma qualification in arboriculture to be appointed as the project arborist.*
  - b) *For Trees 3, 15, 17, 18 and A no roots greater than 40mm in diameter are to be cut or damaged during any part of the construction process.*
  - c) *Any root severance must be approved and undertaken by the Project Arborist using clean, sharp and sterilised tree root pruning equipment. There must be no root severance within the SRZs of Trees 3, 15, 17, 18 and A.*
  - d) *All buildings and works for the demolition of the site and construction of the development (as shown on the endorsed plans) must not alter the existing ground level or topography of the land (which includes trenching and site scrapes) within greater than 10% of the TPZs of Trees 15, 17, 18 and A.*
  - e) *The project Arborist must ensure that any root severance or buildings and works within the TPZs of Trees 3, 15, 17, 18 and A do not adversely impact the health or stability of the trees now or into the future.*
  - f) *The project arborist and builder must ensure that TPZ Fencing Conditions are being adhered to throughout the entire building process, including site demolition, levelling and landscape works.*
7. *Prior to the commencement of any buildings or works, an amended Waste Management Plan must be submitted to and approved by the Responsible Authority. This Waste Management Plan must be generally in accordance with the Waste Management Plan submitted with the application but amended to reflect the approved plans.*

*Once submitted and approved to the satisfaction of the Responsible Authority, the Waste Management Plan will form part of the endorsed plans under this permit. The requirements of the Waste Management Plan must be implemented by the owners and occupiers of the site, to the satisfaction of the Responsible Authority.*
8. *Prior to the commencement of any buildings works, an amended Sustainability Design Assessment (SDA) must be submitted to and approved by the Responsible Authority. This SDA must be generally in accordance with the SDA submitted with the application but amended to reflect the approved plans.*

*Once submitted and approved to the satisfaction of the Responsible Authority, the SDA will form part of the endorsed plans under this permit.*

*The requirements of the SDA must be demonstrated on the plans and elevations submitted for endorsement, and the requirements of this plan must be implemented by the builder, owners and occupiers of the site when constructing and fitting out the dwellings and for the life of the dwellings, to the satisfaction of the Responsible Authority.*
9. *All works must be undertaken in accordance with the endorsed Sustainable Design Assessment to the satisfaction of the Responsible Authority, and the approved dwellings must operate in accordance with this Plan, to the satisfaction of the Responsible Authority. No alterations to the Reports may occur without the written consent of the Responsible Authority.*

### **9.1.3**

(cont)

10. *Prior to the commencement of buildings or works on the land, a Construction Management Plan, detailing how the owner will manage the environmental and construction issues associated with the development, must be submitted to and approved by Council.*

*This plan is to be to the satisfaction of the Responsible Authority and must be prepared in accordance with the City of Whitehorse Construction Management Plan Guidelines.*

*Once submitted to and approved by the Responsible Authority the Construction Management Plan will form part of the documents endorsed as part of this planning permit.*

*When approved the Construction Management Plan will form part of this permit and must be complied with, to the satisfaction of the Responsible Authority, to the extent that this is in the control of the owner of the land. The owner of the land is to be responsible for all costs associated with the works to be undertaken in accordance with the requirements of the Construction Management Plan.*

11. *All stormwater drains and on-site detention systems are to be connected to the legal point of discharge to the satisfaction of the Responsible Authority prior to the occupation of the building/s. The requirement for on- site detention will be noted on your stormwater point of discharge report, or it might be required as part of the civil plans approval.*
12. *Detailed stormwater drainage and/or civil design for the proposed development are to be prepared by a suitably qualified civil engineer and submitted to the Responsible Authority for approval prior to occupation of the development. Plans and calculations are to be submitted with the application with all levels to Australian Height Datum (AHD). All documentation is to be signed by the qualified civil engineer.*
13. *Stormwater that could adversely affect any adjacent land shall not be discharged from the subject site onto the surface of the adjacent land.*
14. *Prior to works commencing the Applicant/Owner is to submit design plans for all proposed engineering works external to the site. The plans are to be submitted as separate engineering drawings for assessment by the Responsible Authority.*
15. *The Applicant/Owner is responsible to pay for all costs associated with reinstatement and/or alterations to Council or other Public Authority assets as a result of the development. The Applicant/Owner is responsible to obtain all relevant permits and consents from Council at least 7 days prior to the commencement of any works on the land and is to obtain prior specific written approval for any works involving the alteration of Council or other Public Authority assets. Adequate protection is to be provided to Council's infrastructure prior to works commencing and during the construction process.*
16. *The qualified civil engineer when undertaking civil design must ensure that the landscape plan/s and drainage plan/s are compatible. The stormwater drainage and on site detention system must be located outside the tree protection zone (TPZ) of any trees to be retained.*
17. *All treatments to prevent overlooking must not include 'Translucent film' on windows and must be in accordance with Standard B22 of Clause 55.*

*Melbourne Water Conditions (Reference: MWA-1138659)*

18. *Finished floor levels for dwelling Unit 1, is to be set no lower than 63.85m to Australian Height Datum (AHD). 300mm above the adjacent flood level of 63.55m to AHD.*

### **9.1.3**

(cont)

19. *Finished floor levels for Unit 2, dwelling is to be set no lower than 64.25m to Australian Height Datum (AHD). 300mm above the adjacent flood level of 63.95m to AHD.*
20. *Finished floor levels for Unit 3 dwelling, is to be set no lower than 64.78m to Australian Height Datum (AHD). 300mm above the adjacent Flood level of 64.48m to AHD.*
21. *The entry/exist to the basement car parking to have a apex set no lower than 63.85 metres to AHD (Apex 300mm above the adjacent flood level of 63.55m to AHD). Solid walls (flood proofed) must be shown on both sides to the entry to basement to restrict flood waters entering the basement from the sides.*
22. *The basement must be flood proofed & all opening, vents/doors must be set 300mm above the applicable adjacent flood levels.*
23. *Any new verandah(s)/decking must be constructed with unenclosed foundations to allow for the passage of overland flows.*
24. *Any new fencing/gates must be of an open style of construction (minimum 50% open) to allow for the passage of overland flows.*
25. *Prior to the issue of an Occupancy Permit, a certified survey plan, showing finished floor levels (as constructed) reduced to the Australian Height Datum, must be submitted to Melbourne Water to demonstrate that the floor & basement car parking entry/exist levels have been constructed in accordance with Melbourne Water's requirements.*

#### **Expiry**

26. *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;*
- b) *The development is not completed within four (4) years from the date of this permit.*

*The Responsible Authority may extend the periods referred to if a request is made in writing pursuant to the provisions of Section 69 of the Planning and Environment Act 1987.*

#### **Permit Notes:**

- A. *The design and construction of letterboxes is to accord with Australian Standard AS-NZ 4253-1994.*
- B. *The lot/unit numbers on the "Endorsed Plan" are not to be used as the official street address of the property. All street addressing enquiries can be made by contacting our Property Team on 9262 6470.*

#### **Asset Engineer:**

- C. *The design and construction of the stormwater drainage system up to the point of discharge from an allotment is to be approved by the appointed Building Surveyor. That includes the design and construction of any required stormwater on-site detention system. The Applicant/Owner is to submit certification of the design of any required on-site detention system from a registered consulting engineer (who is listed on the Engineers Australia National Professional Engineer Register or approved equivalent) to Council as part of the civil plans approval process.*
- D. *The requirement for on- site detention will be noted on your stormwater point of discharge report, or it might be required as part of the civil plans approval.*



### **9.1.3**

(cont)

- E. All proposed changes to the vehicle crossing are to be constructed in accordance with the submitted details, Whitehorse Council's – Vehicle Crossing General Specifications and standard drawings.*
- F. Report and consent – land liable to flooding is to be approved by the Responsible Authority prior to approval of the building permit. If a change of minimum floor levels for is required, amendment of the Planning Permit might be required.*
- G. The Applicant/Owner is to accurately survey and identify on the design plans all assets in public land that may be impacted by the proposed development. The assets may include all public authority services (i.e. gas, water, sewer, electricity, telephone, traffic signals etc.) and the location of street trees or vegetation. If any changes are proposed to these assets then the evidence of the approval is to be submitted to Council and all works are to be funded by the Applicant/Owner. This includes any modifications to the road reserve, including footpath, naturestrip and kerb and channel.*
- H. The Applicant/Owner must obtain a certificate of hydraulic compliance from a suitably qualified civil engineer to confirm that the on-site detention works have been constructed in accordance with the approved plans, prior to Statement of Compliance is issued.*
- I. There is to be no change to the levels of the public land, including the road reserve or other Council property as a result of the development, without the prior approval of Council. All requirements for access for all-abilities (Disability Discrimination Access) are to be resolved within the site and not in public land.*
- J. No fire hydrants that are servicing the property are to be placed in the road reserve, outside the property boundary, without the approval of the Relevant Authority. If approval obtained, the property owner is required to enter into a S173 Agreement with Council that requires the property owner to maintain the fire hydrant"*
- K. Floor levels must be amended if vehicle access to the garage cannot be achieved.*
- L. The architect and/or designer must ensure that vehicle access is to conform to the Australian Standards for Off-Street Parking (AS/NZS 2890.1:2004).*

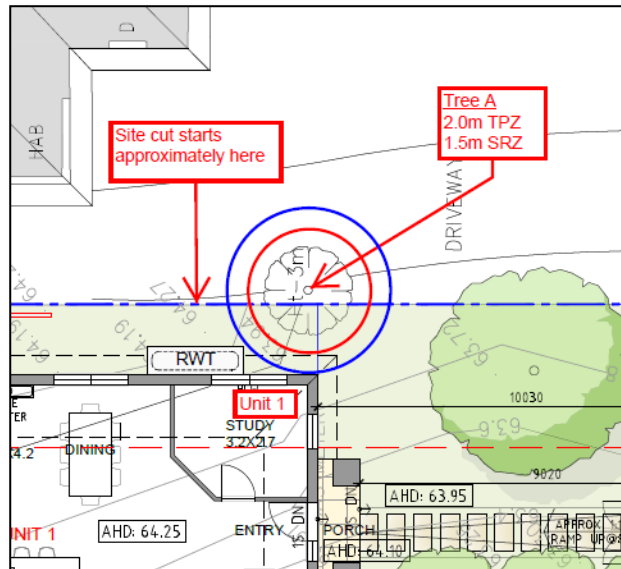
**Waste Engineer:**

- M. Any MGB placements on Kenmare Street for the proposed waste collection services are not to cause any obstruction to any infrastructure or cause any danger to traffic/pedestrians. Bins are not to be placed within 1 metre of any infrastructure and are to have a height clearance of 4 metres for collection.*
- N. If the criteria required for Council based on-street collection services is unable to be met and renders this inoperable, then the waste management system for the development is to revert to a private waste collection service and the WMP be resubmitted to Council to confirm this.*

**9.1.3**  
(cont)

**Appendix 1**

**Location of Tree A:**



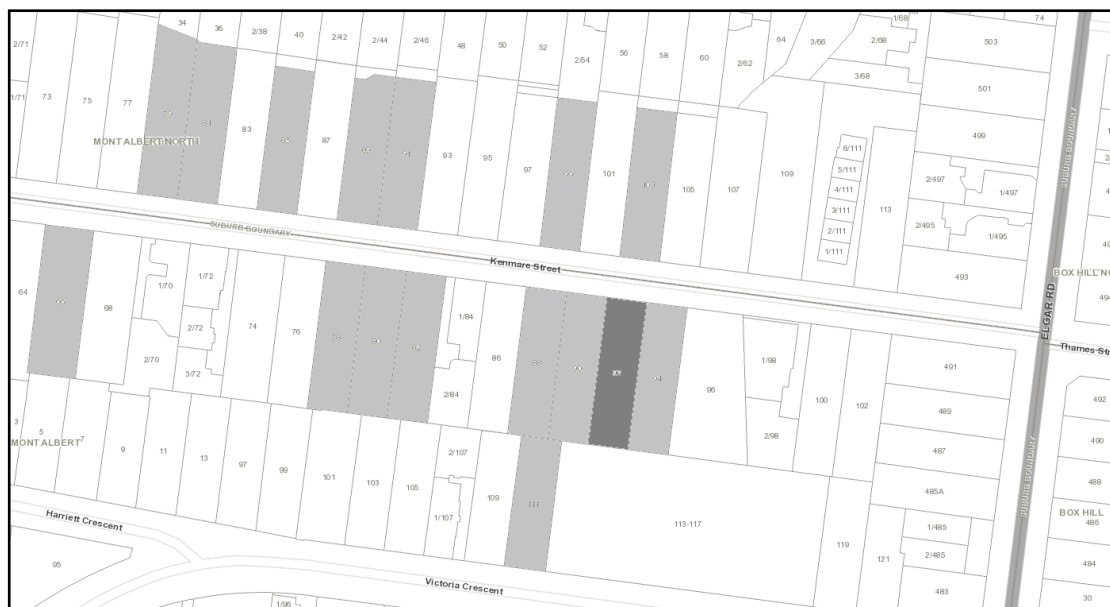
**C** *Has made this decision having particular regard to the requirements of Sections 58, 59, 60 and 61 of the Planning and Environment Act 1987.*




**CARRIED UNANIMOUSLY**

### 9.1.3 (cont)

MELWAYS REFERENCE 47 A7

|                   |                                                                                   |
|-------------------|-----------------------------------------------------------------------------------|
| Applicant:        | Jesse Ant Architects                                                              |
| Zoning:           | General Residential Zone Schedule 4 (GRZ4)                                        |
| Overlays:         | Significant Landscape Overlay Schedule 9 (SLO9)<br>Special Building Overlay (SBO) |
| Relevant Clauses: |                                                                                   |
| Clause 11         | Settlement                                                                        |
| Clause 12         | Environment and Landscape Values                                                  |
| Clause 15         | Built Environment and Heritage                                                    |
| Clause 21.05      | Environment                                                                       |
| Clause 21.06      | Housing                                                                           |
| Clause 22.03      | Residential Development                                                           |
| Clause 22.04      | Tree Conservation                                                                 |
| Clause 32.08      | General Residential Zone Schedule 4                                               |
| Clause 42.03      | Significant Landscape Overlay Schedule 9                                          |
| Clause 44.05      | Special Building Overlay                                                          |
| Clause 52.06      | Car Parking                                                                       |
| Clause 55         | Two or More Dwellings on a Lot or Residential Buildings                           |
| Clause 65         | Decision Guidelines                                                               |
| Ward:             | Elgar                                                                             |



|                                                                                     |              |                                                                                     |                        |                                                                                                       |
|-------------------------------------------------------------------------------------|--------------|-------------------------------------------------------------------------------------|------------------------|-------------------------------------------------------------------------------------------------------|
|  | Subject site |  | 15 Objector Properties | <br><b>North</b> |
|-------------------------------------------------------------------------------------|--------------|-------------------------------------------------------------------------------------|------------------------|-------------------------------------------------------------------------------------------------------|

### 9.1.3

(cont)

## BACKGROUND

### History

No previous Planning Permit Applications have been made for this site.

### The Site and Surrounds

The subject site is located on the south side of Kenmare Street, 140 metres west of the intersection with Elgar Road. The site is rectangular in shape with a frontage of 15.24 metres, a depth of 56.3 metres and comprises an overall area of 859m<sup>2</sup>.

The site contains a single storey weatherboard dwelling with a vehicle crossover and driveway located adjacent to the east boundary. The site has a slope of approximately 2.5 metres falling from the south-west (rear) to the north-east (front). No easements are located on site.

The arborist report, prepared by Bluegum Arboriculture, provides an assessment of 18 trees of which Trees 2 to 14 are located within the subject site. Trees numbered 2, 3, 4, 6, 7, 8, 9, 11 and 13 are protected under the Significant Landscape Overlay, Schedule 9. The trees are a mix of *Pittosporum eugenoides*, *Fraxinus angustifolia*, *Pittosporum undulatum*, *Arbutus unedo* and *Cotonesaster glucophylla* species and assessed as being of 'low' arboricultural retention value.

The trees on adjoining lots that are protected under the SLO9 include Tree 15 (*Syzygium smithii*) and Tree 17 (*Liquidamber styraciflua*), both within the adjoining lot to the east.

The adjoining lot to the east, at 94 Kenmare Street, accommodates a single storey weatherboard dwelling. The dwelling is setback 10.9 metres from Kenmare Street and 1.76 metres from the common boundary with the site. The adjoining lot to the west, at 90 Kenmare Street, accommodates a single storey weatherboard dwelling setback 10.6 metres and 2.9 metres from the common boundary. Both dwellings are set within established gardens. The lot to the east is lower than the subject site and designated as floodprone by the Special Building Overlay (identifies overland flows of water during heavy rain events). A car park serving Box Hill TAFE abuts the south (rear) boundary.

In the vicinity of the subject site, Kenmare Street comprises predominantly single storey older style detached dwellings interspersed with some in-fill medium density residential development. Of note, recent approvals include No. 93 Kenmare Street to the north-west of the subject site, which has a Planning Permit (WH/2017/771) for two double storey dwellings (one with basement), and No. 113 Kenmare Street (to the north-east) also has a Permit (WH/2017/551) for two double storey dwellings. In 2018, VCAT approved seven attached dwellings above a common basement at 46 Kenmare Street located to the west of the subject site (WH/2016/708). No. 73-77 Kenmare Street (to the north-west) has recently had Planning Permit WH/2018/408 issue allowing nine double storey dwellings.

### Planning Controls

The proposal triggers the need for a Planning Permit under the following clauses of the Whitehorse Planning Scheme:

#### General Residential Zone Schedule 4

Pursuant to Clause 32.08-6 a permit is required for the construction of two or more dwellings on a lot.

### 9.1.3

(cont)

Under Clause 32.08-4 a development must meet a minimum garden requirement of 35% (given the site area). The development plans indicate an area of 301.3m<sup>2</sup> or 35.06%.

#### Significant Landscape Overlay Schedule 9

Under Clause 42.03-2 a permit is required for the removal of protected trees and buildings and/or works within 4 metres of protected trees as summarised in the table below:

| Tree No. | Botanical Name                 | Common Name           | Height | Condition                 | Trigger under SLO9                   |
|----------|--------------------------------|-----------------------|--------|---------------------------|--------------------------------------|
| 2        | <i>Pittosporum eugenoides</i>  | Verigated Pittosporum | 5m     | Mature Low value          | Removal                              |
| 3        | <i>Fraxinus angustifolia</i>   | Narrow-leafed Ash     | 8m     | Environmental weed        | Removal                              |
| 4        | <i>Pittosporum undulatum</i>   | Sweet Pittosporum     | 5m     | Environmental weed        | Removal                              |
| 6        | <i>Arbutus unedo</i>           | Strawberry Tree       | 7m     | Mature Low value          | Removal                              |
| 7        | <i>Prunus cerasifera</i>       | Purple Cherry Plum    | 5m     | Environmental weed        | Removal                              |
| 8        | <i>Acer negundo</i>            | Box Elder             | 9m     | Mature Low-Moderate value | Removal                              |
| 9        | <i>Cotoneaster glucophylla</i> | Cotoneaster           | 5m     | Environmental weed        | Removal                              |
| 11       | <i>Fraxinus angustifolia</i>   | Narrow-leafed Ash     | 6m     | Environmental weed        | Removal                              |
| 13       | <i>Pittosporum undulatum</i>   | Sweet Pittosporum     | 7m     | Environmental weed        | Removal                              |
| 15       | <i>Syzygium smithii</i>        | Lilly Pilly           | 11m    | Mature Moderate value     | Buildings and works within 4m        |
| 17       | <i>Liquidambar styraciflua</i> | Liquidambar           | 12m    | Mature Moderate value     | Buildings and works within TPZ (>4m) |

#### Special Building Overlay

The Special Building Overlay affects the south-east corner of the site. Pursuant to Clause 44.05-2 a permit is required for buildings and works.

### PROPOSAL

The application proposes to construct three new double storey dwellings over a common basement car park comprising:

- Relocation of the existing single crossover westwards by 2 metres.
- Provision of a shared basement level accessed via a single width accessway with a slight hump at the entrance and a concrete retaining wall up to 1.2 metres high to the east of the accessway to prevent flooding. This level provides for a double garage to each dwelling, a theatre room for Dwelling 1 and a gym for Dwelling 3, plus storage areas and a stair to the ground level for each dwelling.
- The front door to Dwelling 1 faces Kenmare Street, and the front doors to Dwellings 2 and 3 are accessed from a pedestrian path that runs along the east boundary.

### 9.1.3

(cont)

- A 1.2 metre high steel picket and rendered brick pier front fence is setback 2.2 metres from the Kenmare Street frontage and contains pedestrian gates with intercoms serving the dwellings.
- The ground levels of each of the dwellings comprise kitchen, dining and living areas and a master bedroom. The upper levels of each dwelling include three further bedrooms and a retreat area.
- The secluded private open space areas of the dwellings are located adjacent to the east
- External materials comprise face brickwork at ground level, light grey render at first floor level, and tile cladding to the hipped roof forms.
- The proposed dwellings have the following boundary setbacks:
  - North (Kenmare Street frontage):
    - 10 metres at ground level
    - Minimum 11.3 metres at upper level
  - East (side):
    - 2.5 metres at ground level
    - 3.5 - 4 metres at upper level
  - West (side):
    - 1.4 - 7 metres at ground level
    - 2.7 - 7 metres at upper level
  - South (rear):
    - 1.5 metres at ground level
    - 3.3 metres at upper level
- The upper levels of Dwellings 1 and 2 are separated by 3.6 metres and a minimum 3.7 metres is provided between Dwellings 2 and 3.
- Finished floor levels for Dwelling 1 are elevated at the front of the site, and as the land slopes up gently from Kenmare Street, Dwellings 2 and 3 are cut slightly into the natural ground level (NGL) towards the rear of the land. At the front of the site, Dwelling 1 is raised up to 0.6 metres above natural ground level (NGL) and has a maximum wall height of 8 metres, and a maximum building height (to top of roof) of 8.8 metres. At the rear of the site, Dwelling 3 is cut 0.8 metres into the NGL, giving a maximum wall height for Dwelling 3 of 6.6 metres.
- Overall site (building) coverage of 47.3% and permeable area of 34.9%.
- All trees are proposed to be removed from the site, comprising nine protected trees (as per the table above) and three smaller trees (Tree No.s 5, 10 and 14) and are under 5 metres high and not protected by the SLO9.
- The landscape plan proposes:
  - One 12 metre high tree and six 8 metre high trees within the front setback.
  - Three 8 metre high trees planted in ground clear of the basement within the secluded private open space of Dwelling 2.
  - Two 10 metre high trees within the secluded private open space of Dwelling 3.

### 9.1.3

(cont)

## CONSULTATION

### Public Notice

The application was originally advertised by mail to the adjacent and nearby property owners and occupiers and by erecting a notice to the site frontage. Following this first advertising period, 15 objections were received raising the following concerns:

- Amenity impacts:
  - Overlooking
  - Overshadowing
  - Loss of air quality
- Neighbourhood Character:
  - Building bulk and form not in keeping with predominantly single storey area.
  - Site cut for basement out of keeping with the streetscape.
  - Three storeys is too high.
  - Insufficient dwelling separation.
  - Too many dwellings.
  - 2 metre high fence topped with lattice should taper in the frontage to allow for driver sight lines
- Car parking and traffic:
  - Increased on-street parking.
  - Increased traffic in an already busy street. The nearby Buddhist Temple exacerbates parking problems during Temple functions.
  - Traffic safety impacts on the street, exacerbated by the nearby crest.
  - Increased vehicle movements on site adjacent to neighbouring dwellings.
- Landscaping:
  - Excessive tree removal
  - Insufficient replacement trees and understorey plantings
  - Insufficient landscape and permeable areas to support trees and open space.
- Environmentally Sustainable Development:
  - Additional dwellings, reflected heat, air conditioners, increased utility usage and fewer trees and gardens.
- Planning Controls:
  - Site cut for basement may exacerbate flooding in the area
- Drafting Errors:
  - No. 107 Kenmare is single storey, not double storey as shown on plans.

Melbourne Water provided an objection in writing when referred the original application, and subsequently required significant alterations to the original proposal in order to prevent flooding of the (then) proposed development. The applicant subsequently redesigned the development to address Melbourne Water's concerns. The amended plans include higher finished floor levels to prevent flooding, increasing the overall height of the proposed dwellings and alterations to the proposed boundary setbacks. The amended plans were readvertised and a further seven submissions were received, all from original objectors, raising the following additional issues:

- Concerns regarding the extent of excavation required for the basement.
- Loss of views
- Visual and overshadowing impacts associated with the increased building heights
- More hard surface areas due to the basement, and insufficient tree planting
- Proposed fill could cause increased flooding to other land

### **9.1.3**

(cont)

- Insufficient parking areas

It is also noted that Melbourne Water withdrew their objection, and provided support to the amended proposal, subject to conditions being imposed on any permit issued. The original objections and the submissions made in relation to the amended plans are all required to be considered with this application, and will be discussed below.

#### **Consultation Forum**

A Consultation Forum was held on 25 July 2019. Five objectors, the land owner, two representatives from the applicant and two planning officers attended the meeting which was chaired by Ward Councillor Liu.

The Forum followed an issues-based discussion expanding on the concerns raised in the objections received. Key points included:

- The existing traffic and parking situation on Kenmare Street, including photos of weekend on-street parking being tabled by an objector for consideration by Council's Transport Engineers.
- Overshadowing of adjacent dwellings.
- The need to screen overlooking, in particular from the Dwelling 2 retreat west elevation window which faces the covered deck of the neighbour to the west, which is an area sensitive to privacy impacts.

There were no further amendments provided in response to the issues raised at the consultation forum.

#### **Referrals**

##### **External**

###### Melbourne Water

No objection to the plans currently before Council for consideration, subject to conditions specifying minimum finished floor levels

##### **Internal**

###### Engineering and Environmental Services Department

- Transport Engineer

The application has been reviewed by Council's Engineering Transport Team, who have required updates to plans to demonstrate compliant vehicle access, which will be discussed in detail below.

- Waste Engineer

An amended Waste Management Plan is required in response to the amended plans, and will be required as a condition of Permit.

- Assets Engineer

Consent subject to standard conditions



### 9.1.3

(cont)

#### Planning Arborist

There are no trees on site worthy of retention. Removal and replacement will provide the best outcome long-term. Therefore, it is recommended a mix of indigenous, native and exotic trees are planted on the site, and a list of recommended species has been provided. One additional tree (identified as Tree A) located on the adjoining lot to the west must be protected during the construction process. Subject to adherence to tree protection conditions, the proposed development will not result in unacceptable impacts to trees.

#### Parkswide Arborist

The street tree (Tree 1) is an immature *Lophostemon confertus* (Queensland Brush Box) located within the road reserve. This tree exhibits good health and structure with a long useful life expectancy. The plans provided indicate that the proposed development will be outside of the 2 metre TPZ of this tree. This tree is unlikely to be impacted by the proposed development. Tree protection measures are required to protect the tree during the construction process.

#### ESD Advisor

A Sustainable Design Assessment was submitted with the original plans, and an amended Sustainable Design Assessment is required to be submitted in response to the amended plans that added the basement car park.

## **DISCUSSION**

### **Consistency with State and Local Planning Policies**

The proposed development is consistent with State and Local Planning Policies which seek to ensure that housing stock matches changing demand by widening housing choice, encouraging the development of well-designed housing that responds to the preferred and prevailing neighbourhood and landscape character.

Clause 21.06 (Housing) of the Local Planning Policy Framework is informed by Council's Housing Strategy 2014, and identifies the site within a Natural Change Area. Natural Change Areas support increase housing choice by allowing for a diversity of dwelling types, sizes and tenures and seek to ensure that new development contributes to the preferred neighbourhood character of the precinct.

Clause 22.03, the Whitehorse Residential Development Policy, applies to all applications for development within the residential zones. The policy is used to supplement the neighbourhood character and residential policy requirements of Clause 55. The relevant objectives of Clause 22.03 are as follows:

- To ensure that residential development within the City of Whitehorse is consistent with the built form envisaged for the relevant category of housing change.
- To ensure development contributes to the preferred neighbourhood character where specified.
- To ensure that new development minimises the loss of trees and vegetation.
- To ensure that new development provides adequate vegetation and gardens consistent with the preferred neighbourhood character.

The *Neighbourhood Character Study 2014* further defines the preferred future character of precincts within the City.

### 9.1.3

(cont)

The preferred character statements for each character precinct are defined under Clause 22.03-5. The subject site is located within the Garden Suburban Precinct 8. The preferred character statement for the Garden Suburban Precinct, 8 is as follows:

*A variety of well-articulated dwelling styles will sit within open garden settings incorporating a mixture of native and exotic vegetation and large trees. The established pattern of front and side setbacks will be maintained, allowing sufficient space for planting and growth of new vegetation. Infill development will be common, however new buildings and additions will be setback at upper levels to minimise dominance in the streetscape.*

*Properties abutting and close to the Koonung Creek, Bushy Creek and Gawler Chain parklands will contribute to the bushy landscape character of the public realm, incorporating large native/indigenous canopy trees and native/indigenous vegetation. The openness and informality of the streetscape will be further enhanced by low open style front fences that allow for views into front gardens.*

The *Neighbourhood Character Study 2014* document builds on this statement with specific Garden Suburban Precinct 8 Guidelines, which are reflected in the variations to Clause 55 that are set out in the applicable Schedule 4 to the General Residential Zone.

The design and siting of the proposed development is consistent with the objectives and intent of Council's Residential Development Policy for developments within Natural Change and the Garden Suburban Precinct 8 areas. The site's proximity to a number of community and commercial facilities, including proximity to the Box Hill Activity Centre, lends weight to a more compact design and siting outcome.

#### **Design and Built Form**

The Precinct Guidelines encourage the provision of a single vehicle crossover as a means of minimising car accommodation visible to the streetscape. The development relies on a single crossover, ramped driveway and garages at basement level. This removes the visual impact of car accommodation from the streetscape and provides opportunity for an open front garden setting.

The three proposed dwellings are sited in a tandem arrangement over the basement. The basement is setback from side boundaries and contained largely below the footprints of the dwellings and as such allows for in-ground landscaping around the perimeter of the dwellings. The dwellings are separated by 1 metre and 3.3 metres between the ground and upper levels respectively of Dwellings 1 and 2; and 2 metres and 3.7 metres between the ground and upper levels respectively of Dwellings 2 and 3. These building breaks articulate the presentation of the building form to the adjacent lots to the east and west and break up the built form along the length of the site.

The upper levels of the proposed dwellings are well-articulated mostly setback from the ground level footprint, achieving an appropriate level of recession and articulation at upper levels to minimise perception of visual bulk. The use of light weight render to clad the upper levels provides a contrasting material to the ground level face brick, and the provision of windows and eaves to upper floor elevations adds further articulation and visual interest to the dwellings and is respectful of the surrounding neighbourhood character.

The dwellings are slightly cut into the slope of the land along the west elevation (by up to 0.8 metre) which will assist in keeping the overall building height down and providing good transitions to the adjacent single storey dwellings.

### 9.1.3

(cont)

Standard B6, as varied by Schedule 4 of the General Residential Zone, requires, 'any new wall on a boundary should be setback at least 12 metres from the front boundary or 3 metre further than the average set back of the buildings on adjoining allotments, whichever is the lesser'. The development does not rely on boundary wall development, with a minimum setback of 1.2 metres achieved to the west boundary. The front setback achieves a minimum of 10 metres which exceeds the requirements of Standard B6. This generous setback allows for new tree planting and landscaping within the front setback to allow for the development to integrate into a garden suburban setting.

The proposed development provides for a minimum setback of 1.4 metres to the west side boundary and 2.5 metres to the east side boundary at ground level. The first floor level offers setbacks of between 2.7 and 7.1 metres to the west boundary and between 3.5 and 4.0 metres to the east boundary. Both side setbacks offer views to the rear of the site, and both provide opportunities for in-ground landscaping clear of the basement below. The west boundary setback also accommodates the secluded private open spaces for the three dwellings and provides deep root planting areas within these spaces to accommodate trees.

Standard B17, as varied by the schedule to the zone, requires 'any building, not on a boundary, to be setback 3 metres from the side boundary, plus 0.3 metres for every metre of height over 3.6 metres up to 6.9 metres'. The proposed boundary setbacks are not fully compliant with this standard, however, in the vicinity of the subject site, most lots provide garages or carports, usually constructed to the boundary line, along one side, and a narrow (approximately 1.2 metre wide) setback to the other side boundary, with the result that the immediate neighbourhood character in the vicinity of the subject site is more reliant on front setbacks to contribute to landscape character than side setbacks.

On balance, the proposed side boundary setbacks are considered appropriate as they minimise amenity impacts through avoiding any placement of walls on boundaries, and achieve clear, landscaped areas along both side boundaries that exceed the typical side boundary setbacks found in the vicinity of the subject site.

The secluded private open space areas for each dwelling are provided along the west boundary and each achieve a minimum dimension of 5 metres and a minimum area of 35m<sup>2</sup> in compliance with Standard B28, as varied by Schedule 4 to the General Residential Zone. The secluded private open space areas of Dwellings 1 and 2 are located opposite a verandah on the adjacent dwelling to the west which is used as an outdoor living area. The co-location of sensitive open space areas is considered to be beneficial to share the amenity of open spaces of adjacent dwellings.

Whilst a portion of the secluded private open space areas serving Dwellings 1 and 3 will be overshadowed by the adjacent dwellings, the solar access to open spaces is compliant with the requirements of Standard B21 of Clause 55, ensuring these areas receive sufficient solar access.

The proposed site coverage of 47% is under the 50% maximum set by Standard B8, as varied by the schedule to the zone. The need for flood mitigation measures has required the basement design and the resulting permeable area of 34.9% to marginally exceed the 30% required by the varied Standard B9. However it is noted that there are ample in-ground planting areas to support in excess of the six 8 metre high trees required by the varied Standard B17, and as such the proposed permeable area is acceptable.

The proposed front fence is 1.2 metres high, consistent with the varied Standard B32 of Clause 55, and the open steel picket construction will provide for views into the landscaped front setback.

### 9.1.3

(cont)

#### Landscaping

Clause 21.05 (Environment), Clause 22.04 (Tree Conservation) and Clause 42.03 (Significant Landscape Overlay Schedule 9) identify trees as being an integral aspect of an existing and preferred character. The Statement of Nature and key elements of landscape under the SLO9 recognises:

- *Trees are significant to the landscape character of Whitehorse and the tree cover simultaneously delivers multiple benefits to the community, including defining neighbourhood character, providing visual amenity, reducing the urban heat island effect in more urbanised areas, improving air quality and energy efficiency, providing habitat for fauna, increasing the wellbeing of people and liveability of neighbourhoods.*

The Overlay includes the objective, *'to encourage the retention of established and mature trees and to provide for the planting of new canopy trees'*.

1. Within the Decision Guidelines of Clause 42.03, policy requires consideration to be given to *'the need to retain trees that are significant due to their species, health and/or growth characteristics'*, while further outlining, *'If retention cannot be achieved, or a tree is considered appropriate for removal, consider whether the site provides adequate space for offset planting of indigenous or native trees that can grow to a mature height similar to the mature height of the tree to be removed'*.

Whilst Council's Planning Arborist has no objection to the proposed removal of the existing trees on site, it is considered that a number of trees within the front setback that are proposed for removal could be retained in association with the proposed development. In particular, Tree 3 on the east beside the accessway is a healthy 8 metre high tree that is unlikely to be affected by the excavation for the basement accessway and could be retained to provide upper canopy landscaping in the street frontage. In addition, the western portion of the mature 5 metre high hedge of Variegated Pittosporum (Tree 2 -*Pittosporum undulatum*) along the front boundary of the site could also be retained as it will be clear of the works area, and would maintain a strong landscape element within the Garden Suburban streetscape.

Subsequent to the Forum, the applicants submitted an updated landscape plan reflecting the amended site layout. The landscape plan provides for a hedge of 3 metre high shrubs beside the pedestrian path along the east boundary, which will require amendment to reflect the retention of Tree 3.

Six trees over 8 metres in height are proposed to be located along the west boundary and within the front setback, including one *Robinia pseudoacacia* (12 metre high Golden Robinia) in the frontage. A proposed Crepe Myrtle (*Lagerstroemia 'Biloxi'*) in the frontage will require removal in order to allow for the retention of the front hedge (Tree 2). The landscape plan also proposes a row of five closely planted Capital Pears (*Pyrus 'Capital'*) beside the accessway in the frontage, and it is recommended that this dense planting, within 2 metres of Dwelling 1, is reconsidered in order to provide for the mature growth of trees.

All of the trees proposed to be planted are exotic species, which does not comply with the preferred mix of indigenous and exotic species for the Garden Suburban Area 8, and a condition will require the replacement of some exotic trees with indigenous species. Subject to the above changes, the submitted landscape plan will provide a complete garden scheme that will enhance the Garden Suburban character of the area.

Council's ParksWide Team have assessed the impact to the street tree. The street tree is an immature *Lophostemon confertus* (Queensland Brush Box). The plans provided indicate that the proposed development will be outside of the TPZ of this tree. This tree is unlikely to be impacted by the proposed development.

### **9.1.3**

(cont)

#### **Car Parking**

The application has been reviewed by Council's Engineering Transport Team, who have in general supported the proposal on traffic and car parking grounds. Where there are minor areas of concern, the Transport team have required that conditions be imposed on any permit issued.

It is noted that increased vehicle movements and on-street parking were significant concerns raised by objectors. Existing pressures on on-street parking were communicated to Council's Transport Engineers over the course of this application, and consideration of these has been made by the Engineers in concluding that the additional traffic can be absorbed by the local street network.

#### **Amenity**

The side boundary setbacks are respectful of the adjacent dwellings to the west and west. To the west, the adjacent dwelling is setback from the common boundary 2.9 metres behind a driveway that serves a carport built to the common boundary. Dwellings 1 and 2 are setback 5 - 7 metres from the west boundary at the ground level opposite a verandah on the adjacent dwelling, which is understood to be used as an outdoor living area. Landscaping within the open spaces on the subject site (for dwellings 1 and 2) opposite the neighbouring verandah will replace vegetation in this location that is proposed to be removed, and will provide additional privacy and visual screening between the two lots.

At the east boundary interface, the adjacent dwelling is setback 1.8 metres from the common boundary. The proposed minimum 2.5 metre setback of the development on the subject site at the ground level will allow for the provision of a landscaped boundary interface and provides sufficient setback from the TPZ of the 12 metre high Liquidambar (Tree 17) to the rear of the adjacent dwelling.

The proposed plans demonstrate that overlooking from upper level habitable room windows to the adjoining residential lots to the east and west will be mostly screened by the use of highlight windows or fixed opaque glazing up to 1.7 metres above finished floor levels, in accordance with Standard B22 of Clause 55. However The Dwelling 2 retreat window on the west elevation will have views of the verandah used as an outdoor living area for the adjacent dwelling, and as such this window also requires screening, which will be included as a condition.

At the ground level, overlooking is protected by a proposed 2 metre fence topped with 0.5 metre high lattice on the east elevation, and a new 1.8 metre high fence on the west elevation. A condition will require the height of these side boundary fences to be tapered to 1.2 metres high, forward of Dwelling 1, in order to maintain an open landscape frontage consistent with the preferred streetscape character.

The submitted Shadow diagrams demonstrate that the development will result in an increase in overshadowing from existing conditions to the adjacent residential lots to the east and west between 9am and 3pm at the Equinox. This is well within the allowance of Standard B21. In particular, morning shadows to habitable room windows of the adjacent dwelling to the west that were raised in an objection will be clear of these windows by 10am, allowing solar access to these windows through the middle of the day.

There will be no unreasonable amenity impacts to the adjacent property to the rear, as this is a TAFE car park that does not require protection.

### **9.1.3**

(cont)

#### **Environmentally Sustainable Development**

Whitehorse City Council is committed to creating an environmentally sustainable city. Critical to achieving this commitment is for development to meet appropriate environmental design standards. The local policy at Clause 22.10 aims to integrate environmental sustainability principles into land-use planning, new developments and redevelopment of existing infrastructure.

A Sustainable Design Assessment was submitted with the original plans and Council's ESD Officer advised that this was acceptable subject to conditions. The amendments however made to plans in response to Melbourne Water's concerns altered the proposed site layout, and require an amended Sustainable Design Assessment, which will be required as a condition of approval.

#### **Melbourne Water Response**

The south-east corner of the subject site and the land adjacent to the site to the east are affected by the Special Building Overlay. This Overlay identifies areas that can experience overland flows of flood waters in heavy rain events. The spread of the overlay and the topography of the area indicate that any floods will flow northwards over the lower-lying land to the east of the subject site, flowing towards Hagenauer Reserve.

Melbourne Water's original objection and the conditions provided for the current proposal have been required primarily to prevent the flooding of the subject site and to allow the free flow of flood waters to the east of the site. Specifically, minimum finished floor levels are specified for the proposed dwellings to ensure they are above the 1 in 100 year flood level, and the basement accessway is required to ramp up at the entrance to prevent flood waters entering the basement. Fences, decks and verandahs are required to be constructed so they do not obstruct the flow of floodwaters.

Standard asset conditions will be imposed to ensure that the subject site does not discharge water onto adjoining lots.

#### **Objectors Concerns not Previously Addressed**

- Increased vehicle movements on site adjacent to neighbouring dwellings.

The provision of a basement car park will contain vehicle noise and protect the acoustic amenity of adjacent dwellings.

- Concerns regarding the extent of excavation required for the basement.

Protection of adjoining properties during construction is dealt with under the Building Permit process.

- Loss of views

Views are not protected by the Planning Scheme.

### **9.1.3**

(cont)

#### **CONCLUSION**

The proposal for construction of three double storey dwellings with basement garages and associated tree removal is an acceptable response that satisfies the relevant provisions contained within the Whitehorse Planning Scheme, including the State and Local Planning Policies, the General Residential Zone Schedule 4, Significant Landscape Overlay Schedule 9, Special Building Overlay and Clause 55. The proposed development form, siting and overall design is considered to be acceptable and will integrate with the existing built form and landscape character of Kenmare Street.

A total of 15 objections were received as a result of public notice and all of the issues raised have been discussed as required.

It is considered that the application should be approved.

#### **ATTACHMENT**

1      Plans  

## Strategic Planning

### 9.1.4 Amendment C219: Permanent Significant Landscape Overlay, Schedule 9, Review of Submissions

FILE NUMBER: SF19/366  
ATTACHMENT

#### SUMMARY

*Amendment C219 proposes to apply the Significant Landscape Overlay (SLO), Schedule 9 on a permanent basis to all residential land that does not already have a permanent SLO in place. In addition, the amendment makes consequential changes to local clauses in the Whitehorse Planning Scheme. An interim SLO9 remains in place to protect trees in the affected areas while Council progresses the amendment for the permanent SLO9 under Amendment C219 through the usual amendment process, involving public exhibition and review of submissions.*

*The amendment was on public exhibition from 18 July until 19 August 2019. A total of 307 submissions were received to the Amendment (303 submissions were received during the exhibition period and four (4) late submissions were received after the exhibition period).*

*This report discusses the issues raised in submissions received and recommends that the Amendment and all of the submissions (including late and supporting submissions) be referred to an independent Planning Panel for consideration.*

#### MOTION

Moved by Cr Massoud, Seconded by Cr Cutts

#### ***That Council:***

- 1. Being the Planning Authority, having considered all submissions under Section 22 of the Planning and Environment Act 1987 in relation to Amendment C219, request the Minister for Planning appoint an Independent Planning Panel to consider the Amendment and all of the submissions in Attachment 1 in accordance with Section 23 of the Planning and Environment Act 1987.***
- 2. Make the following changes to Amendment C219:***
  - a) Amend Schedule 9 to Clause 42.03 to italicise botanical names of environmental weed species.***
  - b) Amend the exemption relating to the Environmental Weeds list in sub-clause 3.0 of Schedule 9 to Clause 42.03 to read "A tree that is listed as an Environmental Weed species listed below".***
  - c) Amend the exemption relating to swimming pools in sub-clause 3.0 of Schedule 9 to Clause 42.03 to read: "A tree that is located less than 3 metres from an existing in-ground swimming pool when measured at ground level from the outside of the trunk".***
  - d) Include an additional planning permit exemption in sub-clause 3.0 of Schedule 9 to Clause 42.03: "The removal, destruction or lopping of a tree to the minimum extent necessary to maintain the safe and efficient function of the existing on-road public transport network (including tramways) to the satisfaction of the Department of Transport".***
  - e) Include reference to the tree canopy target of 30% contained in Council's Urban Forest Strategy in Clause 21.05 (Environment) of the planning scheme.***
- 3. Review the local VicSmart provisions as they relate to applications for tree removal and works within 4 metres of a tree.***
- 4. Advise all submitters of the request for an Independent Planning Panel.***



## **9.1.4**

(cont)

### **AMENDMENT**

Moved by Cr Davenport

***That Council:***

- 1. Being the Planning Authority, having considered all submissions under Section 22 of the Planning and Environment Act 1987 in relation to Amendment C219, request the Minister for Planning appoint an Independent Planning Panel to consider the Amendment and all of the submissions in Attachment 1 in accordance with Section 23 of the Planning and Environment Act 1987.***
- 2. Make the following changes to Amendment C219:***
  - a) Amend Schedule 9 to Clause 42.03 to italicise botanical names of environmental weed species.***
  - b) Amend the exemption relating to the Environmental Weeds list in sub-clause 3.0 of Schedule 9 to Clause 42.03 to read "A tree that is listed as an Environmental Weed species listed below".***
  - c) Amend the exemption relating to swimming pools in sub-clause 3.0 of Schedule 9 to Clause 42.03 to read: "A tree that is located less than 3 metres from an existing in-ground swimming pool when measured at ground level from the outside of the trunk".***
  - d) Include an additional planning permit exemption in sub-clause 3.0 of Schedule 9 to Clause 42.03: "The removal, destruction or lopping of a tree to the minimum extent necessary to maintain the safe and efficient function of the existing on-road public transport network (including tramways) to the satisfaction of the Department of Transport".***
  - e) Include reference to the tree canopy target of 30% contained in Council's Urban Forest Strategy in Clause 21.05 (Environment) of the planning scheme.***
  - f) Introduce an exemption for an arborist report for removal of a tree for the construction of a Dependent Person Unit.***
- 3. Review the local VicSmart provisions as they relate to applications for tree removal and works within 4 metres of a tree.***
- 4. Advise all submitters of the request for an Independent Planning Panel***

The Amendment lapsed for want of a seconder

The motion moved by Cr Massoud, Seconded by Cr Cutts was then put and  
**CARRIED UNANIMOUSLY**

### 9.1.4

(cont)

#### BACKGROUND

On 26 May 2017 Council submitted a request to the Minister for Planning (the Minister) to approve Amendment C191 to the Whitehorse Planning Scheme (Planning Scheme) to apply the Significant Landscape Overlay (SLO) on an interim basis to all residential land that does not already have permanent tree protection controls in place. Council also sought authorisation to prepare and exhibit Amendment C196 to apply the same controls on a permanent basis having adopted the *Municipal Wide Tree Study Options and Recommendations Report*, June 2016 at its meeting on 18 Jul 2016.

On 28 December 2017 the Minister approved Amendment C191, which came into effect on 8 February 2018 introducing Schedule 9 to the SLO on an interim basis until 31 December 2018. The Minister refused Council's request to prepare and exhibit Amendment C196 and directed Council to undertake further strategic work before submitting a new request to apply the same controls on a permanent basis.

On 18 December 2018 the Minister extended the lapse date for the interim SLO by 6 months until 30 June 2019 (Amendment C214). Council engaged planning consultants to assist in undertaking the further strategic work, which included an assessment of the landscape character of the municipality to demonstrate the significance of the areas across which the proposed tree controls are proposed to apply. This work, titled *Municipal Wide Tree Study, Part 2: Additional Analysis in Garden Suburban and Bush Suburban Character Precincts*, March 2019 was adopted by Council at its meeting on 18 March 2019.

On 3 April 2019 Council submitted a new request to the Minister to prepare and exhibit Amendment C219 to permanently apply SLO9. On 27 June 2019 Council received notice that the Minister had authorised Council to prepare the amendment and it was subsequently placed on exhibition from 15 July until 19 August 2019. On 28 June 2019 the lapse date for the interim SLO was extended via Amendment C223 by a further 1 year to allow the completion of the amendment process for the permanent controls.

#### What does Amendment C219 do?

The explanatory report states that Amendment C219:

- Amends the planning scheme maps by applying the SLO Schedule 9 on a permanent basis and deleting the Vegetation Protection Overlay (VPO) Schedule 2 and Schedule 4
- Amends local planning policy Clause 21.05 (Environment) to:
  - Strengthen references to the importance of tree preservation and retention to the neighbourhood character of Whitehorse in the policy basis and objectives
  - Clarify the lot size and tall tree strategies as applying in the SLO in the Bush Environment character precincts.
- Amends local planning policy Clause 22.04 (Tree Conservation) to:
  - Strengthen references to canopy trees and neighbourhood character in the policy basis and objectives
  - Strengthen references in the policy basis about tree retention to ensure that trees are retained if they are also significant to neighbourhood character
  - Strengthen references to replanting to ensure that new trees are appropriate for the location, soil type and neighbourhood character
  - Refine the provisions relating to buildings and works near existing trees to provide for a minimum setback of 3 metres in SLO9 rather than the 4 metres that applies to SLO schedules 1-8

#### 9.1.4

(cont)

- Refine the provisions relating to tree regeneration to provide for a minimum area of 35m<sup>2</sup> per tree in SLO9 rather than the 50m<sup>2</sup> that applies to SLO1-8
  - Reconfirm that when a planning permit is triggered, an arborist report is required to justify the removal of all trees, irrespective of the health of the tree
- Amends Schedule 9 to Clause 42.03 (Significant Landscape Overlay) shown in **Attachment 2** to:
  - Apply the schedule on a permanent basis by deleting the expiry date of the control
  - Strengthen the landscape character objective to include reference to replacement trees
  - Introduce new exemptions providing for the removal, destruction or lopping of a tree without a permit for:
    - Trees located less than 3 metres from the [existing] wall of a dependent person's unit or dwelling
    - Trees located less than 3 metres from an [existing] in-ground swimming pool
    - Specified environmental weeds
    - Trees affecting public utilities including powerlines, services within easements and the like
    - Street trees in line with Council's Street Tree Policy
    - Trees required to be removed, destroyed or lopped in order to construct or carry out buildings or works approved by a Building Permit issued prior to 8 February 2018
    - Trees that may require separate approval to remove, destroy or lop as part of an existing permit condition, a plan endorsed under a planning permit or an agreement under section 173 of the *Planning and Environment Act 1987*
- Lists new background documents in Clauses 21.05, Clause 21.06, Clause 22.03 and Clause 22.04 – *Municipal Wide Tree Study Discussion Paper*, March 2016, *Municipal Wide Tree Study Options and Recommendations Report*, June 2016 and *Municipal Wide Tree Study Part 2: Additional Analysis in Garden Suburban and Bush Suburban Character Precincts*, March 2019
- Makes reference to these documents in the decision guidelines under Schedule 9 to Clause 42.03.
- Includes an additional decision guideline in Schedule 9 to Clause 42.03 to require Council to consider, as appropriate, the cumulative contribution the tree makes with other vegetation in the landscape and the impact of incremental loss.
- Deletes Schedule 2 and Schedule 4 to Clause 42.02 (VPO) from properties where they currently apply.

#### DISCUSSION

Council received 307 submissions in response to exhibition of Amendment C219.

Two submissions in support of the Amendment were received after the exhibition period. One submission objecting to the Amendment was received after the exhibition period. One submission was received from the Environment Protection Authority (EPA) after the exhibition period that did not offer any further comments. Under Section 22(2) of the *Planning and Environment Act 1987*, the planning authority may consider a late submission. It is proposed that Council accept the late submissions.

### 9.1.4

(cont)

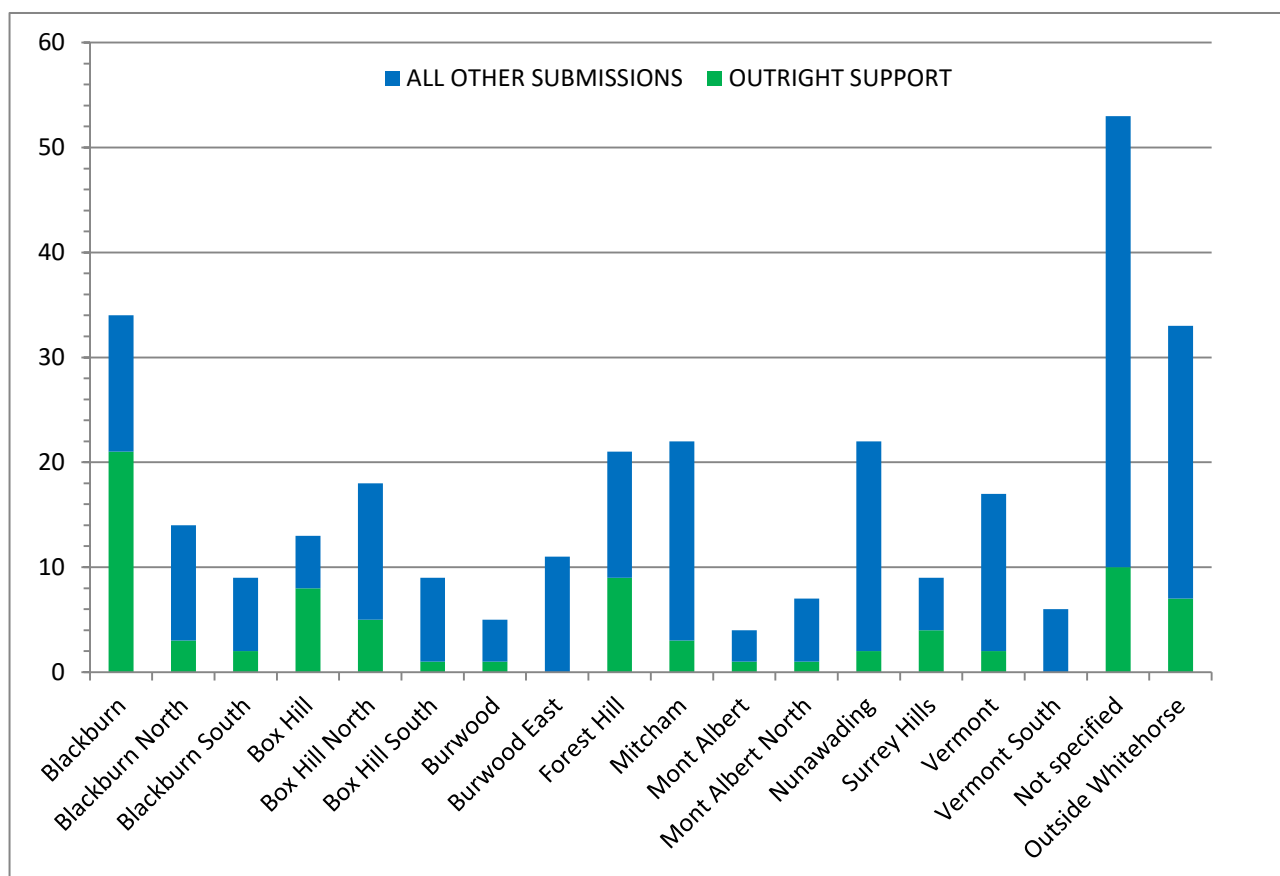
The response represents approximately 0.4% of property owners and occupiers notified about the Amendment.

#### Analysis of submissions

221 submissions were from submitters located in Whitehorse. 53 submissions did not provide an address and 33 submissions were from addresses outside the City of Whitehorse.

Table 1 shows the submitters by suburb. Of those submissions where the origin was known, 34 (15%) came from Blackburn and 10% came equally from Forest Hill (21), Mitcham (22) and Nunawading (22).

The table also compares the number of submissions who provided outright support with all other submissions. Other submissions include submissions which sought changes, submissions that objected to the Amendment or those where the level of support or opposition to the Amendment was unclear.

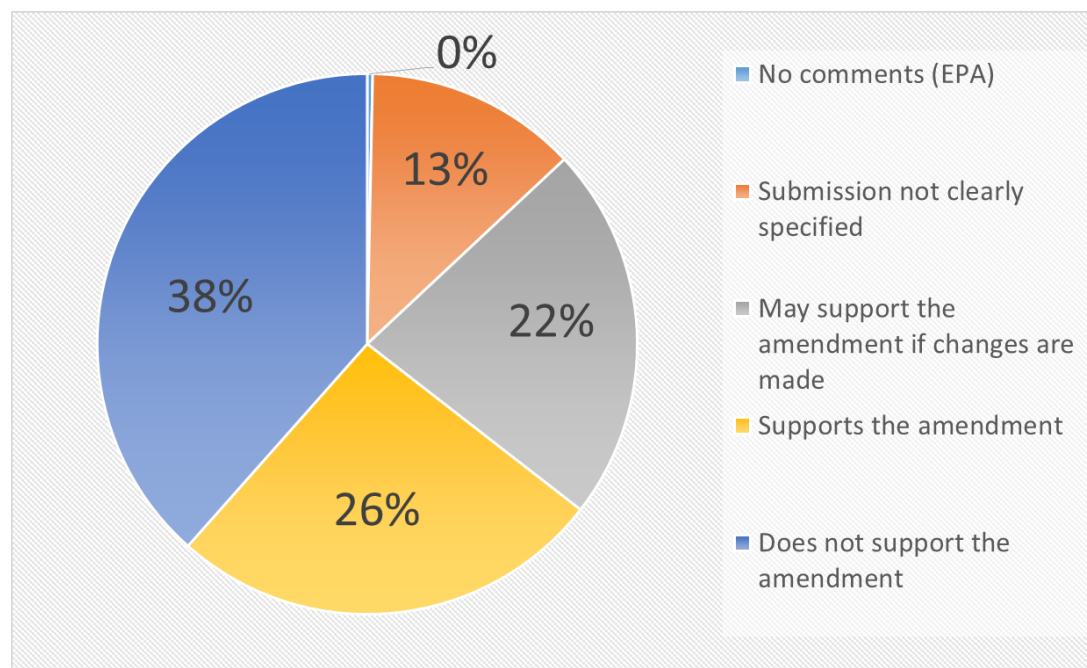


**Table 1 – Submitters by suburb (supporting submissions plus all other submissions)**

The chart below shows that approximately 26% provided outright support for the Amendment. Approximately 22% indicated they support, or may support the Amendment if changes are made. Approximately 13% of submissions did not clearly specify if they provided support or objection to the Amendment, but they expressed concern or put forward changes.

Approximately 38% objected to the Amendment outright.

#### 9.1.4 (cont)



**Chart 1 – Breakdown of submissions**

#### **Submission themes**

The submissions are discussed under the following broad themes:

- Submissions in support of the Amendment
- Trees are a safety hazard to property and/or people
- Potential fees and costs associated with planning permit applications
- Imposition on private property rights
- Impact on development in Whitehorse, including reduced housing capacity and overshadowing of solar panels
- Changes to the proposed control, primarily in relation to the list of proposed exemptions and the space required for tree planting
- The intent of applying the control to properties.
- Other comments including tree removal by developers, the amendment process, street trees and the resources required to manage tree removal applications.

#### 9.1.4

(cont)

**Attachment 1** provides a summary of each submission and a response. As many of the submissions included common issues, a broad response to key issues raised is provided below:

##### 1. Submissions in support of the Amendment

There were a number of submissions that provided support for the Amendment. Submitters who had lived in Whitehorse for a long time stated their concern that they have observed a decline in canopy tree coverage across time. Supporters also expressed that trees are very important for the entire community. Canopy trees contribute to the amenity of the urban environment and regulate the climate, such as reducing the heat island affect in urban areas. Canopy trees regulate air quality, provide habitat for fauna and provide shade for properties which could assist in reducing reliance on artificial cooling of properties in summer.

Submissions in support included strong discussion about the need to protect mature trees and the value that these trees add to the landscape and neighbourhood character of Whitehorse. It was also noted by supporters that canopy trees take a number of years to mature and replanting with new trees does not replicate the benefit of the original tree; instead canopy trees should be retained in the first instance.

The submissions included the following comments:

- “Concerned about the loss of tree cover in the municipality”
- “Support the recognition of the important role canopy tree vegetation has to the broader community”
- “Very important amendment to the planning laws that will help maintain all the benefits trees provide to the neighbourhoods in Whitehorse”
- “Need large trees and a complete range of vegetation levels to provide habitat and refuge for birds and other wildlife”
- “Support this amendment to preserve the leafy character of these suburbs”.

The submissions of support are noted.

##### 2. Trees are a safety hazard to property and/or people:

Many submitters have expressed their concerns about the potential safety hazards associated with trees, including dropping of limbs, complete tree failure or dropping of leaves and debris. Some submitters also raised concerns about damage to property such as to drainage pipes.

It should be emphasised that trees on private property are the responsibility of the private landowners and the introduction of permanent tree protection controls such as the SLO does not remove the responsibility of the land owner to maintain his/her property, including trees, and to minimise any risk from the vegetation. A permit exemption is provided for trees that are dead or dying, or are posing an immediate danger (an arborist assessment may be required to determine the health of a tree under this exemption). The issue of planning application related exemptions and costs are discussed in further detail below.

#### 9.1.4

(cont)

Some submissions raised issues around the liability of Council where a control was placed on trees that necessitated a planning permit for removal. In *Timbs v Shoalhaven City Council [2004]* the NSW Court of Appeal found that a council was liable for failing to properly consider a request to remove trees that were dangerous. The issue arose because a council employee, when asked if trees could be removed, did not advise the homeowner to make an application, rather he said that the trees could not be removed without permission (which was true). If, however an application had been made, the trees had been competently inspected and a decision made, in good faith, not to allow the removal of the trees there would have been no liability even if the tree had fallen in the wind. The case concluded that liability does not arise because of bad consequences but because of a failure to take reasonable care.

There were several trees mentioned in submissions that had, or were, causing concern for submitters. In some instances these had been reported to Council who had inspected them for any immediate hazard and concluded that they were healthy and safe or they needed works undertaken. Until Council is made aware of a particular tree it cannot advise or investigate if a tree is dead, dying or dangerous and whether it should be removed on that basis, or whether it needs a planning permit application with an assessment from an independent arborist.

#### 3. Potential fees / costs associated with planning permit applications

A planning application will be required to remove, destroy or lop a tree that is of the size triggered by SLO9. Many submitters opposed the cost of a planning permit application and/or the cost of the arborist report required to be submitted with an application. Some submitters stated that Council is using the proposed controls as a revenue raising mechanism and that fees should be waived.

The *Planning and Environment (Fees) Regulations 2016* prescribe the fees to be paid to Council for planning permit applications. The Regulations set fees in 'fee units' which are adjusted each year by the State Treasurer. Part 20 of the Regulations outlines where Council may wholly or in part waive the payment of a fee, which can include instances such as:

- If the application is withdrawn and a new application is submitted in its place
- If the application is of a minor nature
- The requested service imposes no appreciable burden or a lesser burden than usual for supplying the service
- The application assists the proper development of the all, or part of, the State, Region or municipal district
- The application assists the preservation of buildings or places in the State, Region or municipal district which are of historical or environmental interest
- The application relates to land used exclusively for charitable reasons

Council is required to record in writing each instance where it wholly or partly waives the payment of a fee under the Regulations. It is considered that largely, none of these instances apply to applications for tree removal under the proposed control. However Council may consider a fee waiver for a church or another charitable organisation.

If a permit is required for the removal of one tree, it may be possible to obtain this through the VicSmart application process, which fast tracks decisions on minor planning applications in 10 business days. The fee for a VicSmart application is currently \$199.90. If multiple trees are proposed to be removed and the works are less than \$100,000 the fee for a permit application is currently \$1,147.80. Residents are encouraged to contact Council's Planning and Building Department if they have questions about trees on their property and the planning permit application process.

#### 9.1.4 (cont)

The *Know your Council* website details the performance of councils for a range of services including the direct cost to council of the statutory planning service across all planning applications received. In 2017-2018, the average direct cost to Whitehorse City Council of the statutory planning service per application was \$2,573.96. For similar councils the direct cost is \$2,757.12 and for all metropolitan councils the direct cost is \$2,459.07. Therefore the fee of \$199.90 for an application to remove one tree (and the standard application fee if multiple trees are proposed for removal) does not recoup the cost of resources required to assess an application and is not being used as a revenue raising mechanism.

A Regulatory Impact Statement (May 2016) noted that the Victorian Government's policy is that fees should be set to recover the full cost, unless there are policy reasons to depart from full cost recovery. A number of fees, including VicSmart permits for buildings and works valued at less than \$10,000, are set at less than full cost recovery. A reduced fee is considered appropriate because "a large proportion of permits in these categories likely reflects building and work carried out by home owners and small business owners". Additionally, "a high fee relative to the value of works raises concerns in the areas of ability to pay...and potential for non-compliance". Given this, it is unlikely that Council would waive the fees or offer a reduction in rates, as requested by some submitters.

An arborist report is required under Clause 59 of the Planning Scheme for a VicSmart planning application to remove a tree in the SLO. The costs associated with obtaining an arborist report concerns some submitters. The Panel for Planning Scheme Amendment C51 (to implement the Whitehorse Neighbourhood Character Study 2003 and amended SLO schedules) considered that it would be reasonable to ask a proponent to provide an arborist report to Council at their cost where it is unclear if a tree meets an exemption or if the tree is healthy and is proposed for removal for other reasons (page 41 of the Panel Report for Amendment C51). With the interim SLO9 controls, Council has required the submission of arborist reports with applications, which are then reviewed by Council's consultant arborist.

The cost of an arborist report will depend on the circumstances at hand. Officers have undertaken benchmarking and identified that, depending on the number of trees to be assessed, the approximate cost of an arborist report for one tree is \$500 - \$600, with additional trees being charged at \$25-\$100 per tree. This would form a one-off cost to the property owner. Figures greater than this may also have included works to the trees.

A review of other Councils with similar planning controls, shows that for applications for low numbers of trees, Councils are often providing the arborist assessment at a subsidised rate. The Statutory Planning team is currently reviewing what this process might look like, with the aim to reduce the cost for applicants for VicSmart applications, whereby Council would provide the arborist assessment at a subsidised rate.

It should also be noted that some tree maintenance may fall under the 'ornamental pruning' and 'pruning for regeneration' clause, and therefore no permit or arborist report will be required.

Finally, allowing the removal of more than one tree per VicSmart application has been identified by the Statutory Planning Unit as a provision that could be reviewed (due to the lesser administrative burden of assessing a small number of trees). This could be further investigated as a local VicSmart control which allows Councils to specify types of applications that can be assessed through the VicSmart application process. In undertaking this review, Council could also consider works within 4 metres of a protected tree through the VicSmart process.



### 9.1.4

(cont)

#### 4. Imposition on private property rights

Many submissions raised the issue of Council imposing control over trees located on private property, often planted by the residents themselves, and thereby intruding into decision making on private land and requiring the property owner to follow externally determined tree regulations.

The introduction of overlay controls on private property is a valid planning measure where a special feature of the land requires protection. Other similar planning controls that Council has previously introduced include Schedules 1-8 of the SLO, the Heritage Overlay (HO) and the permanent Vegetation Protection Overlay (Schedules 1-5). The application of such overlays is consistent with the overall objectives of the *Planning and Environment Act 1987* which includes providing for the protection of natural resources and the maintenance of ecological processes and genetic diversity.

Concerns about community benefits at the cost of individual rights is an issue often expressed when new planning provisions are proposed, and in the case of tree protection controls, this relates in part to the ongoing obligation to maintain the tree/s and the associated costs. Through provision of appropriate planning information and advice, Council can play an important role in alleviating landowner concerns about the ability to manage trees on their property, and thereby help minimise loss of significant vegetation in the municipality.

Tree preservation is important on private land as well as public land to maintain a healthy urban forest canopy cover across the municipality of 30% as a minimum. This target is contained in the Urban Forest Strategy which was adopted by Council in 2018 and could include this target in Clause 21.05 (Environment) to link this intention with the planning scheme. The target is based on research which indicates that the full benefits of an urban forest, including cooling of the urban areas, is achieved when the canopy cover reaches 30%. Estimates of current canopy cover may vary depending on the type of assessment tool used and the quality of data involved. The interim report: *Urban Vegetation Cover Analysis* prepared by the Department of Environment, Land, Water and Planning (DELWP) estimated that almost 21% of Whitehorse was covered by tree canopy above 3 metres when it was surveyed in 2014. The Discussion Paper (March 2016) prepared as part of the *Municipal Wide Tree Study* determined that the tree canopy coverage was between 22% – 26% of all land in the municipality in 2016. Council's Tree Study used software called 'i-tree' which did not take tree height into consideration and therefore may have captured trees less than 3 metres in height. This may account for the discrepancy between the two estimates.

More recent data released by DELWP in July 2019 for trees over 3 metres shows that the City of Whitehorse currently has a canopy cover of approximately 18% which indicates a decline in overall canopy coverage across the municipality of 3% in 3 years. Moreover, it is evident that the number of canopy trees greater than 5 metres will likely be less once trees between 3 – 5 metres in height are removed. However only 10% of the municipality is managed by Council and therefore mature trees on both public and private land will need to contribute to the overall canopy cover target of 30%.

#### 9.1.4

(cont)

##### 5. Impact on development

Some submitters are concerned that the proposed tree protection controls will reduce development and/or impact on housing development and affordability. SLO9 will not prohibit subdivision or development. However, new development must address the tree protection controls of the overlay, meaning that careful design and planning will be necessary to make sure development allows for the continuation and good health of the protected tree/s. The decision guidelines will guide outcomes on the value of the tree/s and the contribution to the streetscape and local habitat, and the consideration of options to enable retention of the tree/s. Pre-application planning advice should be sought from Council's Statutory Planning Unit, prior to the commissioning of development plans.

Some submissions raised concerns about the impact of the controls on the housing capacity of Whitehorse. Council's *Housing Strategy* and *Neighbourhood Character Study* 2014 demonstrated that there is sufficient housing capacity in particular areas of Whitehorse to justify more stringent controls to protect Whitehorse's valued neighbourhoods. This is consistent with the direction provided in *Plan Melbourne 2017 - 2050* and State and local planning policy.

As part of Council's submission to the Managing Residential Development Advisory Committee in 2016, Council presented a broad analysis into its land and theoretical dwelling supply based on its proposed new residential zones and other areas where dwellings could be located (such as in commercial areas). The figures showed that Whitehorse can satisfactorily accommodate the expected growth in housing in the municipality to 2036 and beyond within its residential rezoning, as well as protect environmentally sensitive and highly valued neighbourhood character areas for the future. Council rejects any assertion that it is not accommodating its fair share of residential growth. In summary, based on the existing zoning regime, as at 2014:

- Whitehorse's housing requirement to 2036 is 12,997 dwellings (an average of 500 new dwellings per year).
- Whitehorse's theoretical dwelling capacity is 108,755 dwellings.
- Whitehorse theoretically has over eight times the dwelling capacity it requires to meet its future housing needs (95,758 extra dwellings).

The figures do not take into account the lifting of the two dwelling limit in the Neighbourhood Residential Zone (which was in place when the zones were first introduced). Therefore the theoretical limit would be higher based on the removal of this limit.

Additionally a permit for tree removal is not proposed outside the minimum building setback in the Residential Growth Zone in recognition that this zone is intended to provide for housing at increased densities. This balances the protection of the neighbourhood character and streetscape with the supply of land for future housing growth. This exemption is not proposed for other zones as they are intended to be locations of less intense growth and development.

#### 9.1.4 (cont)

Some submitters raised concerns about the inability to remove trees that may affect existing, or future, solar panels. It is recognised that factors such as tree type, height and density may affect the extent of overshadowing to a rooftop solar energy facility whereby efficiency and performance is affected. Amendment VC149 (gazetted on 24 July 2019) was aimed at addressing the issue of overshadowing to solar systems due to new development and works. DELWP also prepared Planning Practice Note 88 – Planning considerations for existing residential rooftop solar energy facilities and a Solar Overshadowing Information Brochure – Home Owners Guide (October 2018) to mitigate and manage impacts. The effects on rooftop solar energy facilities should be mitigated through taking into consideration, but not limited to, the following:

- The appropriate siting and location of the rooftop solar energy facility;
- The extent to which the rooftop solar energy facility has been located to protect it from overshadowing through placement higher on the roof;
- Whether the rooftop solar energy facility is mobile and can be relocated to another area of the roof;
- The type of rooftop solar energy facility and transitioning to an alternative system or incorporating system enhancements, e.g. a multiple string system is less affected by shading than a single string system. Additionally, system features such as micro inverters or bypass diodes assist to enable a system to operate with partial shading;
- The type of tree that is planted and whether appropriate consideration has been made, taking into account growth potential such as tree height and crown extent;
- Whether the tree can be appropriately trimmed and pruned without jeopardising the health of the tree; and
- The extent of overshadowing legitimately affecting the operation and efficiency of the solar energy facility.

An express right to solar access remains a contentious issue and has not been well articulated in the Victorian planning system, particularly with respect to solar panels being granted access to direct sunlight. VCAT has experienced several matters which raise this concern in the context of development and overshadowing. *John Gurry & Assoc Pty Ltd v Moonee Valley CC & Ors (Red Dot)* [2013] VCAT 1258 articulated various factors to be treated as reference points when decision-makers take into consideration potential overshadowing; noting however that each decision must be treated on its own facts. Such factors can include:

- A test of “reasonableness”, rather than avoiding overshadowing altogether
- Whether the strategic planning controls and policies affecting the land allow for legitimate expectations for solar access
- Whether relevant solar panels have been placed in an unreasonably vulnerable position on the host building; and
- The length of time the solar panels have been installed on the host building.

As such, overshadowing of solar panels due to trees and whether to grant a permit for tree removal should draw reference to the existing documentation and guidelines that DELWP have prepared as well as other considerations and supporting evidence that emerges on a case by case basis.

#### 9.1.4 (cont)

#### 6. Changes to the proposed control and/or permit exemptions

Several submissions proposed changes to the controls and/or permit exemptions.

##### *List of environmental weeds*

Some submissions requested the addition of a specific tree species to the exempted environmental weeds list. Council's Consulting Arborist, Tree Education Officer and Senior Environmental Advisor reviewed all of the suggested species and agreed that none of the suggested species warrant inclusion on the exemption list. The species included Early Black Wattle, Poplars, Bay trees, all types of Pittosporum, non-native trees, Moreton Bay fig, Gum trees, Liquid Amber, Oleander, Lilly Pilly, Privet, Paperbarks, conifers and Pine Trees.

One submitter suggested that the Environmental Weed list should say "comprised of" instead of "including" as the word "including" is not definitive. Legal advice about the interpretation of this exemption concluded that the word "including" is not definitive and therefore does not list the species to the exclusion of all others, as was the intention of the exemption. It is proposed to clarify the words preceding the Environmental Weed list.

##### *Tree height and trunk circumference thresholds*

Some submissions requested changes to the height and girth at which a planning permit would be triggered. A benchmarking exercise undertaken for the *Municipal Tree Study* has shown that canopy trees become visible in the streetscape at 5 to 6 metres in height and begin to contribute to the neighbourhood character and create a relationship to the scale of buildings. Part 2 of the *Municipal Tree Study* analysed the "and/or" requirement whereby either the height or circumference or both trigger a planning permit. The Study concluded that the triggers ensure that the control is targeting trees that are large enough to have an impact on neighbourhood character or will become significant canopy trees into the future. It is not recommended that the triggers be changed.

Some submissions queried how a measurement can be taken when the tree has multiple trunks. The measurement is of a single trunk circumference. Therefore if a tree is multi-trunked, if the largest of those trunks meets the circumference trigger then a permit would be required. If a tree has five trunks for example and none of them is or greater than the circumference trigger, then a permit is not required.

##### *Proximity of trees to dwellings and in-ground pools*

Some submissions proposed changes to the exemptions relating to the distance from a dwelling or in ground swimming pool where the proposed permit exemption will apply to trees located less than 3m from these assets. The exemption for trees within 3 metres of a house aligns with provisions in Clause 22.04 of the Planning Scheme which also recommends a minimum separation distance of 3 metres between trees and buildings and works in SLO9 (4 metres in SLO 1-8 and VPO sites) to protect both the root system and the building foundations. This distance is also consistent with exemptions that apply for all of the SLOs in the City of Maroondah. Yarra Ranges and Knox provide exemptions for trees within 2 metres of buildings, which means that SLO9 is proposed to be more generous in this regard. This distance also assists residents, developers and applicants on adequate separation from buildings for new tree planting. It is not recommended that this exemption be modified.

#### 9.1.4

(cont)

Further to the above, the Amendment proposes to exempt the need for a planning permit to remove, destroy or lop a tree within 3 metres from an in-ground swimming pool. The exemption does not explicitly state that it applies to existing in-ground swimming pools, which was the intention of the exemption. It is proposed to add the word "existing" to the exemption relating to in-ground swimming pools.

##### *Space required for tree planting*

Some submissions requested changes to the provision relating to the requirement for a minimum area of 35m<sup>2</sup> for a tree in SLO9 rather than the provision of a minimum area of 50m<sup>2</sup> as per the SLO1-8. The Tree Conservation Policy at Clause 22.04 refers to a minimum planting area (to establish new trees) of 50m<sup>2</sup>. These provisions were intended to apply to the existing SLOs 1 - 8 due to the nature of the Bush Environment Character areas covered by SLO1-8 and the larger native and indigenous tree species preferred in these landscapes. The same tree planting area is not appropriate for the areas proposed to be covered by SLO9 (Bush Suburban and Garden Suburban Character areas) due to the prevailing lot sizes, setbacks, predominant tree species size and potential for more growth and change. The decision guidelines in SLO9 require Council to consider the appropriate area for a new tree, including whether the planned location will enable the future growth of the canopy and root system to maturity and whether there is adequate space for the offset planting.

##### *Public transport infrastructure*

Yarra Trams and the Department of Transport made submissions to include an additional exemption to allow the removal of trees to maintain the function of the on road public transport network, including tramways. The majority of tram infrastructure would be located in a Road Zone or on public land where the proposed controls do not apply and there are existing exemptions proposed for powerlines and public utilities.

However tramways is a defined term within the Planning Scheme and has assets which may require the need to manage vegetation. Most bus layover areas are located within land not affected by the proposed controls. However works associated with bus and tram operations can include platforms, tram track and overhead infrastructure, roadway alterations including kerbing, awnings, street furniture, driver facilities and substations. Some of these may be located on land that is proposed to be covered by SLO9. Therefore it is proposed to include the following exemption: "The removal, destruction or lopping of a tree to the minimum extent necessary to maintain the safe and efficient function of the existing on-road public transport network (including tramways) to the satisfaction of the Department of Transport". By only exempting the existing on-road network, this means any works for future public transport infrastructure will require consideration by Council.

VicRoads made a submission requesting a change to the exemptions in SLO9, which is currently expressed as:

*A permit is required to remove, destroy or lop a tree.*

*This does not apply to:*

- *A tree on public land or in a road reserve removed by or on behalf of Whitehorse City Council.*

VicRoads requests the following change (addition represented in bold underline):

*A permit is required to remove, destroy or lop a tree.*

#### 9.1.4

(cont)

*This does not apply to:*

- *A tree on public land or in a road reserve removed by or on behalf of Whitehorse City Council **or the relevant road authority.***

The SLO header clause (Clause 42.03) includes a table of exemptions, including that a permit would not be required by a public authority to remove, destroy or lop vegetation for emergency works or road safety, including to maintain the safe and efficient function of an existing public road. Therefore the planning scheme already adequately considers the importance of road safety. It is not considered that the roads authority would require a permit beyond maintaining the public road network. It is not recommended that the exemption proposed by the submitter be included.

#### 7. The intent of the control

Some submitters queried the intent or rationale for the proposed permanent controls, particularly if they did not have any trees currently on their property. Some submissions stated that the introduction of the controls will discourage landowners from planting trees, or retaining trees as they approach the threshold, and therefore the proposed control will not achieve the objectives of the planning scheme. Some submitters queried the significance of the landscape across Whitehorse and whether a blanket wide control is justified.

The intent of the controls is to protect current, as well as future trees that contribute to the landscape and neighbourhood character and provide numerous benefits to the community beyond the private property on which they sit, such as fauna habitat, cooling of properties, supply of oxygen and contribution to visual amenity.

Properties devoid of trees currently, may contain trees in the future that will be afforded protection under the SLO9.

#### 8. Other comments

Some submissions raised other comments, or comments not directly relating to the Amendment. Other comments included:

##### *Removal of trees by developers*

Some submitters called for a distinction between “residents” and “developers”. Any property has the potential ability to be developed subject to the requirements of the Planning Scheme. Council cannot distinguish between property owners who wish to develop a property and property owners who do not wish to develop their properties. The SLO9 is a ‘forward thinking’ control protecting existing and future trees (as discussed above) and that any property may become a re-development site into the future. Furthermore, as previously discussed, the VicSmart controls and associated fees are specifically constructed with residents (versus developers) in mind.

Some submissions queried the removal of vegetation from sites in their area. Without the submissions providing exact details, it is possible that a permit had been issued before the introduction of the temporary SLO9 on 8 February 2018, however a property owner may not have acted on the permit until recently. If Council becomes aware of or is advised of concerns about illegal tree removal this will be investigated by Council’s Planning Enforcement team.

#### 9.1.4 (cont)

##### *Process to introduce the controls*

Some submissions queried how the interim controls were introduced and the absence of any consultation. Interim controls are temporary controls that are not implemented through a full planning scheme amendment process and therefore do not go on public exhibition. The request for interim controls was made under section 20(4) of the *Planning and Environment Act 1987* based on the criteria outlined in the Practice Note "Intervention in Planning and Heritage Matters".

A request for interim, municipal wide controls was made to protect trees while the planning scheme amendment for the permanent controls is prepared. This is a common approach when a feature (such as trees, heritage buildings etc.) needs to be protected until a proposed permanent control has been fully considered and reviewed through the planning scheme amendment process. The interim controls have been extended until 30 June 2020.

The interim controls are based on the *Municipal Wide Tree Study* that was undertaken in 2016. The *Municipal Wide Tree Study* included community consultation and Council invited feedback on the draft study in April and May 2016. Council received a variety of feedback which was incorporated into the final report. The *Municipal Tree Study Final Options and Recommendations Report* (June 2016) ultimately recommended that Council extend the Significant Landscape Overlay (SLO) to all residential zoned land in the municipality. Council determined to request interim controls to extend the SLO in its request to the Minister for Planning for the initial authorisation for the permanent controls. More information about the Tree Study and final report can be found online at: <https://www.whitehorse.vic.gov.au/whitehorse-tree-study>

A small number of submitters queried the amendment process for the permanent controls, or made reference to the controls being introduced without consultation. Council is required to undertake the Amendment process according to the *Planning and Environment Act 1987*, which includes a statutory exhibition process when comment can be made and a possible independent planning panel where submitters have the opportunity to be heard. This provides a transparent process through which property owners can provide feedback. This current exhibition period is the formal process for Council to consult on the proposed permanent controls. As noted above, Council also sought feedback on the *Municipal Wide Tree Study* that lead to the proposed controls.

- *Trees on nature strips*

Many submitters raised concerns about trees planted on nature strips. Some submitters wanted to see more trees on public land. Under Council's Urban Forest Strategy, street trees and trees on public land will generally only be removed if, in the opinion of the Council arborist, the tree is dead, dying or dangerous. The interim Urban Forest Strategy does currently allow for the removal and replacement of healthy street trees where a significant portion of the existing trees need to be removed and replacement of all trees will provide a benefit for management or amenity. The process is termed a "streetscape upgrade".

It has been recognised that the application of this provision over the last year does not serve residents or the objectives of the Urban Forest Strategy. It is proposed to revise this provision in the next version of the Urban Forest Strategy so that removal of trees other than under the provision of "dead, dying or dangerous" must meet the objectives of the Urban Forest Strategy to the satisfaction of the General Manager - Infrastructure.

#### 9.1.4

(cont)

The Urban Forest Strategy also notes that it will work with relevant agencies to establish further canopy cover and prevent canopy removal on public land, including Council land and land managed by Melbourne Water, Parks Victoria and VicRoads. Submissions which referred to pruning or planting of street trees or trees on public land do not relate to the Amendment and have been referred to Council's ParksWide Department.

- *Council's resources to manage additional planning permit applications*

As part of the Amendment documentation Council was required to detail how the new planning provisions will impact on the resources and administrative costs of Council. When the interim schedule to the SLO was introduced by Amendment C191 on 8 February 2018, Council experienced an increase in planning permit applications for tree removals across the municipality and this was confirmed by Part 2 of the Municipal Wide Tree Study. The Study noted that a "precise calculation of the effect of SLO9 in terms of permit numbers is not possible because of the complexity of planning controls and the fact that an individual application may address a number of different matters" (page 31)

Council anticipated this increase in planning permit applications by allocating ongoing funding in the 2017-18 budget for additional staff, which included up to 3 arborists, up to 2 enforcement officers and 1 administrative officer. The cost was estimated at approximately \$499,000 per annum for salaries (plus 12.5% on costs such as superannuation) and approximately \$163,000 upfront capital costs which would include overheads such as office space and fleet vehicles etc. This Amendment includes several additional planning permit exemptions than the interim controls, which will reduce the number of permit applications. Notwithstanding a potential reduction as a result of including additional permit exemptions, Council is resourced to assess future planning permit applications.

#### 9. Late submissions

The four (4) late submissions do not raise any new issues to those matters outlined above.

#### **Recommended changes to the Amendment**

As a result of considering the submissions, the following changes to the Amendment are recommended:

- To help support the SLO, it is proposed to include reference to the tree canopy target of 30% contained in Council's Urban Forest Strategy in Clause 21.05 (Environment) to link this intention with the planning scheme.
- Yarra Trams and the Department of Transport made submissions to include an additional exemption to allow the removal of trees to maintain the function of the on road public transport network, including tramways. This is supported. Therefore it is proposed to include the following exemption:

*"The removal, destruction or lopping of a tree to the minimum extent necessary to maintain the safe and efficient function of the existing on road public transport network (including tramways) to the satisfaction of the Department of Transport".*



#### 9.1.4 (cont)

- There are some minor typographical errors in the exhibited amendment documents. The botanical names in the Environmental Weed list should be consistently italicised which will be updated prior to the panel hearing. Additionally, the word “including” is proposed to be replaced as this does not provide a definitive list of species to the exclusion of all others. It is proposed to amend the introduction to the exemption so that it is expressed as:

*“A tree that is listed as an Environment Weed species listed below.”*

- Amendment C219 proposes to exempt the need for a planning permit to remove, destroy or lop a tree within 3 metres from an in-ground swimming pool. The exemption does not explicitly state that it applies to existing in-ground swimming pools, which was the intention of the exemption. It is proposed to add the word “existing” to the exemption relating to in-ground swimming pools, so that the exemption is expressed as:

*“A tree that is located less than 3 metres from an existing in-ground swimming pool when measured at ground level from the outside of the trunk”.*

#### **Matters raised at authorisation**

In authorising the amendment, DELWP advised they have a number of concerns about the proposed amendment which will need to be addressed during the amendment process:

- *There is limited information available about the number of canopy trees likely to require a planning permit for removal. This information would be helpful to understand the number of residential lots likely to be impacted by the requirement for a planning permit under the proposed overlay and in turn the impact on housing growth capacity in residential zones.*
- *The proposed SLO coverage is extensive. The council provide evidence to demonstrate the high significance of vegetation character in the two character areas. The final proposed extent of the SLO in the proposed amendment should be clearly justified during the amendment process.*
- *The need for a planning permit for any buildings and works within 4 metres of a protected tree is likely to place an unreasonable burden on landowners and proponents, particularly those attempting to carry out relatively minor works. The council should reconsider this requirement, and clearly justify any revised requirement of this nature during the amendment process.*

Responding to DELWP’s concerns will require the re-analysis of data to determine the number of trees which may be affected by the proposed controls. Officers also intend to further consider previous strategic work undertaken about the housing capacity of the municipality, which has previously demonstrated that there is sufficient housing capacity in particular areas of Whitehorse to justify more stringent controls to protect Whitehorse’s neighbourhoods. This is consistent with the direction provided in *Plan Melbourne* and State and local planning policy.

The coverage of the SLO is based on Council’s Neighbourhood Character Study (April 2014). This included three character types – Bush Suburban, Bush Environment and Garden Suburban. The Bush Environment areas are already included in SLOs1-8 and therefore SLO9 covers the Bush Suburban and Garden Suburban areas. Officers intend to review VCAT decisions about tree removal in these two areas as part of the response to DELWP.

#### 9.1.4

(cont)

The need for a permit for buildings and works within 4 metres of a protected tree was originally based on a tree policy adopted by the City of Nunawading in February 1994 which looked at the impact of buildings on trees and vice versa. It noted that the important region for tree nutrients is often within 4-5 metres from the trunk. Council therefore has information which supports the basis for this trigger and will be presenting this to an independent planning panel.

Officers also intend to review current State government policy about retaining canopy trees and further contributing towards the urban forest such as *Plan Melbourne* and *Living Melbourne*.

It is proposed to respond to the concerns raised by DELWP at the independent panel hearing.

#### CONSULTATION

Exhibition of the Amendment occurred in the form prescribed by the *Planning and Environment Act 1987*. Exhibition took place from Thursday 18 July 2019 until Monday 19 August 2019. Exhibition involved the direct notification of all affected owners and occupiers of properties in the municipality affected by the proposed amendment, totalling 81,947 letters. The notification of properties included a cover letter, Information Flyer explaining the Amendment and the statutory notice of the Amendment.

As well as owners and occupiers, the following were notified:

- Relevant Prescribed Ministers
- Public authorities
- Arborists
- Community groups
- Local members of parliament.

The Notice of Preparation of Amendment was published in the Whitehorse Leader on 15 July 2019 and the Government Gazette on 18 July 2019, marking the commencement of exhibition. A notice also appeared in subsequent weeks of the Whitehorse Leader until the end of the exhibition period and an article was published in the August edition of the Whitehorse News. The articles included information about the Amendment, where to locate further information and how to make a submission. Information was also available on the Council webpage and the Council OurSay landing page.

During the exhibition period Council officers received approximately 650 phone calls regarding Amendment C219. The inquiries included requests for clarification about the proposed controls and providing further information. There was also approximately 20 email inquiries which asked questions about the Amendment or sought clarification.

Council officers presented the Amendment to Elgar Contact's July meeting at their request. For the duration of the exhibition period copies of the Amendment documents were available for viewing at the following locations:

- Planning Counter at the Whitehorse Civic Centre
- Council's Customer Service Centres at Box Hill Town Hall and Forest Hill Chase Shopping Centre
- Libraries at Nunawading, Box Hill, Blackburn and Vermont South
- Sportlink, Vermont South
- Aqualink Nunawading and Aqualink Box Hill
- Burwood Neighbourhood House

#### 9.1.4

(cont)

- Bennettswood Neighbourhood House
- Kerrimuir Neighbourhood House
- Morack Public Golf Course
- Council's website
- Department of Environment, Land, Water and Planning's website

#### FINANCIAL IMPLICATIONS

|                                                                                                                                       | Budget          | Expenditure (excl. GST) |
|---------------------------------------------------------------------------------------------------------------------------------------|-----------------|-------------------------|
| <b>1. Exhibition costs –<br/>from operational budget*</b>                                                                             |                 |                         |
| Direct notification                                                                                                                   |                 | <b>\$87,000</b>         |
| Whitehorse Leader                                                                                                                     |                 | <b>\$3,700</b>          |
| Government Gazette                                                                                                                    |                 | <b>\$200</b>            |
| Translation of text                                                                                                                   |                 | <b>\$300</b>            |
| <b>2. Statutory fees (for consideration by the<br/>Minister of a request to approve the<br/>amendment) – from operational budget*</b> |                 | <b>\$481.30</b>         |
| <b>3. Planning Panel costs – from operational<br/>budget*</b>                                                                         |                 | <b>\$40,000</b>         |
| <b>5. Expert witness / legal costs at Planning<br/>Panel</b>                                                                          | <b>\$50,000</b> | <b>\$50,000</b>         |
|                                                                                                                                       |                 |                         |
| <b>Total Expenditure (approx.)</b>                                                                                                    |                 | <b>\$181,681</b>        |

\* see comments below

Typically costs associated with the planning scheme amendment process, such as exhibition costs and statutory fees, are covered by the ongoing operational budget of Council. In this instance, additional budget was allocated in the 2019/20 budget for the direct notification to owners and occupiers. Costs associated with the independent panel vary depending on the duration of the panel hearing and the number of Panel members appointed. The fees above are estimated based on the fees for previous panels and would allow for a panel hearing duration of 1 week. Additional fees may arise if there is a lengthy planning panel process.

The Council Report on 18 July 2016 noted that additional staff will be required to assess any additional applications that may arise after the introduction of SLO9. This was intended to include up to 3 arborists, up to 2 enforcement officers and 1 administrative officer, which would cost approximately \$499,000 pa (plus 12.5% on costs such as superannuation) for salaries (based on arborists, rather than planning staff). There will be \$163,000 upfront capital costs which would include overheads such as office space and fleet vehicles etc. These costs were adopted as part of the 2017/18 budget process, noting that the costs associated with additional staff will be ongoing. Council has used some of this budget to employ additional enforcement staff and contract arborist support. Appointment of staff to all of the anticipated roles would be made should the SLO9 become permanent.

As part of the Planning Scheme Amendment Process, the independent Planning Panel will seek assurances that Council has the ability to resource the implementation of the proposed controls.

#### 9.1.4

(cont)

#### POLICY IMPLICATIONS

There are directions contained within State Government policy that supports permanent tree protection controls. Direction 6.4 of *Plan Melbourne 2017-2050* is to '*Make Melbourne cooler and greener*'. This direction outlines the benefits of urban greening and notes that Melbourne needs to maintain its urban forest of trees and vegetation on properties. Additionally Policy 6.4.1 is to '*Support a cooler Melbourne by greening urban areas, buildings, transport corridors and open spaces to create an urban forest*'. This policy notes that "*residential development provisions must be updated to mitigate against the loss of tree canopy cover and permeable surfaces as a result of urban intensification*".

100 Resilient Cities is a project pioneered by the Rockefeller Foundation and looks to help cities around the world prepare for the challenges facing urban areas in the 21<sup>st</sup> century. Melbourne was selected to be amongst the first wave of cities to join, known as Resilient Melbourne.

Resilient Melbourne have developed a new strategy for metropolitan Melbourne called *Living Melbourne*, which sets out key actions to increase canopy cover across Metropolitan Melbourne and has been endorsed by DELWP and many other government agencies including Whitehorse. Specific actions in *Living Melbourne* relating to canopy cover are listed as part of "*Action 3: Scale up greening in the private realm*", and includes:

- 3.1 *Strengthen regulations to support greening in new subdivisions and developments – to benefit human health and wellbeing, and increase biodiversity*
- 3.2 *Strengthen regulations to protect canopy trees*
- 3.3 *Encourage private landholders to protect and enhance the urban forest and expand greening activities by offering incentives for planting, installing and maintaining natural infrastructure*

At a local level, Strategic Direction 2 of the *Council Plan 2017-2021* is to "*Maintain and Enhance our built environment to ensure a liveable and sustainable city*". Actions to support this include activities which protect neighbourhood character. The Amendment therefore seeks to support the Council plan by protecting current and future canopy trees which contribute to the neighbourhood character and streetscape.

Council has also adopted an *Urban Forest Strategy 2018*, which sets a municipal wide minimum target of 30% canopy cover by 2030. As Council controlled land accounts for only 10% of the municipality, additional tree cover will need to be achieved on private land. If Council is going to achieve this canopy cover it must protect existing canopy trees, but also facilitate the planting of new canopy cover across both public and private land. The Amendment seeks to assist this by implementing a municipal wide SLO which allows Council to require the replanting of trees if they are permitted to be removed.

By undertaking this amendment to the Planning Scheme, the MSS is proposed to be amended to strengthen the discussion about the roles and values of vegetation within Whitehorse. It is also proposed to amend the MSS to include reference to the *Urban Forest Strategy* and its tree canopy target. Clause 22.04 (Tree Conservation) is also proposed to be amended to strengthen the objectives to enhance tree canopy cover across the municipality and provide further refinement to provisions relating to buildings and works, as a consequence of introducing SLO9.

#### 9.1.4

(cont)

Extending the SLO controls on a permanent basis to the remaining residential areas not already covered by SLO1 – SLO8 will create new permit requirements for these areas. However it is proposed to only apply the requirements to trees considered canopy trees under the definition contained in the revised Schedule 9 to the SLO. The proposed permanent controls have introduced planning permit exemptions that previously were not included in the interim controls. Exemptions such as those relating to environmental weeds will clarify the permit requirements for landowners and remove the administrative burden for the removal of identified environmental weeds. Part 2 of the *Municipal Wide Tree Study* reconfirmed that the SLO is superior to all other controls available in the Planning Scheme as it creates a nexus between vegetation / landscape protection and built form and provides development controls to allow consideration and protection of trees.

The Amendment therefore reinforces the direction of *Plan Melbourne* and *Living Melbourne* as well as the commitment in Council's *Urban Forest Strategy* to increase the canopy cover across the municipality to 30% by 2030.

#### CONCLUSION

Amendment C219 proposes to permanently apply SLO9 which was originally introduced by Amendment C191 on 8 February 2018. The extensive program of work that Council has undertaken is a direct result of concerns that the neighbourhood character of Whitehorse will be diminished if trees are removed or lopped and therefore Council undertook the *Municipal Wide Tree Study*. Additionally, this work recognises that current, as well as future trees which contribute to the landscape and neighbourhood character need to be protected as they also provide numerous benefits to the community beyond the private property on which they sit, such as fauna habitat, cooling of properties, supply of oxygen and contribution to visual amenity.

Council has undertaken a statutory exhibition process which received 307 submissions. The submissions raise a range of issues including support for the controls, proposed changes to the controls, safety, costs and private property rights.

Under Section 23 of the *Planning and Environment Act 1987*, Council, in considering the submissions, must decide whether to:

- Change the amendment as requested;
- Refer the submissions and amendment to a Panel or
- Abandon the amendment.



Council is also able to refer to the panel any submissions which do not require a change to the amendment.

As there are changes sought by submitters, including the abandonment of the amendment, which cannot be supported, the first option cannot be considered. In addition, the amendment can be supported on a strategic basis and there are submitters that support the proposed planning control that make valid points to present to a Panel.

Accordingly, the most transparent and fair method to enable all parties to have their comments assessed is for all submissions and the amendment to be referred to an Independent Panel.

This report recommends that Council seeks the appointment of an Independent Planning Panel to consider the Amendment and the submissions received to it.

#### ATTACHMENT

- 1 Amendment C219 submission summary ➡ 
- 2 Exhibited version SLO9 ➡ 

## 9.1.5 Heritage Advisor Annual Report 2018-2019

FILE NUMBER: SF09/52

### SUMMARY

*The eighteenth year of work by the Heritage Advisor at Whitehorse City Council is now complete. This is an outline of the work undertaken by the Advisor between 1 July 2018 and 30 June 2019.*

### COUNCIL RESOLUTION

Moved by Cr Cutts, Seconded by Cr Davenport

***That Council accepts the report and acknowledges the valuable contribution made by the Heritage Advisor towards the protection of heritage places across the City.***

**CARRIED UNANIMOUSLY**

### BACKGROUND

This is the ninth year that Ian Coleman of Coleman Architects Pty. Ltd. has provided heritage advisory services to Council. Ian is located in the Strategic Planning Unit, generally one day a week.

The main role of the Heritage Advisor is to provide advice to both planning staff and members of the public regarding development on properties covered by a Heritage Overlay (HO) within the Whitehorse Planning Scheme. Council has provided this service since 2001.

### DISCUSSION

Below is an outline of work, tasks and achievements undertaken by the Heritage Advisor over the last financial year. This responds to the duties set out in the Heritage Advisor contract.

The primary duties of the Heritage Advisor are:

- a) *To liaise with the owners of buildings and places listed in the local planning scheme with respect to their requirements, and the requirements for achieving conservation of the cultural environment. This will involve:*
- *Encouraging property owners to seek advice with respect to any development and conservation work to be undertaken to heritage items, ideally, prior to the lodging of planning applications;*
  - *Offering advice and, where necessary, preparing simple drawings or specifications for such work;*
  - *Giving advice and assistance as required in obtaining quotations for work, contacting appropriate trades-people, or obtaining suitable material suppliers;*
  - *Providing advice to builders and tradespeople on relevant conservation/restoration techniques and material sources for specific tasks; and*
  - *Assisting owners, where necessary, to apply for permit approvals from relevant authorities and to make applications for financial assistance from relevant sources.*

Heritage property owners who make enquiries to the Planning and Building Department are advised of the heritage advisory services and the benefit of speaking directly to the Heritage Advisor before submitting an application and/or when preparing documentation for works. In this way, the Heritage Advisor spends a majority of his time guiding owners making planning applications for properties which are affected by the HO. Such advice is provided during meetings or over the phone during both the pre- and post-application stage. Advice commonly entails:

- Overview of the site's issues following an on-site inspection;
- Advice as to the types of changes possible for the properties;
- Guidance on the suitability of materials selected by applicants for works;

### 9.1.5

(cont)

- Appropriate conservation/restoration techniques, particularly for detailing and the materials required for additions and/or alterations; and
- Appropriate conservation works as part of the Heritage Assistance Fund.

Pre-application consultations with potential applicants consistently result in the submission of planning permit applications which need little or no further comment by the Heritage Advisor. This indicates that Council's policy of encouraging potential applicants to meet with the Heritage Advisor prior to finalising their application is clearly successful.

- b) *To actively promote heritage conservation and the advisory service within the Council area through mail-drops, public discussions, seminars, publications, local media interviews or other similar means;*

Over the past 12 months, the Heritage Advisor has been involved in promoting the fourteenth year of the Whitehorse Heritage Assistance Fund.

- c) *To assist the Council in the administration of the planning scheme as it relates to the conservation of buildings, areas and other places of cultural significance. The Heritage Adviser may provide advice on permit applications, and on ways of achieving conservation aims within the scope of the local planning scheme, including the development of policies and guidelines, where requested by Council.*

Appendix 1 provides an overview of the number of pre-application advice meetings and referral reports for planning permit applications completed by the Heritage Advisor this year.

The Heritage Advisor provided advice to the strategic planning team regarding demolition applications and the investigation of the appropriateness of seeking interim HO protection to these places.

The Heritage Advisor also provided advice to planning officers on preliminary proposals and development guidelines for: the Nunawading Hub Project, the former ARRB site in Forest Hill and Strathdon in Forest Hill, and on the Environment Effects Statement for the North-East Link Project.

- d) *To ensure that the town planning staff administering the planning scheme are kept informed on heritage issues and practice.*

When preparing referral reports, the Heritage Advisor discusses the issues with the appointed planner to explain reasoning behind the comments provided, to assist in their understanding of heritage principles to accurately assess applications.

- e) *With the assistance of the town planning staff, prepare a report each year on the extent of change to heritage assets within the municipality.*

The Heritage Advisor keeps a record of all heritage meetings, enquiries and referrals, outlining the changes proposed (summarised in Appendix 1). This record provides a snapshot of significant changes to heritage properties that are occurring, for both individual places and within the heritage precincts to enable appropriate monitoring.

- f) *To review the adequacy of heritage education in the area and take steps to correct deficiencies. Such a review should consider the heritage educational needs of local council staff, local councillors, local professionals, local tradespeople and the community generally.*

### 9.1.5

(cont)

Sections of the community and Council staff appear to be well informed about heritage issues. Potential gaps are identified and monitored through discussions with applicants, community consultation for heritage planning scheme amendments and by reviewing community reaction to particular planning outcomes as seen in the local press for example, or as a result of customer enquiries.

Heritage Steering Committee Meetings are also an opportunity to disseminate heritage information to Councillors and the community through the Historical Society representatives.

- g) *To organise, supervise and seek appropriate funding for public conservation or restoration projects, in conjunction with council officers as requested.*

The *Living Heritage Program* launched in 2016 provides grants for conservation works on places that are included on the State Victorian Heritage Register (VHR). There are 10 places listed on the VHR in the municipality (refer below). Only one of these (Former Chapel of St. Joseph in Mont Albert North) is owned by Council. In consultation with the Heritage Advisor, Council wrote to the owners of the properties on the VHR to advise about round 4 of the Program which closed in May 2019.

There were no other funding opportunities identified this year for heritage projects.

- h) *To assist the efficient running of local heritage restoration funds where these are established, and submit brief reports to Restoration or Heritage Advisory Committee meetings on work in progress, works completed, and applications under consideration.*

The Heritage Advisor assessed all applications received last year under the Whitehorse Heritage Assistance Fund. Applications opened on 6 August 2018 and closed on 7 September 2018. A total of 48 applications were received (compared with 39 in 2017/18) and approval was granted to 22 applicants. Twenty one proposals were implemented with one applicant unable to obtain tradespeople to complete the proposed works.

This year's Fund is open now and applications close on 16 September 2019. As part of the process, the Heritage Advisor will again assess each application, make funding recommendations to the Heritage Steering Committee, provide advice to applicants about appropriate methods of work and inspect completed works to provide final sign-off.

This will be the first time since the HAF commenced that applicants will be able to make an application through Council's new on-line grants program called *Smarty Grants*. The benefits of the *Smarty Grants* program include;

- Application forms are paperless and easy to use,
- Applications can be saved at any stage and returned to later, and
- Supporting documents can be easily uploaded.

- i) *To maintain lists of suitably qualified and experienced local architects, engineers, other conservation specialists, tradespeople and material suppliers who can offer appropriate advice to owners of heritage properties.*

A list of suitably qualified and experienced local architects, engineers, conservation specialists, tradespeople and material suppliers has been established and is continually expanded as others are brought to the attention of the Heritage Advisor.

- j) *To report on places included or being considered for inclusion on State or Commonwealth heritage registers, as required.*

There are currently no places being considered for potential State significance.



### 9.1.5

(cont)

For the record, the places in the municipality currently included on the Victorian Heritage Register (VHR) are:

- Former Burwood Primary School (VHR No. H975)
- Former Standard Brickworks, Box Hill (VHR No. H720)
- Wattle Park (VHR No. H904)
- Former Wunderlich/Monier Terracotta Roof Tiles Complex (VHR No. H1008)
- Box hill Cemetery Columbarium and Myer Memorial (VHR No. H2045)
- Former Wesleyan Chapel, Box Hill North (VHR No. H2010)
- Willis Pipe Organ (in Wesley Uniting Church, Box Hill) (VHR No. H2156)
- Stone Pipe Organ (in The Avenue Uniting Church) (VHR No. H2166)
- All Saints (former Christ Church) Anglican Church, Mitcham (VHR No. H2302)
- Former Chapel of St Joseph, Mont Albert North (VHR No. H2351)

- k) To promote places of historic interest and enhance knowledge of the history and cultural significance of the local area and specific places. This may include advice on the interpretation of buildings and places of heritage significance, the development of heritage trails; the production of publications and other materials etc.

The Heritage Advisor provides advice to Council's Heritage Program's Officer, providing assistance with the interpretation, conservation and restoration of culturally and historically significant places throughout Whitehorse. This assistance ensures that works to Council owned heritage places are undertaken to the heritage specifications.

The Heritage Advisor's investigations of individual properties for possible inclusion in a Heritage Overlay and liaison with owners of heritage properties also enhances the knowledge base of the history and cultural significance of the local area.

- l) *To advise on places under threat, needing urgent attention, and appropriate conservation action.*

Throughout the year, the Heritage Advisor provided comment on applications for demolition of properties with potential heritage interest as well as providing conservation advice to Council staff for works to Schwerkolt Cottage, the Box Hill Town Hall, the former Nunawading Primary School (proposed Nunawading Hub), the Box Hill Community Arts Centre and the former Chapel of St Joseph in Mont Albert North.

The Heritage Advisor worked with the Strategic Planning Unit to update and refine the potential heritage list which comprises places that have been identified for future investigation for their heritage significance.

- m) *To formulate recommendations for conservation of the cultural environment under the Heritage Act 1995, the Planning and Environment Act 1987, or any other applicable means.*

The Heritage Advisor prepared a Heritage assessment and Citation for the proposed inclusion of the property at 42-48 Glenburnie Road, Vermont in the Heritage Overlay.

### 9.1.5

(cont)

- n) *To encourage the implementation of recommendations from existing heritage studies. Review the adequacy and encourage the preparation of heritage studies where appropriate.*

Part of the role of the Heritage Advisor is the ongoing review of places with potential heritage significance. Assessment of these places is guided by the *City of Whitehorse Potential Heritage Framework* 2008. In early 2016 the Advisor commenced a review of the 2008 *Framework* with the Strategic Planning Unit which is nearing completion. A review of the heritage precincts in the Whitehorse Planning Scheme was also progressed to clarify the contributory and non-contributory buildings in each precinct. The precinct review is expected to be completed in 2019.

- o) *To establish the orderly collection of heritage resource material, including photographs, to assist local heritage conservation and promotion in association with relevant Council departments, libraries and local historical societies.*

A library of heritage publications and technical literature is kept and maintained within the strategic planning unit. The library includes photos of good examples of alterations/additions to heritage properties and infill development in heritage precincts. The Heritage Advisor is continually collecting and adding information.

#### **State of Heritage Review**

The Heritage Council of Victoria has commenced the *State of Heritage Review: Local Heritage*, a review into local cultural heritage recognition, protection and management.

The main aims of the Review are:

- To establish a clear picture of local cultural heritage protection and management arrangements across the state to identify what support is required to improve local cultural heritage management
- To identify examples of best-practice local cultural heritage management and how this may be shared and celebrated
- To provide tangible and practical opportunities for enhancing the way State and local governments work together to recognise, protect and manage local heritage
- To promote and encourage community understanding of the benefits of local and state cultural heritage protection and making heritage protection arrangements across Victoria easier to understand.

The first stage of the Review involved surveying the current local heritage arrangements of all 79 local governments across Victoria. Council's Heritage Advisor made a significant contribution to the completion of this survey. As a result of this work the Heritage Council wrote to Council commending it on its communication/promotion mechanisms and labelling Council's efforts in this space as 'best practice.' The Heritage Council were particularly impressed with Council's heritage webpage, brochures, heritage week events and Heritage Assistance Fund program.

A follow up meeting has been organised by the Heritage Council to learn more about the way Council establishes and manages these mechanisms and to see if there are any insights or lessons that can be shared with other Councils wanting to improve their communication/promotion mechanisms on heritage matters.

### **9.1.5**

(cont)

#### **CONSULTATION**

The Heritage Advisor provides advice to the Heritage Steering Committee which provides comment and advice on the heritage work of the municipality. The committee for the reporting year comprised:

- Two Councillors – Councillors Cutts and Davenport
- Mr William Orange (Box Hill Historical Society)
- Ms Vicki Jones Evans (Whitehorse Historical Society)
- Council's Strategic Planner (Whitehorse City Council)

#### **FINANCIAL IMPLICATIONS**

The contract with Coleman Architects Pty Ltd was renewed in January 2015 for a period of 4 years with an option to extend for a further 12 months. This option was exercised and in January 2019 Council extended the contract for a further 12 months. A new contract for heritage advisory services will be prepared and advertised before the end of the calendar year.

In the 2018/19 year, expenditure under the Heritage Advisor contract was \$57,725 (excluding GST). The total expenditure over the 5 year period of the contract is estimated at \$340,760 (excluding GST). Up to 30 June 2019, \$301,122 (excluding GST) has been spent against the contract.

The Whitehorse Heritage Assistance Fund provides financial support to owners and occupiers of eligible buildings covered by a Heritage Overlay to assist in maintenance and enhancement of heritage places. Applicants can seek funding of up to 100 per cent of the total cost of the project, with the maximum grant per application being \$2000. The annual budget for the Heritage Assistance Fund is \$40,000.

#### **POLICY IMPLICATIONS**

The continued work of the Heritage Advisor will address some of the key strategies identified in the *Council Plan 2017 – 2021*, the *Council Vision 2013-2023*, and the *Municipal Strategic Statement*. This will include:

- Continuing the vibrancy of the community by preserving places of heritage significance.
- Protecting the natural and built heritage environments through the appropriate legislative frameworks.
- Encourage sustainability practices by retaining and maintaining heritage places as well as appropriate ESD design adaptations.
- Protecting and enhancing the built environment to ensure a livable and sustainable city.

In addition, a specific *Local Planning Policy* is contained at Clause 22.01 *Heritage Buildings and Precincts* of the Planning Scheme. The Heritage Advisor works within this planning framework.

#### **CONCLUSION**

The report provides an update on the Heritage Advisory services provided to Council in 2018/2019. It is recommended that Council acknowledge the report.

**9.1.5**  
(cont)

**APPENDIX 1      Summary of Heritage Advisor Planning Advice and Referral Reports  
(1 July 2018 and 30 June 2019)**

| <b>Heritage Places</b>                                | <b>Enquiries/Referrals</b> |
|-------------------------------------------------------|----------------------------|
| <b>Alexander Street Precinct</b>                      |                            |
| Pre-application visit/ verbal discussion              | 1                          |
| Referrals                                             | 0                          |
| <b>Blacks Estate Precinct</b>                         |                            |
| Pre-application visit/ verbal discussion              | 5                          |
| Referrals                                             | 2                          |
| <b>Box Hill Commercial Precinct</b>                   |                            |
| Pre-application visit/ verbal discussion              | 6                          |
| Referrals                                             | 3                          |
| <b>Churchill Street Precinct</b>                      |                            |
| Pre-application visit/ verbal discussion              | 1                          |
| Referrals                                             | 1                          |
| <b>Combarton Street Precinct</b>                      |                            |
| Pre-application visit/ verbal discussion              | 10                         |
| Referrals                                             | 4                          |
| <b>Mates Estate Precinct</b>                          |                            |
| Pre-application visit/ verbal discussion              | 0                          |
| Referrals                                             | 0                          |
| <b>Mont Albert Residential Precinct</b>               |                            |
| Pre-application visit/ verbal discussion              | 14                         |
| Referrals                                             | 8                          |
| <b>Mont Albert Shopping Precinct</b>                  |                            |
| Pre-application visit/ verbal discussion              | 3                          |
| Referrals                                             | 1                          |
| <b>Mount View Precinct</b>                            |                            |
| Pre-application visit/ verbal discussion              | 0                          |
| Referrals                                             | 0                          |
| <b>Thomas Street Precinct</b>                         |                            |
| Pre-application visit/ verbal discussion              | 4                          |
| Referrals                                             | 2                          |
| <b>Tyne Street &amp; Watts Street Corner Precinct</b> |                            |
| Pre-application visit/ verbal discussion              | 0                          |
| Referrals                                             | 0                          |
| <b>Vermont Park Precinct</b>                          |                            |
| Pre-application visit/ verbal discussion              | 6                          |
| Referrals                                             | 2                          |

**9.1.5**  
(cont)

| <b>Heritage Places</b>                                                                                                                           | <b>Enquiries/Referrals</b> |
|--------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|
| <b>William Street Precinct</b>                                                                                                                   |                            |
| Pre-application visit/ verbal discussion                                                                                                         | 0                          |
| Referrals                                                                                                                                        | 0                          |
| <b>Windsor Park Estate Precinct</b>                                                                                                              |                            |
| Pre-application visit/ verbal discussion                                                                                                         | 7                          |
| Referrals                                                                                                                                        | 3                          |
| <b>Adjacent to heritage Listed Property</b>                                                                                                      |                            |
| Pre-application visit/ verbal discussion                                                                                                         | 2                          |
| Referrals                                                                                                                                        | 0                          |
| <b>Bluestone Kerb and Channel</b>                                                                                                                |                            |
| Pre-application visit/ verbal discussion                                                                                                         | 0                          |
| Referrals                                                                                                                                        | 0                          |
| <b>Individually Listed Properties</b>                                                                                                            |                            |
| Pre-application visit/ verbal discussion                                                                                                         | 47                         |
| Referrals                                                                                                                                        | 19                         |
| <b>Other</b>                                                                                                                                     |                            |
| Investigation of potential heritage places and demolition requests, heritage grant enquiries, painting, Council projects and heritage insurance. | 29                         |

## 9.1.6 Strategic Planning Update

FILE NUMBER: SF10/90

### SUMMARY

*This report outlines progress with key strategic planning projects since March 2019 and recommends that this update report be acknowledged.*

### COUNCIL RESOLUTION

Moved by Cr Barker, Seconded by Cr Liu

***That Council acknowledge the report on progress of Strategic Planning projects.***

**CARRIED UNANIMOUSLY**

### BACKGROUND

Council's Strategic Planning Unit undertakes a range of projects that respond to the strategic planning needs of Whitehorse, updates the Whitehorse Planning Scheme and manages projects to proactively plan for future improvement, development opportunities and protection of important features and places within the City.

### DISCUSSION

The following is a summary of the current status of key projects being undertaken through the Strategic Planning Unit. The last update to Council was provided at its meeting on 18 March 2019.

#### ***Key planning scheme amendments and their status include:***

##### Municipal Wide Significant Landscape Overlay (SLO9) – Tree Protection Controls

On 26 May 2017 Council submitted a request to the Minister for Planning (the Minister) to approve an amendment to the Whitehorse Planning Scheme (Planning Scheme) to apply the Significant Landscape Overlay (SLO) on an interim basis (Amendment C191) to all residential land that does not already have permanent tree protection controls in place. Council also sought authorisation to prepare and exhibit Amendment C196 to apply the SLO to the land on a permanent basis having adopted the *Municipal Wide Tree Study Options and Recommendations Report*, June 2016 at its meeting on 18 Jul 2016.

On 28 December 2017 the Minister approved Schedule 9 to the SLO on an interim basis until 31 December 2018 (Amendment C191). The Minister refused Council's request to prepare and exhibit Amendment C196 and directed Council to undertake further strategic work before submitting a new request to apply the same controls on a permanent basis.

The further strategic work included an assessment of the landscape character of the municipality to demonstrate the significance of the areas across which the proposed tree controls are proposed to apply. This work was adopted by Council at the meeting on 18 March 2019 and formed the basis of its request to the Minister on 3 April 2019 to prepare and exhibit Amendment C219 to permanently apply SLO9. Council received notice on 27 June 2019 that the Minister had authorised Council to prepare the amendment which was subsequently placed on exhibition from 15 July until 19 August 2019. Council received 307 submissions in response to Amendment C219 and these will be considered in a separate report to Council.

The expiry date of the interim SLO9 has been extended twice by the Minister and the tree protection controls remain in place until 30 June 2020 (refer Amendments C214 and C223 gazetted on 21 December 2018 and 28 June 2019 respectively). This will protect trees while Council progresses the amendment for the permanent SLO9 under Amendment C219 through the 'normal' process.

### 9.1.6

(cont)

Updates on the amendment are provided on Council's website at:

<https://www.whitehorse.vic.gov.au/planning-and-building/whitehorse-planning-scheme>

#### Amendment C215 and C216 – 42-48 Glenburnie Road, Mitcham

A request was lodged with the Minister in December 2018 to apply interim and permanent Heritage Overlay (HO) controls to the property at 42-48 Glenburnie Road, Mitcham via Amendment C215 and C216 to the Whitehorse Planning Scheme. The request for interim heritage protection arose from an application on 23 November 2018 for report and consent under Section 29A of the *Building Act 1993* to demolish the dwelling and outbuildings. This was preceded by a notice of refusal to grant a planning permit for construction of 10 double storey dwellings on the property on non-heritage grounds such as the scale and density of the development not being respectful of the character of the area, lack of responsiveness to the existing landscape character (under SLO, Schedule 7) and the resultant impacts on the amenity of the Glenburnie Road area.

Amendment C215 was gazetted on 16 May 2019 and applied the interim HO to 42-48 Glenburnie Road Mitcham.

After discussions with officers at the Department of Environment, Land, Water and Planning (DELWP) Council initially received authorisation under delegation from the Minister on 24 January 2019 to exhibit Amendment C216 for a permanent HO on the subject property subject to deletion of tree controls being triggered as part of the HO. Subsequent communication with DELWP officers on the conditions resulted in advice from DELWP dated 28 May 2019 setting out new conditions requiring further information about trees on the site. Exhibition of Planning Scheme Amendment C216 is expected to commence in late September 2019.

#### Amendment C213 – Student Accommodation Policy Update

During 2018 a review of student accommodation in Whitehorse was undertaken and a Background Paper and Student Accommodation Strategy were produced. At its meeting on 20 August 2018 Council adopted these documents and resolved to seek authorisation from the Minister to exhibit an amendment to replace the existing Student Accommodation Policy at Clause 22.14 of the Whitehorse Planning Scheme with a revised and updated policy.

Amendment C213 was authorised on 16 April 2019 subject to conditions, including that Council not amend the parking rates within existing Clause 22.14 (as per its 20 August 2018 resolution) on the basis that insufficient justification had been provided for the proposed changes. A subsequent report to Council on 24 June 2019 resolved to revert to the parking rates currently contained within the policy at Clause 22.14. Exhibition of the amendment will run from Thursday 29 August 2019 to Monday 30 September 2019.

#### Amendment C224 - Former Healesville Freeway Corridor

Amendment C224 has been approved by the Minister for Planning under section 20(4) of the *Planning and Environment Act 1987*. The amendment, gazetted on 26 July 2019 removes the redundant Public Acquisition Overlay (PAO3) from the Healesville Freeway Reserve between Springvale Road, Forest Hill and Boronia Road, Vermont.

The amendment was initiated by VicRoads and is an important step towards the State government's commitment for this section of the reservation to be public open space. Council provided its comment on the proposed amendment at its meeting on 18 March 2019, where it resolved to:

1. *Support removal of the Public Acquisition Overlay, Schedule 3, as shown in Figure 1, which covers the Healesville Freeway corridor between Springvale and Boronia Roads from the Whitehorse Planning Scheme.*

### 9.1.6

(cont)

2. *Request that VicRoads and the Department of Environment, Land, Water and Planning appropriately zone the Healesville Freeway corridor for its future use as open space and address the residential zoning of residual parcels as outlined in this report.*

In regard to item 2 of Council's resolution, the Minister has advised that a future planning scheme amendment will be required to rezone the former reservation to Public Park and Recreation Zone and that this amendment could also consider whether the existing zoning of adjacent land is needed as outlined in the Council report. The Minister has requested that VicRoads and DELWP work collaboratively with Council to prepare the amendment.

#### **Activity Centres**

Officers continue to implement actions from adopted structure plans and urban design framework plans for activity centres in the municipality. A monitoring framework for implementation of the plans has also been established and is periodically updated.

##### Box Hill Metropolitan Activity Centre (MAC)

For over 10 years, actions by the Strategic Planning Unit relating to the Box Hill MAC have been largely guided by the existing Box Hill Structure Plan adopted in 2007 and broadly include:

- Urban design, landscape and strategic planning advice on major developments;
- Engagement with relevant departments across the organisation and external stakeholders to progress the Structure Plan; and
- Preparation of planning scheme amendments.

As a major budget initiative which commenced in 2018/2019, Council has embarked on a review of the vision and strategic directions for Box Hill. The work will include 3D modelling for the MAC, an urban design framework and updating the Structure Plan.

The Stakeholder Reference Group (SRG) formed to provide input on the project has met several times (most recently on 27 August 2019) and comprises State Government, key landowner, community group and agency representatives.

Consultants for the project (lead by MGS Architects) produced an *Analysis and Options* Report in May 2019, drawing together background information and feedback from initial community consultation in February 2019 and from the SRG. The report highlights issues and emerging opportunities in the MAC. On 27 May 2019 Council resolved to release the *Analysis and Options* Report for community consultation which took place from 15 July until 2 August 2019. This second round of consultation was well publicised and included:

- A drop in information session at the Box Hill Town Hall on Thursday 18 July 2019, 4pm – 7pm
- A 'pop-up' session in the Box Hill Mall on Saturday 27 July, 11am – 2pm to discuss the project and/or hand out project information.
- An online survey through Our Say with information and questions translated into Chinese.

Council received 221 submissions (including 188 surveys) which are currently being reviewed and will be the subject of a separate report to Council. Updates on the project are included on the project web page at:

<https://www.whitehorse.vic.gov.au/vision-box-hill>

Several other projects specifically for the Box Hill MAC are being undertaken concurrently across the organisation. These include the: Integrated Transport Strategy; Community Infrastructure Assessment; Open Space Strategy Review; and Urban Realm Treatment Guidelines. The Strategic Planning Unit is closely involved with each of these projects.



### **9.1.6**

(cont)

#### Tally Ho Major Activity Centre – Review of Commercial 1 Zone

As part of the 2018/2019 budget, funding was allocated to review the existing Commercial 1 Zone in the Tally Ho Major Activity Centre and assess whether this is the most appropriate zone to achieve the vision for the centre as a major business and employment hub into the future.

The report prepared by Urban Enterprise examines the performance and economic viability of the Activity Centre, and highlights that Tally Ho is well positioned spatially, economically and in terms of planning policy to maintain and strengthen its employment role within the City of Whitehorse and in the broader region.

The report then explores the implications associated with the current zoning which was fundamentally changed through the State zone reforms in 2013 and explores potential alternative zones. This analysis found that residential development in the activity centre (allowed under the existing Commercial 1 Zone) is unlikely to complement the existing commercial uses and economic strengths of Tally Ho.

This report was considered by Council at its meeting on 26 August 2019 where it resolved to release the report for a period of consultation. Next steps involve consultation with land owners, occupiers and other affected parties to gauge opinions before deciding whether to commence a planning scheme amendment process to rezone land.

#### Nunawading, Mitcham and MegaMile Activity Centre - Structure Plan Update

The *Nunawading/MegaMile Major Activity Centre and Mitcham Neighbourhood Activity Centre Structure Plan* has been in operation since 21 April 2008, when Council formally adopted the document. As part of the 2017/2018 budget, a comprehensive background review of key policy changes and development trends that have occurred since adoption of the Structure Plan was completed. The background review will inform and guide the process for an update of the Structure Plan proposed to commence in the 2019/2020 year.

#### Burwood Heights Major Activity Centre – Former Burwood East Brickworks Site

The Development Plan Overlay (DPO) that currently applies to the former brickworks site at 78 Middleborough Road, Burwood East requires that a development plan be prepared before planning permits can generally be granted for the development. The development plan is intended to guide future planning permits for each stage of this major development. A development plan was initially endorsed by Council on 28 February 2018 and subsequently amended on 27 December 2018.

Several planning permits have now been granted for the site and construction has commenced. Strategic Planning continues to play a role in the assessment of applications and review of detailed design of key public spaces such as the Urban Plaza and Village Green against the requirements of the development plan and in the arrangements for management and maintenance of future public assets and spaces.

Updates on the project are included on Council's web site at:

<https://www.whitehorse.vic.gov.au/burwood-heights>

### ***Heritage***

#### Heritage Assistance Fund

Applications for Council's annual Heritage Assistance Fund (HAF) opened on Monday 12 August 2019 and close on Monday 16 September 2019. The Fund provides grants up to \$2,000 from the funding pool of \$40,000 to eligible owners and occupiers of properties in the Heritage Overlay to assist with the ongoing maintenance of their heritage properties. The HAF assist with various heritage preservation works including external painting, repairs and restorative works.

### **9.1.6**

(cont)

This will be the first time since the HAF commenced that applicants will be able to make an application through Council's new on-line grants program called *Smarty Grants*. The benefits of the *Smarty Grants* program include:

- Forms are paperless and easy to use,
- Applications can be saved at any stage and returned to later, and
- Supporting documents can be easily uploaded.

Provision will still be made for applicants unable to lodge an on-line application to submit a paper application form. The HAF program coincides with Council's Heritage Week 2019 celebrations.

All applications will be assessed by Council's Heritage Advisor and presented at a Heritage Advisor Committee meeting in late October/early November to recommend recipients for the grants.

#### Heritage Advisor

Council's Heritage Advisor continues to provide specialist advice to the Strategic Planning Unit. Responsibilities of the Advisor include responding to planning application referrals from the Statutory Planning Unit, liaising with the community and other departments of Council on heritage matters, undertaking heritage investigations and helping to assess Heritage Assistance Fund applications. The Annual Report of the Heritage Advisor will be considered in a separate report to Council.

The contract with Coleman Architects Pty Ltd was renewed in January 2015 for a period of 4 years with an option to extend for a further 12 months. This option was exercised and in January 2019 Council extended the contract for a further 12 months. A new contract for heritage advisory services will be prepared and advertised before the end of the calendar year.

#### ***Other Major Council Projects***

##### Placemaking

Place Activation Guidelines (PAGs) were developed as the final stage of Council's participation in the Neighbourhood Project. The Neighbourhood Project strives to make community-led placemaking easier for Councils and communities and is part of the Resilient Melbourne Strategy.

The PAGs refine the processes across Council to ensure that the community can work with Council in an efficient and streamlined manner to deliver community placemaking. The PAG's were trialled as part of the *This Space Your Place* placemaking project held in Box Hill from late 2018 to early 2019. The Guidelines are being updated to reflect the learnings from this project and will continue to evolve.

##### Built Environment Awards

The Built Environment Awards (BEA) are part of the wider Built Environment Education and Awards Program, with an education event and the awards program being held on alternate years. The Awards aim to showcase the best in design and recognise the people who contribute to good design and sustainable practice within the City of Whitehorse.

Nominations were open between 1 February and 15 March 2019. The nomination period was extended for two weeks in an effort to attract more nominations. Ten projects were shortlisted and the judging event took place on 23 May 2019. The judging panel consisted of the Mayor Cr Bennett, Cr Liu, Cr Barker, General Manager of City Development, Council's ESD advisor and BEA project manager, plus two industry experts:

- Stefan Preuss – Associate Victorian Government Architect, Office of the Victorian Government Architect.
- Jocelyn Chiew – Manager Campus Design, Quality and Planning, Monash University.

### 9.1.6

(cont)

The Awards event took place on 6 June 2019 at Deakin University which sponsors the event. The event was attended by approximately 80 people including representatives of the shortlisted project teams, industry professionals, Council representatives and the general public.

The guest speaker and host for the Awards was Kate Dundas, Team Leader City Plans, City of Melbourne and the event included presentations on 'Innovation' by Stefan Preuss from OVGA and 'Sustainability' by Dr Beau Beza from Deakin University.

Awards were given in the following categories:

- Residential Design Project Award – recognising a well-designed residential project selected from all residential types.
- Sustainability Award - recognising a project that demonstrates commitment to sustainable principles
- Innovation Award - recognising a project which displays exemplar use of innovative design elements, technology, materials and/or processes
- People's Choice Award - open to public vote and reflecting the community values and aspirations
- Mayor Award - chosen by the Mayor and recognising an exemplar project that reflects Council's values and initiatives.

The 2019 award winners can be viewed at: <https://www.whitehorse.vic.gov.au/waste-environment/sustainability/built-environment-awards>

#### Residential Corridors Study

The study provides built form guidelines and recommends planning scheme controls for those areas in the City of Whitehorse along key road corridors where land in the Residential Growth Zone interfaces with land in the Neighbourhood Residential Zone and the General Residential Zone. The corridors include Residential Growth Zone land generally along Burwood Highway and Whitehorse Road.

Council adopted the Draft Built Form Guidelines and the proposed planning controls at its meeting on 29 January 2019. In summary, along these residential corridors, Council proposes to seek:

- A mandatory building height limit (6 storey)
- Mandatory front, side and rear building setbacks
- Guidance for the pedestrian interface to new development, shadowing of open space, the wind impact of buildings and site landscaping expectations.

Officers have been liaising with the DELWP on the details of the amendment. It is anticipated that the proposed amendment will be sent to the Minister in the coming months for authorisation to start the planning scheme amendment process. The community will have a further opportunity to make submissions on the proposed controls during that process.

#### **State Government Projects**

##### SMART Planning - Planning Policy Framework

As part of the Smart Planning reforms by the State government following the *Reforming the Victoria Planning Provisions Discussion Paper* in late 2017, Planning Schemes across Victoria are proposed to be rewritten to align with the new thematic policy structure introduced as part of State Amendment VC148 on 31 July 2018. This provided a structure to integrate State, Regional and Local content of planning schemes. For Whitehorse City Council it is intended that this will largely be a policy translation of the planning scheme to remove unnecessary duplication in policy content within each theme and to streamline operation of policy.

### 9.1.6

(cont)

Reform of the Planning Policy Framework will be undertaken by DELWP in consultation with Council's across Victoria in stages. It has not yet been confirmed when work on the Whitehorse Planning Scheme will commence, but it is anticipated to be undertaken this financial year. The project will involve considerable officer time to liaise with the DELWP and to ensure that important content of the Whitehorse Planning Scheme is not misinterpreted, diluted or removed. Funding of \$30,000 (excl. GST) is included in Council's 2019/2020 budget to assist with this work.

#### Plan Melbourne

The Implementation Plan that accompanies the metropolitan planning strategy, *Plan Melbourne 2017 – 2050*, identifies preparation of Land Use Framework Plans (LUFP) for each of the six metropolitan regions. Whitehorse is located in the Eastern Region and is represented on the region's Economy and Planning Working Group (EPWG) established by the State government to develop work plans to implement *Plan Melbourne* including the preparation of the LUFP. Preparation of the LUFP is in progress and has included workshops with Councils in the eastern region. Draft plans were expected from State Government earlier this year, however these are being reviewed by DELWP "*in light of government election commitments including the Suburban Rail Loop, new demographic data and information from other Plan Melbourne actions*" It is anticipated that DELWP will update the EPWG on progress with the Eastern Region LUFP later this year.

More information about Plan Melbourne can be found on the State Government web site at: <http://www.planmelbourne.vic.gov.au/home>

#### State of the Heritage Review

The Heritage Council of Victoria has commenced the *State of Heritage Review: Local Heritage*, a review into local cultural heritage recognition, protection and management.

The first stage of the Review involved surveying the current local heritage arrangements of all 79 local governments across Victoria. As a result of Council's participation in the survey, the Heritage Council wrote to Council commending it on its communication and promotion mechanisms, and labelled Council's efforts in this space as 'best practice.' The Heritage Council were particularly impressed with Council's communication of its heritage projects and programs which covers activities across the Strategic Planning Unit and Arts and Cultural Services Department

A representative from the Heritage Council has met to Council officers to see if there are any insights or lessons that can be shared with other Councils wanting to improve their communication/promotion mechanisms on heritage matters. Whitehorse City Council is one of 10 Council's across the State being interviewed about its approach to promoting and managing local heritage.

### **CONSULTATION**

Community consultation is an integral part of all strategic planning projects. The level and type of consultation will be extensive and varied, depending on the nature and complexity of each project. While community consultation adds to the depth of projects it can also extend their timeframe in some instances.

This update report on strategic planning projects is prepared every six (6) months covering periods ending in March and September. This is followed by a summary in the Whitehorse News on a selection of projects of interest to the community.

### **9.1.6**

(cont)

#### **FINANCIAL IMPLICATIONS**

All of the projects require resources and funding for tasks including consultation, preparation, exhibition and consideration of amendments, consultant advice and investigations, including government processes e.g.: panel hearings etc. Funding for the projects discussed in this report was either provided in the recurrent budget or via specific budget line items as new budget initiatives.

#### **POLICY IMPLICATIONS**

The undertaking of strategic planning projects is consistent with the *Council Plan 2017 – 2021* in terms of project outcomes and the consultation involved.

#### **Attendance**

Cr Barker left the Chamber at 8:24pm, returning at 8:25pm.

## Engineering and Environmental

### 9.1.7 Landfill disposal contract for Whitehorse and Metropolitan Waste and Resource Recovery Group collective contract

FILE NUMBER: 19/78610

#### SUMMARY

*The purpose of this report is to inform Council of the work being conducted to secure landfill options for the disposal of municipal waste and seek approval to participate in the upcoming Metropolitan Waste and Resource Recovery Group (MWRRG) collective multi-Council landfill services contract procurement process.*

#### COUNCIL RESOLUTION

Moved by Cr Munroe, Seconded by Cr Massoud

#### ***That Council:***

- 1. Continues to participate in a Metropolitan Waste and Resource Recovery Group (MWRRG) collective Landfill Services contract for the disposal of waste to landfill beyond April 2021;***
- 2. Delegates to the Chief Executive Officer the authority to negotiate and finalise the details of the tender documentation, Memorandum of Understanding with MWRRG, and related Deeds of participation for the tender and contract process;***
- 3. Receives a report on the outcome of the MWRRG tender process for its further consideration.***

**CARRIED UNANIMOUSLY**

#### BACKGROUND

Council currently disposes of approximately 68,000 tonnes per annum under the Metropolitan Waste and Resource Recovery Group (MWRRG) collective landfill services contract 2010/1 along with 20 other metropolitan Councils. This contract arrangement was adopted by Council in February 2011 and subsequently extended further by Council resolutions in 2015, resulting in a contract expiry date of 1 April 2021.

Under the MWRRG contract, Council has access to 3 different landfills. Waste from the Whitehorse Recycling and Waste Centre is bulk-hauled to Melbourne Regional Landfill in Ravenhall and the kerbside garbage from households is transported directly by the kerbside collection trucks to SUEZ landfill (formerly SITA) in Hallam. Wyndham City Council landfill was also utilised as required by the Whitehorse Recycling and Waste Centre until 2017. Prior to Clayton South Regional Landfill closing in 2015, kerbside garbage from the former Box Hill Council district was sent to Clayton South for disposal.

Landfill remains the primary service for the disposal of municipal waste. As reported to Council in May 2019, there is an opportunity for Council to participate in a separate joint Council procurement project seeking the establishment of an alternate waste technology processing facility in the South-East of Melbourne to process residual municipal waste. However, this process is complex and it will take at least 5 years before such a facility is established and operational.

Council must ensure that it has arrangements in place to process the waste that is dropped-off at the Whitehorse Recycling and Waste Centre and collected from kerbside garbage bins. Due to the long timelines for waste disposal contracts to be tendered, evaluated and approved, Council needs to commit to a process to replace its current landfill disposal contract now, even though the contract expiry is not until April 2021.

### **9.1.7**

(cont)

Council's Waste Management Strategy 2018-2028 included a key action for Council to consider joint Council procurement arrangements where appropriate, to leverage benefit from collective buying power. Consideration has been given to Council 'going it alone' for a tender for landfill services, tendering directly with a small group of Councils as part of a joint venture, and participating in a larger metropolitan-wide tender facilitated by the MWRRG. The outcome of these considerations is summarised in this report.

If Council endorses the recommendation for Council to participate in the MWRRG joint Council Landfill Services tender, the timelines for this process include the need for participating Councils to sign a Memorandum of Understanding (MOU) between Council and Metropolitan Waste and Resource Recovery Group in September 2019.

There are protocols for participating in a MWRRG joint Council procurement and contract process, spelled out in several Deeds that need to be signed on behalf of participating Councils. These protocol Deeds are similar to the Deeds for the current Landfill Services contract with MWRRG. They have previously been checked independently by Council's legal advisors Maddocks. The Deeds for the new MWRRG joint Council procurement process will be finalised early in the tender process.

## **DISCUSSION**

Council requires a range of landfill disposal options to ensure maximum operational flexibility, value-for-money, and back-up should any one site be unavailable or unsuitable for any reason. Council's experience with the current MWRRG metropolitan-wide landfill contract is that it provides Council with access to multiple landfills at competitive landfill rates. The landfill operators under the MWRRG landfill services contract discount their gate fee if the tonnages exceed pre-determined trigger levels each month, a benefit of participating in a group contract such as this which provides economies of scale. This was used as the benchmark when considering options for Council's next landfill contract.

### **1. New Metropolitan Waste and Resource Recovery Group landfill services contract**

Metropolitan Waste and Resource Recovery Group (MWRRG) anticipate structuring this procurement to complement other multi-Council group procurement opportunities that are currently underway, including alternative waste technology processing and future recycling processing services. The overall objective of this services contract is to enable metropolitan councils to access landfill services for household materials that cannot be recovered or reused through other means.

All participating councils will be involved in the tender process determined by location. Whitehorse traditionally has been part of the South Eastern group.

MWRRG resource the procurement process and support Councils with legal, technical, probity, planning and financial advisors. Participating Councils have the opportunity to enter into a contract with one or more service providers on either a guaranteed or non-guaranteed supply basis, and can enter into arrangements with more than one supplier. Council endorsed arrangements in the previous MWRRG contract for 3 landfill sites across Melbourne:

- City of Wyndham – Werribee
- Melbourne Regional Landfill (Cleanaway) – Ravenhall
- SUEZ – Hallam

In the South East we have a high reliance on direct hauling kerbside household waste to SUEZ landfill in Hallam. It is projected that the SUEZ Hallam site will cease receiving material at some stage during the life of this MWRRG Landfill Services Contract. It is also possible, given the limited life of the site that SUEZ may choose not to submit a tender response for the new MWRRG landfill contract.

### **9.1.7**

(cont)

As a provision to counter the possible closure of the SUEZ Hallam landfill, the new MWRRG contract will look at including strategically located transfer stations to aggregate waste to minimise collection costs and provide the opportunity to sort and recover material from the household residual waste stream.

Councils use (relatively) smaller trucks for the collection of kerbside waste that carry less waste than the bulk-haul trailers used by transfer stations. If the collection trucks are required to travel long distances to landfill, they are away from the City for long periods and Council would need more collection trucks as part of the garbage collection contract to achieve the daily bin collections. The need for additional collection trucks or the need to transfer waste via bulk-haul to a distant landfill is likely to increase in overall cost to collect and dispose of municipal waste. Prior to the development of specifications MWRRG will engage Councils to understand preferences for transfer arrangements versus direct hauling.

The proposed MWRRG joint Council contract will be structured so that if Council decides to terminate a guaranteed arrangement with one of the providers it will be required to provide 12 months' notice or pay a penalty in lieu of notice. To maximise flexibility between different landfills, Council has previously entered non-guaranteed arrangements under the MWRRG contract.

In order to achieve the objectives of this contract the procurement will be structured to:

- Encourage landfill operators to adopt best practice to minimise the impacts on local amenity and the environment.
- Provide a bridging period for the disposal of waste until alternative waste infrastructure is available.
- Enable the appointment of more than one provider
- Ensure consistency across the metropolitan area
- Integrate with other household waste services
- Achieve a robust tender/contact model.

The tender/contract model will be based on;

- Best value
- Pricing transparency
- Appropriate risk allocation
- Flexible contract terms
- Reduced tender costs



## 9.1.7 (cont)

### 1.1 Benefits to Council with this multi-Council landfill contract approach

- Reduced tendering and contract management costs for Council
- Encourage tenderers to adopt best practice to minimise the impacts on local amenity and the environment
- Enable the appointment of more than one provider
- Ensure consistency across the metropolitan area
- Integrate with other household waste services
- Ensure workable contingency arrangements.

Given that MWRRG is a running a parallel tender process for the provision of alternative waste technology this tender will focus on the provision of landfill services with opportunities to provide transfer arrangements for a period of up to 7 years. As it is not likely that an alternative waste technology facility will be available until about 2026, the initial landfill contract period has been set at five years with two further year's extension. This will allow for delay in the provision of any AWT infrastructure or if Council wishes to continue with the landfill arrangement.

A further benefit of this multi-council contract is that it covers a number of different landfill operators as well as potential transport capability should SUEZ landfill in Hallam reach maximum capacity sooner than expected.

### 1.2 Indicative timelines of procurement process

| Milestone                                                                             | Outcome                                                                                                             | Estimated completion   |
|---------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------|------------------------|
| Pre-procurement documentation, - MoUs, Probity Plans, Cluster Models, Specifications. | Procurement process and documents endorsed by participating councils.                                               | Aug 2019               |
| Tender Advertising                                                                    | Tenders advertised through e-tender portal or MWRRG specific process.                                               | Oct 2019 -Dec 2019     |
| Tender Evaluation                                                                     | Tender Evaluation Panel makes recommendation to participating Councils.                                             | Feb 2020               |
| Preferred Tenderer Negotiations:                                                      | Final documentation execution of contracts.                                                                         | Apr 2020               |
| Contract Management User Group                                                        | Group Formed of nominees from each of the participating Councils, to operate in compliance with an agreed Protocol. | April 2020 and ongoing |
| Contract Commences                                                                    |                                                                                                                     | 1 April 2021           |

## **9.1.7** (cont)

### **2. Alternative landfill options considered**

#### **2.1 Council tendering directly for a landfill contract**

Alternate options for provision of landfill services include Council having an arrangement directly with the landfill provider and just tender for Council's volume of municipal waste. If the successful tenderer was one of the landfill providers to the north or west of Melbourne, especially if SUEZ does not submit a tender, then this would require Council to put on additional garbage collection trucks or add the kerbside garbage to the waste currently being dropped off at the Whitehorse Recycling and Waste Centre (this option is discussed later in this report). Initial conversations with landfill operators have indicated that:

- They have no preference in dealing with a group of Councils or a single Council
- Pricing is more attractive generally in a group tender due to volumes that can be guaranteed
- Landfills have more certainty of business with Councils and therefore can offer competitive prices compared with their commercial customers who can vary quantities
- A Council guaranteeing over 50,000 tonnes of waste may be attractive
- Landfill operators would rather look at longer contract terms which potentially provide better pricing

There are risks in having an arrangement directly with a single landfill operator, and accepting multiple landfill operators for just Council's volume of waste reduces access to lower gate fees that larger volumes of waste attract.

A single contract with SUEZ is attractive from a proximity perspective but risky in terms of longevity and reliability for the period that landfill is needed. Operationally SUEZ has indicated they will reach capacity and stop accepting material in the not too distant future. If Council is not able to use the Whitehorse Recycling and Waste Centre to bulk haul waste to another landfill, the kerbside collection trucks would have to travel around an hour or more to the next nearest landfill, Hanson in Wollert or further across Melbourne. Being caught in traffic when travelling across Melbourne adds financial and environmental risks to Council's collection services, as well as the risk that the day's collection may not being completed in time.

Landfills have temporarily closed on particularly windy days due to OHS risks and issues with wind-blown litter. Closing of a site on such occasions is becoming more frequent, and if Council used only a single landfill provider, this would leave Council with further risks to the operation of the Whitehorse Recycling and Waste Centre and completing kerbside collections.

Access to a network of landfilling options is therefore essential to reduce the operational, financial and any potential legal risks.

### **9.1.7** (cont)

#### **2.2 Bulk hauling opportunities from Whitehorse Recycling and Waste Centre**

A further alternative is to use Council's Whitehorse Recycling and Waste Centre to dispose of the kerbside garbage and bulk-haul the kerbside garbage along with the general waste collected by the Centre itself. The Whitehorse Recycling and Waste Centre, however is currently at capacity with the current operational model. The additional waste from kerbside would increase the volume of material to landfill by approximately 70%, from 40,000 tonnes to 68,000 tonnes. With the new landfill contract needed to commence on 1 April 2021, any upgrade to the capacity of the Centre would need to be completed by this date. This leaves only one financial year to undertake any improvements or capital purchases for the Centre. It would not be feasible to reconfigure the site in this timeframe.

The only feasible option would be to limit public access to the facility and only accept kerbside waste vehicles during certain times. This would be a substantial change to the current operations of the Centre and reduce the benefit to the public in having unrestricted access to use the Centre when they need it. It would also require a detailed business analysis on the cost/benefit of such a proposal. A very preliminary estimate of cost for the additional resources would be \$5.4 million per year. This includes the capital expenditure being averaged out over the period of the next landfill contract.

#### **Contract oversight**

The complexity of negotiating with the different landfill operators under the MWRRG Landfill Services Contract 2010/1 is similar to the original negotiations that resulted in the awarding and establishment of MWMG Landfill Services Contract 2010/1.

To meet the required contractual timelines and provide due oversight during the final contract negotiations, Council delegated to the Chief Executive Officer the power to negotiate the final terms of the contract documents and if these negotiations were satisfactory, to execute the contract documents. It's proposed that Council again delegates authority to the Chief Executive Officer to ensure continuity of landfill services.

#### **Recommendation:**

Taking the factors outlined above into consideration, it is recommended that Council participates in the MWRRG joint Council Landfill Services procurement process, and that the outcome of the tender is reported to Council for its further consideration.

#### **CONSULTATION**

Internal consultation was conducted between staff from the Whitehorse Recycling and Waste Centre and the Engineering and Environmental Services Department to ensure that waste disposal needs for Council's Recycling and Waste Centre and kerbside garbage collections will be satisfied.

The extensive community consultation undertaken during the development of Council's Waste Management Strategy 2018-2028 confirmed the need for Council to ensure continuity of its waste management services by having reliable and affordable arrangements for the disposal of waste. The 2019 Community Satisfaction survey rated waste management services as the most important Council service.

### **9.1.7**

(cont)

#### **FINANCIAL IMPLICATIONS**

The cost of disposing of waste to landfill is included in the various operational budgets for the Whitehorse Recycling and Waste Centre and the Engineering and Environmental Services Department (kerbside garbage collections).

Waste disposal costs are a significant portion of Council's overall expenditure. The 2018/19 expenditure for disposing of waste to landfill was almost \$7.6M. The landfill gate fee includes the State Government landfill levy, which made up approximately \$4.4M of the total 2018/19 cost of disposing of waste to landfill.

The value of the landfill services contract over 7 years is therefore going to be significant.

The landfill operators are facing ever-increasing costs to achieve the required EPA landfill operating standards, and to put in place measures to address nearby community concerns about truck traffic, landfill odours, windblown litter and other consequences that impact the amenity of properties located close to landfills. The resulting steep increase in operating costs is likely to be reflected in a significantly higher gate fee for the new landfill services contract from 2021 onwards. This makes it all the more important for Council to tender as part of a collective of Councils, seeking some financial benefit through higher tonnages of waste that typically attract proportionally lower gate fees.

The full financial impact will not be known until the outcome of the tender process, at which time a more detailed financial analysis will be presented to Council.

#### **POLICY IMPLICATIONS**

Council's Waste Management Strategy 2018-2028 requires that Council continues to have landfill waste disposal options alongside Alternative Waste Technology, to ensure continuity of waste disposal to support Council's waste collection and waste drop-off services. The Strategy includes specific actions to encourage Council to partner with other Councils through collaborative waste procurement contracts that bring the benefit of 'bulk buying' waste services and address the waste needs of the region. Environmental regulations require that putrescible waste collected or dropped off within Whitehorse must be disposed on a daily basis at a licensed landfill that complies with EPA requirements.

## 9.2 INFRASTRUCTURE

### 9.2.1 Tender Evaluation (Contract 30193) Elgar Park Southern Ovals Improvement

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#### SUMMARY

*To consider tenders received for the Elgar Park Southern Ovals Improvement project and to recommend the acceptance of the tender received from Evergreen Turf Group Pty Ltd t/a Evergreen Turf (ABN 45 996 533 713), for the amount of \$1,410,721 including GST as part of the overall project expenditure of \$1,423,546.*

#### COUNCIL RESOLUTION

Moved by Cr Barker, Seconded by Cr Liu

***That Council accept the tender and sign the formal contract document for Contract 30193 for the Elgar Park Southern Ovals Improvement received from Evergreen Turf Group Pty Ltd t/a Evergreen Turf (ABN 45 996 533 713), of 560 McGregor Road, Pakenham Victoria 3199, for the tendered amount of \$1,410,721 including GST as part of the overall project expenditure of \$1,423,546.***

**CARRIED UNANIMOUSLY**

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#### BACKGROUND

Elgar Park located in Box Hill contains approximately 2.5 hectares sports fields. These sports fields are predominantly used for cricket in the summer and football in the winter season. There is also a high casual use of the park by members of the community.

In September 2016 Council adopted a Master Plan for Elgar Park. Improvement of the playing surfaces and supporting infrastructure of the southern ovals was a key recommendation of the Master Plan.

This project includes improvement of the South West and South East ovals at Elgar Park.

The work elements covered by the Specification were construction of new:

- Drainage,
- Irrigation and
- Playing surface

#### DISCUSSION

Tenders were advertised in The Age newspaper on Saturday 20 July 2019 and closed on Monday 12 August 2019. Seven (7) tenders were received.

The tenders were evaluated against the following criteria:

- Financial (Tender Offer - 50%);
- Capability (Demonstrated Knowledge, availability of tenderer and resources - 35%);
- Credibility (Quality - 15%); and
- Occupational Health & Safety, Equal Opportunity and Business Viability (Pass/Fail).

All of the tender submissions were deemed conforming and were evaluated against the above criteria. The evaluation panel paid particular attention to the quality of work and availability of the contractors to commence and complete works within a set timeframe to allow for sporting club access. The tender received from Evergreen Turf is considered to provide the best value for money for this Contract and best placed to deliver the works on time.

## 9.2.1

(cont)

### CONSULTATION

Consultation has occurred with staff from ParksWide, Leisure and Recreation Services and Procurement. The preferred tenderer's business viability has been considered.

Major Projects and Buildings have also been consulted with respect to the site impact and amenity as well as construction activities associated with the adjacent Elgar Park South Pavilion redevelopment. Council project managers for both projects will maintain an ongoing communication during delivery of both projects.

Consultation has also occurred with tenant sporting and recreational clubs who access the sports fields. Leisure and Recreation have provide alternative sports field access during the improvement works and continue to liaise with impacted users.

### FINANCIAL IMPLICATIONS

|                                                                      | Budget             | Expenditure        |
|----------------------------------------------------------------------|--------------------|--------------------|
| Capital Works Program W463 6708 Elgar Park Master Plan               | \$1,050,000        |                    |
| Capital Works Program W458 6708 Sportsfield Ground Renewal           | \$250,000          |                    |
| Capital Works Program W461 6708 Sportsfield Drainage Renewal Program | \$225,000          |                    |
|                                                                      |                    |                    |
| <b>Total Budget</b>                                                  | <b>\$1,525,000</b> |                    |
|                                                                      |                    |                    |
| Preferred tenderer's lump sum offer (including GST)                  |                    | \$1,410,721        |
| Less GST                                                             |                    | -\$128,247         |
| Net cost to Council                                                  |                    | \$1,282,474        |
| Plus Project Contingency                                             |                    | \$141,072          |
| <b>Total Expenditure</b>                                             |                    | <b>\$1,423,546</b> |

### POLICY IMPLICATIONS

These works were recommended in Council's adopted Master Plan for Elgar Park.

## 9.3 CORPORATE

### 9.3.1 Electoral Representation Review 2019: Council's Response Submission

ATTACHMENT

#### **SUMMARY**

*Council endorsement is sought for the Response Submission to be lodged with the Electoral Representation Review for Whitehorse that is being currently undertaken by the Victorian Electoral Commission (VEC).*

#### **COUNCIL RESOLUTION**

Moved by Cr Davenport, Seconded by Cr Munroe

#### ***That Council:***

- 1. Adopts the Response Submission (provided as Attachment 1) to be submitted with the Victorian Electoral Commission as a part of the Electoral Representation Review for Whitehorse.***
- 2. Notes that its Response Submission is fully supportive of the VEC's Preferred Option A, which aligns with Council's endorsed preliminary submission.***

**CARRIED UNANIMOUSLY**

#### **BACKGROUND**

Council at its meeting held 15 July 2019, endorsed its preliminary submission to the VEC's Electoral Representation Review for Whitehorse.

Council's submission clearly stated that it had approached the review by adopting a "blank canvas" approach to it. As a result, five different options were presented, with Councillor number's ranging from 9 to 11 and including four different ward structures including 3, 4, 5 and 11 wards.

Thus, Council considered all five options with a critical eye on the two crucial questions underpinning the preliminary submission stage, namely: the number of Councillors and the ward structure that would best accommodate future population and voter growth, in terms of variances of average number of voters per Councillor.

It is pleasing to note that the VEC in its preliminary report made numerous positive references and acknowledgement of Council's good work, in its preliminary submission. Refer to the VEC's Preliminary Report at:  
<https://www.vec.vic.gov.au/reviews/Whitehorserr.html>

With regards to the first crucial question, on the number of Councillors, it was identified that when compared to other similar size metropolitan Councils, Whitehorse is in a middle position being placed 12 out of 22 Councils, with a ratio of a Councillor representing 11,771 voters. Further, that future population and voter growth forecasts identify a spike in population numbers over the next 6 years affecting the equity in voter representation. Thus, in order to provide quality representation for future residents, it was accepted that the number of Councillors should be increased from 10 to 11. Consequently, options presented for 9 and 10 Councillors, were not progressed further.

### 9.3.1 (cont)

When considering the second crucial question, regarding the ward structure that would best accommodate future population and voter growth and variances for average number of voters per Councillor, Council had 3 remaining options with 11 Councillors to assess. The first of these, was the 11 single member ward option, which after further analysis, it was shown that this option would only be compliant for a single electoral cycle, but would require boundary changes for ensuing elections, and before the next electoral representation review is due. Consequently, Council noted in its submission that – “Whitehorse therefore considers that overall a multi member Councillor wards will meet the current and future needs of Council and the community.”

Council was then left with two options, with the first being 11 Councillors and 4 wards, and secondly, 11 Councillors and 5 wards respectively. After further analysis of these two options, Council endorsed the 11 Councillors and 5 wards as its preferred option, and the other option became the alternate option. Whilst it was assessed that both options were able to cater for projected population and voter growth and feature the same treatment for Box Hill, it was considered that the preferred option had far superior features to the alternate, including:

1. Easier to identify boundaries, as main roads used uniformly by this option;
2. Easier for residents to identify their Councillor, given clearer boundaries;
3. Being the superior option in regards to the level of variances for all its wards.

### DISCUSSION

In its preliminary report on the representation review for Whitehorse City Council, the VEC has presented as its preferred option - 11 Councillors elected from five wards (four two-councillor wards and one three-councillor ward; and as its alternative option - 10 Councillors elected from five two-councillor wards, with adjustments to the current ward boundaries.

It is now appropriate that Council should respond to the VEC's preliminary report and its preferred option and alternative.

However, before focusing on the merits of the VEC's preferred and alternative options, it is important to highlight that the VEC has remained supportive of multi-member wards and has not reported any consideration of single member wards for Whitehorse.

To assist with the proper assessment of the VEC's two options, the following comparative tables have been prepared:

**OPTION A. Preferred Option: 11 Councillors (4 x 2 plus 1 x 3)**  
Refer map provided as (**Attachment 2**).

| Advantages                                                                                                                | Disadvantages                                                                                |
|---------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------|
| 1. More effectively absorbs population growth and projected voter growth than Option B.                                   | 1. Provides for a higher number of changes to boundaries and impact to actual voters (17%).  |
| 2. Makes use of main roads, whilst Option B still retains the minor roads boundary between Central and Springfield wards. | 2. Only 7 out of 21 (33%) of preliminary submissions supported increasing to 11 Councillors. |
| 3. Captures the suburb of Box Hill in one ward which enhances communities of interest.                                    |                                                                                              |



### 9.3.1 (cont)

#### **OPTION B. Alternative Option: 10 Councillors (5 x 2) with adjustments to current ward boundaries**

Refer map provided as (**Attachment 3**).

| Advantages                                                                              | Disadvantages                                                                                                                    |
|-----------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------|
| 1. Provides the least number of changes to boundaries and impact to actual voters (5%). | 1. Still retains the minor roads boundary between Central and Springfield wards.                                                 |
| 2. Practically retains status quo.                                                      | 2. Utilises Dorking Rd to separate Elgar and Central wards, which splits suburb of Box Hill North and small portion of Box Hill. |
| 3. 9 out of 21 preliminary submissions (43%) supported retention of 10 Councillors.     | 3. Utilises Blackburn Rd to separate Central and Morack wards, which splits part of Blackburn South.                             |

After reviewing the comparative tables, it is recommended that Option A which is Council's preliminary submission option and now the VEC's preferred option is the better long-term outcome for the City of Whitehorse and its residents, than Option B.

#### **CONSULTATION**

The VEC conducts all public consultation and media releases for the review.

After the close of response submissions on Wednesday 25 September 2019, the VEC will be holding a Public Hearing on Monday 30 September commencing at 7pm in the Council Chamber, Whitehorse Civic Centre.




#### **FINANCIAL IMPLICATIONS**

Costs associated with the conduct of the Electoral Representation Review 2019 by the VEC have been provided for in Council's Operating Budget 2019/20.

#### **POLICY IMPLICATIONS**

There are no policy implications associated with the preparation of this report.

#### **ATTACHMENT**

- 1 Response Submission ERR 2019 
- 2 Whitehorse Option A Preliminary Report Map: Aug 2019 
- 3 Whitehorse Option B Preliminary Report Map: Aug 2019 

### **9.3.2 Proposal to name unnamed right of way abutting 3 Clarke Street and the rear of 7-19 Gordon Crescent, Blackburn**

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#### **SUMMARY**

*The purpose of this report is to seek Council's view on whether to initiate further community consultation on a proposal to name an unnamed right of way, in order to provide a property address to a new lot, created from a recently approved two lot subdivision, which abuts the right of way.*

#### **RECOMMENDATION**

***That:***

- 1. Council endorse the original naming suggestion Gaff Lane as its proposal to name the right of way abutting 3 Clarke Street and the rear of 7-19 Gordon Crescent, Blackburn.***
- 2. Council officers write to those submitters who did not support Gaff Lane and advise them their right to appeal Council's decision with the Registrar of Geographic Names.***
- 3. Following the close of the appeal period, providing no appeal has been lodged with the Registrar of Geographic Names, Council officers submit the naming proposal Gaff Lane to the Registrar of Geographic Names for approval and gazettal.***

#### **COUNCIL RESOLUTION**

Moved by Cr Massoud, Seconded by Cr Cutts

***That Council:***

- 1. Having considered the submissions received during the community consultation process, endorse the name "Steel Lane" for the purposes of further community consultation as its proposal to name the right of way abutting 3 Clarke Street and the rear of 7-19 Gordon Crescent, Blackburn.***
- 2. Receive a further report, following the completion of the community consultation process.***

**CARRIED UNANIMOUSLY**

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#### **BACKGROUND**

The property owner of 7 Gordon Crescent, Blackburn contacted Council in December 2018, seeking to have the right of way abutting the rear of his property named. The request for naming stems from a decision of the Victorian Civil and Administrative Tribunal (VCAT) in August 2018, which granted a permit that allows "*Buildings and works to extend a dwelling when there are two dwellings on the lot, subdivide land into two lots and removal of vegetation*". As the VCAT decision provides for the subdivision of the land into two lots, with one lot abutting the right of way without access to Gordon Crescent, the new lot will require the assignment of a property address.

A location map of the subject right of way is provided as part of **Appendix A** to this report.

### 9.3.2

(cont)

#### DISCUSSION

Council has the power to name roads, subject to having due regard to the mandatory naming rules provided under the Geographic Place Names Act 1998.

The naming rules are guided by the following 12 general principles:

1. Ensuring public safety;
2. Recognising the public interest (both in the short and long term);
3. Linking the name to place (relevant to the local area);
4. Ensuring names are not duplicated;
5. Names must not be discriminatory;
6. Recognition and use of aboriginal languages in naming;
7. Dual names (not applicable to roads);
8. Using commemorative names (to commemorate an event, person or place);
9. Using commercial and business names (not to be used);
10. Language;
11. Directional names to be avoided; and
12. Assigning extent to a road, feature or locality.

The 12 general principles are designed to ensure that no ambiguity, confusion, errors or discrimination results from any naming, renaming or boundary change process.

#### CONSULTATION

Council at its Ordinary Council Meeting 27 May 2019 resolved to:

1. Endorse the name Gaff Lane for the purposes of community consultation on its proposal to name the right of way abutting 3 Clarke Street and the rear of 7-19 Gordon Crescent, Blackburn.
2. Receive a further report, following the completion of the community consultation process. (see extract of minutes at Appendix A)

A public consultation process then commenced, which involved writing to neighbouring properties, placing a Public Notice in the local Leader newspaper seeking public comment and utilising Council's online public consultation portal, to seek feedback on the selected name Gaff Lane.

During the consultation process, Council received nine submissions:

- One submission did not support Gaff Lane, and suggested instead either Morton Lane or Central Lane;
- Two submissions did not support Gaff Lane and suggested instead Magpie Lane: - one of the submissions was in the form of a joint email providing 17 individual property addresses and multiple names; an additional submission was received from the primary submitter of the joint email.
- One submission did not support Gaff Lane and suggested instead Steel Lane.
- Five submissions supported Gaff Lane.

Central and Morton are already in use within a five kilometre radius of the laneway, which does not comply with the requirements outlined in the mandatory Naming Rules for Places in Victoria (*Naming Principle 4 – Ensuring Names are not Duplicated*).

Magpie Lane has been submitted to recognise an informal or colloquial name of the laneway named by members of the local community due to the resident population of Magpies who live there.

### **9.3.2**

(cont)

Steel Lane has been submitted in recognition of Janet Muir Gaff (nee Steel) and additional members of the same Steel family, namely Frances Steel (nee Sanders). Frances Sanders married Janet Muir Gaff's brother Archibald and they lived in the area of Gordon Crescent for many years, in one of the original Victorian era Blackburn Model Township homes. Frances Steel was very community minded and amongst other achievements built the Blackburn Private Hospital (now 1 Gordon Crescent Blackburn) in 1922 and was responsible for the establishment of the First Blackburn Scout Group.

#### **FINANCIAL IMPLICATIONS**

There are no financial implications flowing from the preparation of this report.

#### **POLICY IMPLICATIONS**

It is vital that all properties in the municipality have an identifiable property address, in order to locate and to properly address correspondence for property owners/occupiers. In carrying out this responsibility, Council will ensure that due regard is given to the 12 general (naming) principles of the Office of Geographic Names.

### 9.3.2 (cont)

## Appendix A – extract of Ordinary Council Minutes 27 May 2019

### 9.3.8 Proposal to name unnamed right of way abutting 3 Clarke Street and the rear of 7-19 Gordon Crescent, Blackburn

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#### SUMMARY

*The purpose of this report is to seek Council endorsement to initiate community consultation on a proposal to name an unnamed right of way, in order to provide a property address to a new lot, created from a recently approved two lot subdivision, which abuts the right of way.*

#### COUNCIL RESOLUTION

Moved by Cr Massoud, Seconded by Cr Munroe

#### *That Council:*

1. *Endorse the name "Gaff Lane" for the purposes of community consultation on its proposal to name the right of way abutting 3 Clarke Street and the rear of 7-19 Gordon Crescent, Blackburn.*
2. *Receive a further report, following the completion of the community consultation process.*

**CARRIED UNANIMOUSLY**

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#### BACKGROUND

The property owner of 7 Gordon Crescent, Blackburn contacted Council in December 2018, seeking to have the right of way abutting the rear of his property named.

The request for naming, stems from a VCAT decision in August 2018, which granted a permit that allows "Buildings and works to extend a dwelling when there are two dwellings on the lot, subdivide land into two lots and removal of vegetation".

As the VCAT decision provides for the subdivision of the land into two lots, with one lot abutting the right of way without access to Gordon Crescent, the new lot will require the assignment of a property address.

#### DISCUSSION

Council has the power to name roads, subject to having due regard to the naming rules provided under the Geographic Place Names Act 1998.

The naming rules are guided by the following 12 general principles:

1. Ensuring public safety;
2. Recognising the public interest (both in the short and long term);
3. Linking the name to place (relevant to the local area);
4. Ensuring names are not duplicated;
5. Names must not be discriminatory;
6. Recognition and use of aboriginal languages in naming;
7. Dual names (not applicable to roads);
8. Using commemorative names (to commemorate an event, person or place);
9. Using commercial and business names (not to be used);
10. Language;
11. Directional names to be avoided; and
12. Assigning extent to a road, feature or locality.

The 12 general principles are designed to ensure that no ambiguity, confusion, errors or discrimination results from any naming, renaming or boundary change process.

### 9.3.2 (cont)

## Appendix A – extract of Ordinary Council Minutes 27 May 2019

### 9.3.8 (cont)

Integral to all naming processes, is the importance of community consultation. In order to identify some naming options, Council officers have made contact with the Whitehorse Historical Society and the Wurundjeri Cultural Heritage Aboriginal Corporation. To date, only the Whitehorse Historical Society has submitted three naming suggestions:

1. Janet Muir Gaff (nee Steel) (1860-1940) was a nurse in World War 1, who helped soldiers in the trenches keep warm by having rabbit skin vests made for them. Janet organised for rabbits to be sent to the UK, where the skins were made into vests for the soldiers.
2. James Cowley Morgan Fischer (1832-1913) was the leader of a sect known as the Fisherites and lived in Nunawading.
3. A number of the streets in the area have names of Generals.

Council officers carried out further research on the first two naming suggestions and found that Janet Muir Gaff and her family had a link with Gordon Crescent, Blackburn. A review of historical information has confirmed that the Steel family including Janet Muir Gaff and her young son, migrated to Australia in late 1891, from Glasgow Scotland. The Steel family settled in a large family home named Achnar in Gordon Crescent, Blackburn.

Janet Muir Gaff used the family home in Blackburn as a base, and worked as a nurse in Warracknabeal and Willaura, in western Victoria. In August 1915, Janet joined the Australian Army Nursing Service and worked for 12 months at the No 5 Australian General Hospital in St Kilda Road before leaving Australia to nurse in the Sea Transport Service.

Janet returned to Australia in 1919 and moved back into the family home with two sisters and a brother, in Gordon Crescent, Blackburn. In the early 1920s, the family moved to Oxford Street, Box Hill and in 1925 transferred to Rose Street, Box Hill. The Rose Street home, became the permanent home of Janet and her two sisters, until Janet's death on 7 September 1940.

Given the strong link and connection that Janet Muir Gaff had with Gordon Crescent, Blackburn; it is recommended that the name "Gaff Lane" be endorsed as Council's preferred name for the un-named right of way at the rear of properties fronting onto Gordon Crescent. This is an opportunity to again, link a name to a place and thus make the naming more meaningful. A location map of the subject right of way is provided as [Appendix 1](#).

### CONSULTATION

Council officers made contact with the Whitehorse Historical Society and the Wurundjeri Cultural Heritage Aboriginal Corporation to seek naming suggestions for the un-named lane.

At the time of preparing this report, the Whitehorse Historical Society had submitted three naming suggestions, but even after a further follow up, no response had been received from the Wurundjeri Cultural Heritage Aboriginal Corporation.

Council officers have made concerted efforts, but have not been successful in locating any living descendants of the late Janet Muir Gaff, in order to obtain family consent for the use of the name "Gaff" in Council's street naming proposal. Given the situation, further advice has been sought from the Office of Geographic Names and Council can proceed subject to including text in a public notice noting that Council has been unable to locate existing family members to seek permission to use the proposed name and calls for consent from the family or request family contact details from the community.

### 9.3.2 (cont)

#### Appendix A – extract of Ordinary Council Minutes 27 May 2019

### 9.3.8 (cont)

#### FINANCIAL IMPLICATIONS

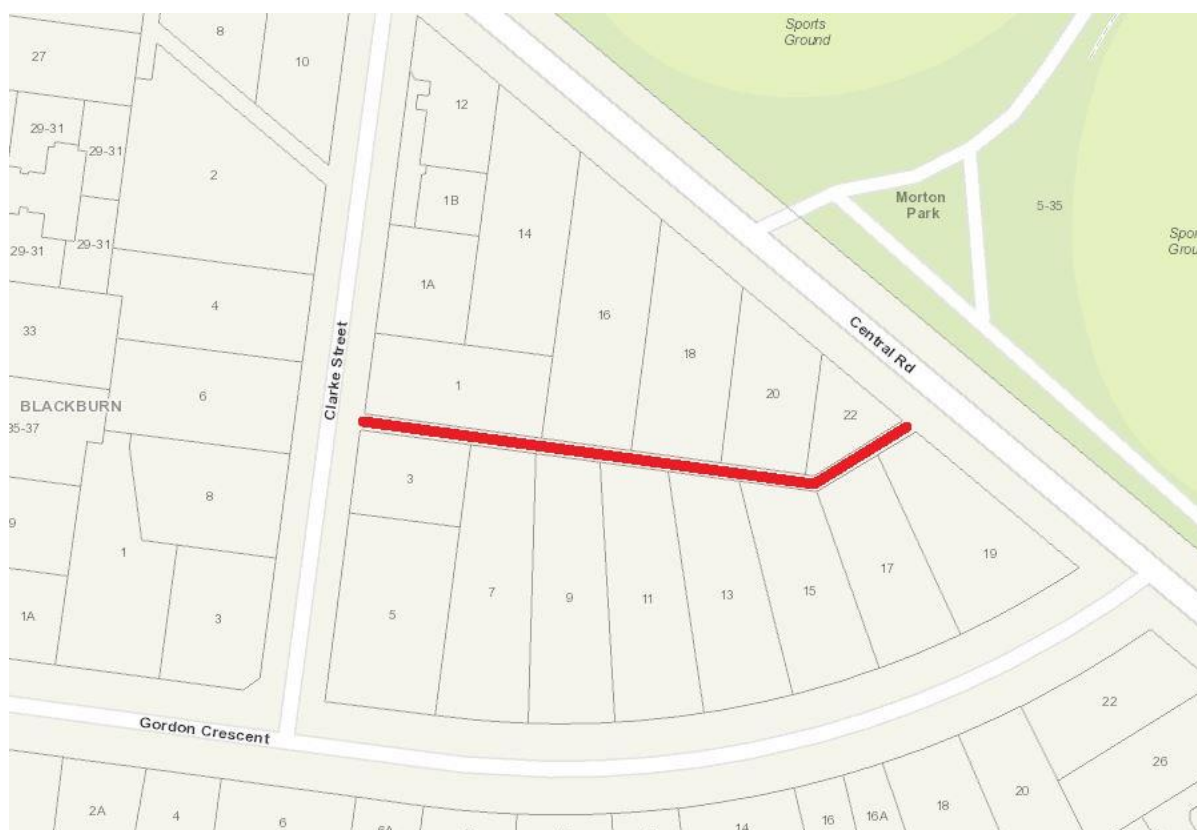
There are no financial implications flowing from the preparation of this report.

#### POLICY IMPLICATIONS

It is vital that all properties in the municipality have an identifiable property address, in order to locate and to properly address correspondence for property owners/occupiers. In carrying out this responsibility, Council will ensure that due regard is given to the 12 general (naming) principles of the Office of Geographic Names.

#### Site Map of Unnamed Right of Way (highlighted red)

Abutting 3 Clarke Street and the rear of 7-19 Gordon Crescent, Blackburn



### 9.3.3 Delegated Decisions July 2019

#### SUMMARY

*The following activity was undertaken by officers under delegated authority during July 2019.*

#### COUNCIL RESOLUTION

Moved by Cr Massoud, Seconded by Cr Cutts

***That the report of decisions made by officers under Instruments of Delegation for the month of July 2019 be noted.***

#### CARRIED UNANIMOUSLY

| DELEGATION                         | FUNCTION                                                     | Number for July 2018 | Number for July 2019 |
|------------------------------------|--------------------------------------------------------------|----------------------|----------------------|
| Planning and Environment Act 1987  | Delegated Decisions                                          | 144                  | 114                  |
|                                    | Strategic Planning Decisions                                 | Nil                  | Nil                  |
| Telecommunications Act 1997        |                                                              | Nil                  | Nil                  |
| Subdivision Act 1988               |                                                              | 21                   | 29                   |
| Gaming Control Act 1991            |                                                              | Nil                  | Nil                  |
| Building Act 1993                  | Dispensations & Applications to Building Control Commission  | 73                   | 57                   |
| Liquor Control Reform Act 1998     | Objections and Prosecutions                                  | 1                    | 1                    |
| Food Act 1984                      | Food Act Orders                                              | 4                    | 2                    |
| Public Health & Wellbeing Act 2008 | Improvement / Prohibition Notices                            | 6                    | 2                    |
| Local Government Act 1989          | Temporary Rd. Closures                                       | 5                    | 1                    |
| Other Delegations                  | CEO Signed Contracts between \$150,000 - \$750,000           | 1                    | 5                    |
|                                    | Property Sales and Leases                                    | 11                   | 13                   |
|                                    | Documents to which Council seal affixed                      | 2                    | 2                    |
|                                    | Vendor Payments                                              | 1259                 | 1423                 |
|                                    | Parking Amendments                                           | 12                   | 7                    |
|                                    | Parking Infringements written off (not able to be collected) | 234                  | 336                  |



### 9.3.3

(cont)

#### DELEGATED DECISIONS MADE ON PLANNING APPLICATIONS JULY 2019

*All decisions are the subject of conditions which July in some circumstances alter the use of development approved, or specific grounds of refusal is an application is not supported.*

| Appl No     | Date     | Decision           | Street Address                                  | Ward        | Proposed Use or Development                                                                                                                   | Application Type               |
|-------------|----------|--------------------|-------------------------------------------------|-------------|-----------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|
| WH/2019/362 | 18-07-19 | Application Lapsed | 730 Canterbury Road<br>Surrey Hills Vic<br>3127 | Riversdale  | Buildings and works for the construction of a new fence including associated buildings and works within 4 metres of protected SLO9 trees      | VicSmart - General Application |
| WH/2019/462 | 15-07-19 | Application Lapsed | 3 Boongarry Avenue<br>Blackburn Vic<br>3130     | Central     | Installation of a pool and pool fence                                                                                                         | VicSmart - General Application |
| WH/2019/491 | 23-07-19 | Application Lapsed | 24 Bishop Street<br>Box Hill Vic<br>3128        | Elgar       | 2 lot subdivision                                                                                                                             | Subdivision                    |
| WH/2019/87  | 29-07-19 | Application Lapsed | 2 Mount Pleasant Road<br>Nunawading Vic<br>3131 | Springfield | Construction of five (5) dwellings comprising four (4) three storey dwellings and one (1) double storey dwelling and associated tree removal. | Multiple Dwellings             |

**9.3.3**  
(cont)

| <b>Appl No</b> | <b>Date</b> | <b>Decision</b>                   | <b>Street Address</b>                    | <b>Ward</b> | <b>Proposed Use or Development</b>                                                                                                                                                                                                                                                                                                                                                                                                | <b>Application Type</b> |
|----------------|-------------|-----------------------------------|------------------------------------------|-------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|
| WH/2012/146/H  | 10-07-19    | Delegate Approval - S72 Amendment | 105/712 Station Street Box Hill Vic 3128 | Elgar       | Section 72 Amendment to "Development of a nine (9) storey building plus basement car park, use for office, licensed food and drink premises (café), shop (Beauty Salon), and convenience shop, access to a Road Zone Category 1, reduction in the parking requirements of Clause 52.06 and waiver of loading bay requirements at Clause 52.07" to allow for use of land for the purpose of an office in lieu of convenience store | Permit Amendment        |
| WH/2014/567/B  | 09-07-19    | Delegate Approval - S72 Amendment | 88 Dorking Road Box Hill North Vic 3129  | Elgar       | Buildings and works within 4m of a protected tree in SLO9                                                                                                                                                                                                                                                                                                                                                                         | Permit Amendment        |
| WH/2014/695/A  | 24-07-19    | Delegate Approval - S72 Amendment | 4 Alice Street Burwood East Vic 3151     | Morack      | Construction of eight (8) double storey dwellings and works within 4 metres of a protected tree                                                                                                                                                                                                                                                                                                                                   | Permit Amendment        |

**9.3.3**  
(cont)

| <b>Appl No</b> | <b>Date</b> | <b>Decision</b>                   | <b>Street Address</b>                      | <b>Ward</b> | <b>Proposed Use or Development</b>                                                                                                                                                             | <b>Application Type</b> |
|----------------|-------------|-----------------------------------|--------------------------------------------|-------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|
| WH/2015/1070/A | 12-07-19    | Delegate Approval - S72 Amendment | 151 Highbury Road<br>Burwood Vic 3125      | Riversdale  | Construction of two double storey dwellings and the alteration of access to a road in a Road Zone, Category 1                                                                                  | Permit Amendment        |
| WH/2015/25/B   | 23-07-19    | Delegate Approval - S72 Amendment | 22-24 Blackburn Road<br>Blackburn Vic 3130 | Central     | Construction of a multi storey building for retail and residential uses, reduction in car parking, waiver of loading facilities, and alteration of access to a road in a Road Zone, Category 1 | Multiple Dwellings      |
| WH/2015/715/F  | 15-07-19    | Delegate Approval - S72 Amendment | 12-14 Nelson Road Box Hill<br>Vic 3128     | Elgar       | Amendment to the plans for internal alterations (consolidation of units) and addition of a south-facing window at level 6 of the approved building.                                            | Permit Amendment        |
| WH/2015/732/B  | 10-07-19    | Delegate Approval - S72 Amendment | 7 Inverness Avenue<br>Burwood Vic 3125     | Riversdale  | Construction of four double storey dwellings                                                                                                                                                   | Permit Amendment        |
| WH/2016/1084/A | 10-07-19    | Delegate Approval - S72 Amendment | 116 Mahoneys Road<br>Forest Hill Vic 3131  | Central     | Three new double storey dwellings                                                                                                                                                              | Permit Amendment        |

**9.3.3**  
(cont)

| Appl No        | Date     | Decision                          | Street Address                                 | Ward        | Proposed Use or Development                                                                                                                                                                                                  | Application Type |
|----------------|----------|-----------------------------------|------------------------------------------------|-------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|
| WH/2016/1143/A | 10-07-19 | Delegate Approval - S72 Amendment | 78 Middleborough Road<br>Burwood East Vic 3151 | Riversdale  | Development of two (six storey) apartment buildings and associated reduction of car parking requirements and alteration of access to a road in a Road Zone Category 1                                                        | Permit Amendment |
| WH/2016/1173/A | 01-07-19 | Delegate Approval - S72 Amendment | 78 Middleborough Road<br>Burwood East Vic 3151 | Riversdale  | Development of a (six storey) apartment building and alteration of access to a road in a Road Zone Category 1                                                                                                                | Permit Amendment |
| WH/2016/456/F  | 03-07-19 | Delegate Approval - S72 Amendment | 31-39 Norcal Road<br>Nunawading Vic 3131       | Springfield | Buildings and works for a warehouse development , use of the land for a food and drink premises and offices, internally illuminated signage, reduction in the standard car parking requirement and native vegetation removal | Permit Amendment |

**9.3.3**  
(cont)

| <b>Appl No</b> | <b>Date</b> | <b>Decision</b>                   | <b>Street Address</b>                          | <b>Ward</b> | <b>Proposed Use or Development</b>                                                                                                                                                                                          | <b>Application Type</b> |
|----------------|-------------|-----------------------------------|------------------------------------------------|-------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|
| WH/2016/456/G  | 03-07-19    | Delegate Approval - S72 Amendment | 31-37 Norcal Road<br>Nunawading Vic 3131       | Springfield | Buildings and works for a warehouse development, use of the land for a food and drink premises and offices, internally illuminated signage, reduction in the standard car parking requirement and native vegetation removal | Permit Amendment        |
| WH/2016/456/H  | 03-07-19    | Delegate Approval - S72 Amendment | 44/31-37 Norcal Road<br>Nunawading Vic 3131    | Springfield | Buildings and works for a warehouse development, use of the land for a food and drink premises and offices, internally illuminated signage, reduction in the standard car parking requirement and native vegetation removal | Permit Amendment        |
| WH/2016/793/A  | 16-07-19    | Delegate Approval - S72 Amendment | 11 Bronte Avenue<br>Burwood Vic 3125           | Riversdale  | Construction of three double storey dwellings                                                                                                                                                                               | Permit Amendment        |
| WH/2017/117/A  | 10-07-19    | Delegate Approval - S72 Amendment | 78 Middleborough Road<br>Burwood East Vic 3151 | Riversdale  | Development of a six (6) storey apartment building comprising 70 dwellings and ground floor food and drink premises                                                                                                         | Permit Amendment        |

**9.3.3**  
(cont)

| Appl No       | Date     | Decision                          | Street Address                              | Ward        | Proposed Use or Development                                                                                                                                                                                                                                                                         | Application Type |
|---------------|----------|-----------------------------------|---------------------------------------------|-------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|
| WH/2018/100/A | 30-07-19 | Delegate Approval - S72 Amendment | 274-278 Whitehorse Road Nunawading Vic 3131 | Springfield | Buildings and works associated with additions to the redevelopment of the existing restricted retail premises, use of the land as a food and drink premises, a reduction in carparking requirements, alterations to access to a road zone Category 1 and display of business identification signage | Permit Amendment |
| WH/2018/23/A  | 15-07-19 | Delegate Approval - S72 Amendment | 2A Laughlin Avenue Nunawading Vic 3131      | Springfield | Use and development of two additional independent living units as part of the existing retirement village including associated buildings and works within 4 metres of protected SLO9 trees and SLO9 tree removal                                                                                    | Permit Amendment |

**9.3.3**  
(cont)

| Appl No       | Date     | Decision                          | Street Address                                   | Ward        | Proposed Use or Development                                                                                                                                                                                          | Application Type |
|---------------|----------|-----------------------------------|--------------------------------------------------|-------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|
| WH/2018/652/A | 26-07-19 | Delegate Approval - S72 Amendment | 63 Katrina Street<br>Blackburn<br>North Vic 3130 | Central     | Amendment to plans for planning permit WH/2018/652 ( issued for the Construction of a three storey mixed-use building comprising one shop and one dwelling) to include alterations to northern second floor balcony. | Permit Amendment |
| WH/2019/1/A   | 15-07-19 | Delegate Approval - S72 Amendment | 6/23A Cook Road Mitcham<br>Vic 3132              | Springfield | Buildings and works for the construction of a first-floor mezzanine and storage area and use of the land for car sales                                                                                               | Permit Amendment |
| WH/2019/267/A | 15-07-19 | Delegate Approval - S72 Amendment | Shop 68/1 Main Street<br>Box Hill Vic 3128       | Elgar       | new shop frontage and display of illuminated business identification signage                                                                                                                                         | Permit Amendment |
| WH/2017/814/A | 22-07-19 | Delegate NOD - S72 Amendment      | 46 Victoria Crescent<br>Mont Albert<br>Vic 3127  | Elgar       | The construction of two new dwellings                                                                                                                                                                                | Permit Amendment |

**9.3.3**  
(cont)

| Appl No      | Date     | Decision            | Street Address                             | Ward       | Proposed Use or Development                                                                                                                                                                                                                                                                                                                                   | Application Type    |
|--------------|----------|---------------------|--------------------------------------------|------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|
| WH/2018/1290 | 03-07-19 | Delegate NOD Issued | 339-347 Warrigal Road Burwood Vic 3125     | Riversdale | To construct a building or carry out works, extend an existing Funeral Parlour. Buildings and works within 4 metres of vegetation. Display one internally illuminated business identification pylon sign, display one direction sign, Display two above-verandah signs, one above verandah business identification sign and one business identification sign. | Residential (Other) |
| WH/2018/629  | 11-07-19 | Delegate NOD Issued | 22 Simmons Street Box Hill North Vic 3129  | Elgar      | Development of the land for the construction of two (2) double storey dwellings, including associated buildings and works within 4 metres of protected SLO9 trees                                                                                                                                                                                             | Multiple Dwellings  |
| WH/2018/789  | 11-07-19 | Delegate NOD Issued | 10 Fairlane Court Blackburn North Vic 3130 | Central    | Construction of Two (2) Double Storey Dwellings on a Lot & Removal of Vegetation                                                                                                                                                                                                                                                                              | Multiple Dwellings  |



**9.3.3**  
(cont)

| <b>Appl No</b> | <b>Date</b> | <b>Decision</b>        | <b>Street Address</b>                     | <b>Ward</b> | <b>Proposed Use or Development</b>                                                                                                                                  | <b>Application Type</b> |
|----------------|-------------|------------------------|-------------------------------------------|-------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|
| WH/2019/103    | 25-07-19    | Delegate NOD Issued    | 10 Longstaff Court Vermont Vic 3133       | Morack      | Buildings and works within 4 metres of protected SLO8 tree and lopping of SLO8 tree located within 28 the Mews, Vermont                                             | Special Landscape Area  |
| WH/2019/233    | 24-07-19    | Delegate NOD Issued    | 256 Morack Road Vermont South VIC 3133    | Morack      | Construction of two (2) double storey dwellings with associated tree removal and buildings and works within 4 metres of protected trees                             | Multiple Dwellings      |
| WH/2019/401    | 10-07-19    | Delegate NOD Issued    | 12-14 Nelson Road Box Hill Vic 3128       | Elgar       | Selling and consumption of liquor (Restaurant and cafe licence - Tenancy 1)                                                                                         | Liquor Licence          |
| WH/2018/1045   | 23-07-19    | Delegate Permit Issued | 25 Byron Street Box Hill South Vic 3128   | Riversdale  | Development of the land for two (2) double storey dwellings, including associated buildings and works within 4 metres of protected SLO9 trees and SLO9 tree removal | Multiple Dwellings      |
| WH/2018/1245   | 08-07-19    | Delegate Permit Issued | 45 Shannon Street Box Hill North Vic 3129 | Elgar       | Construction of three double storey dwellings and removal of vegetation                                                                                             | Multiple Dwellings      |

**9.3.3**  
(cont)

| <b>Appl No</b> | <b>Date</b> | <b>Decision</b>        | <b>Street Address</b>                                | <b>Ward</b> | <b>Proposed Use or Development</b>                                                                                                                                                                                                         | <b>Application Type</b> |
|----------------|-------------|------------------------|------------------------------------------------------|-------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|
| WH/2018/1271   | 04-07-19    | Delegate Permit Issued | 8 Victoria Crescent<br>Mont Albert<br>Vic 3127       | Elgar       | Works in a Heritage Overlay Area, comprising the construction of a double storey dwelling at the rear of the existing dwelling, extension of the existing dwelling, buildings and works within 4 metres of vegetation, vegetation removal. | Multi Dwelling and Use  |
| WH/2018/1317   | 08-07-19    | Delegate Permit Issued | 46 Betula Avenue<br>Vermont Vic 3133                 | Springfield | Construction of Two (2) Double Storey Dwellings and Vegetation Removal                                                                                                                                                                     | Multiple Dwellings      |
| WH/2018/1332   | 27-07-19    | Delegate Permit Issued | 11 Francesca Street<br>Mont Albert<br>North Vic 3129 | Elgar       | Buildings and works for the construction of four double storey dwellings, associated tree removal, buildings and works within 4 metres of protected trees (SLO9)                                                                           | Multiple Dwellings      |
| WH/2018/1345   | 11-07-19    | Delegate Permit Issued | 15 William Street<br>Box Hill Vic 3128               | Elgar       | Development of the land for two (2) double storey dwellings including associated buildings and works within 4 metres of protected trees and SLO9 tree removal                                                                              | Multiple Dwellings      |

**9.3.3**  
(cont)

| <b>Appl No</b> | <b>Date</b> | <b>Decision</b>        | <b>Street Address</b>                           | <b>Ward</b> | <b>Proposed Use or Development</b>                                                                                                                                    | <b>Application Type</b> |
|----------------|-------------|------------------------|-------------------------------------------------|-------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|
| WH/2018/662    | 16-07-19    | Delegate Permit Issued | 69 Blackburn Road<br>Blackburn Vic 3130         | Central     | Construction of two new double storey dwellings and associated tree removal and alteration of access to a road in a Road Zone Category 1                              | Multiple Dwellings      |
| WH/2018/705    | 09-07-19    | Delegate Permit Issued | 24 Betula Avenue<br>Nunawading Vic 3131         | Springfield | Development of the land for the construction of four double storey dwellings, with associated tree removal and buildings and works within 4 metres of protected trees | Multiple Dwellings      |
| WH/2019/106    | 15-07-19    | Delegate Permit Issued | 23 Florence Road<br>Surrey Hills Vic 3127       | Riversdale  | Buildings and works within 4m of significant trees                                                                                                                    | Special Landscape Area  |
| WH/2019/172    | 15-07-19    | Delegate Permit Issued | 15 Hawkins Avenue<br>Mont Albert North Vic 3129 | Elgar       | Removal of Trees                                                                                                                                                      | Special Landscape Area  |
| WH/2019/174    | 25-07-19    | Delegate Permit Issued | 16 Grace Street<br>Mont Albert Vic 3127         | Elgar       | Tree removal (5 trees)                                                                                                                                                | Special Landscape Area  |
| WH/2019/184    | 24-07-19    | Delegate Permit Issued | 1/17 Walker Avenue<br>Mitcham Vic 3132          | Springfield | Extension to an existing dwelling on a lot less than 500 square meters and within 4 metres of protected vegetation.                                                   | Single Dwelling < 300m2 |
| WH/2019/20     | 17-07-19    | Delegate Permit Issued | 8 Alfred Street<br>Blackburn Vic 3130           | Central     | Use and development of a warehouse with ancillary office space                                                                                                        | Industrial              |

**9.3.3**  
(cont)

| <b>Appl No</b> | <b>Date</b> | <b>Decision</b>        | <b>Street Address</b>                        | <b>Ward</b> | <b>Proposed Use or Development</b>                                                                                              | <b>Application Type</b>        |
|----------------|-------------|------------------------|----------------------------------------------|-------------|---------------------------------------------------------------------------------------------------------------------------------|--------------------------------|
| WH/2019/220    | 22-07-19    | Delegate Permit Issued | 75 Laburnum Street<br>Blackburn VIC 3130     | Central     | To subdivide the title to create five lots and common property                                                                  | Subdivision                    |
| WH/2019/255    | 04-07-19    | Delegate Permit Issued | 1/17 Burnt Street<br>Nunawading Vic 3131     | Springfield | Removal of Trees                                                                                                                | Special Landscape Area         |
| WH/2019/289    | 29-07-19    | Delegate Permit Issued | 35 Twyford Street<br>Box Hill North Vic 3129 | Elgar       | 2 lot subdivision                                                                                                               | VicSmart - Subdivision         |
| WH/2019/320    | 01-07-19    | Delegate Permit Issued | 13 Elder Street<br>Blackburn Vic 3130        | Central     | Buildings and works within 4 metres of a protected SLO9 tree                                                                    | VicSmart - General Application |
| WH/2019/327    | 04-07-19    | Delegate Permit Issued | 25 Thomas Street<br>Mitcham Vic 3132         | Springfield | Buildings and works within 4m of vegetation & alteration to an existing dwelling (construction a veranda) in a heritage overlay | Heritage                       |
| WH/2019/331    | 08-07-19    | Delegate Permit Issued | 28 Elder Street<br>Blackburn VIC 3130        | Central     | Buildings and works within 4 metres of SLO9 protected trees                                                                     | Special Landscape Area         |
| WH/2019/353    | 10-07-19    | Delegate Permit Issued | 1075 Whitehorse Road<br>Box Hill Vic 3128    | Elgar       | Buildings and works to provide two (2) shipping containers, deck and canopy roof                                                | Education                      |
| WH/2019/373    | 18-07-19    | Delegate Permit Issued | 49 Betula Avenue<br>Vermont VIC 3133         | Springfield | Use of land for motor repairs, car sales and sales of automotive parts.                                                         | Change of Use                  |
| WH/2019/409    | 12-07-19    | Delegate Permit Issued | 14 Haydn Street<br>Blackburn Vic 3130        | Central     | Removal of two protected trees in the Significant Landscape Overlay Schedule 2                                                  | Special Landscape Area         |

**9.3.3**  
(cont)

| <b>Appl No</b> | <b>Date</b> | <b>Decision</b>        | <b>Street Address</b>                                      | <b>Ward</b> | <b>Proposed Use or Development</b>                                                                                 | <b>Application Type</b> |
|----------------|-------------|------------------------|------------------------------------------------------------|-------------|--------------------------------------------------------------------------------------------------------------------|-------------------------|
| WH/2019/420    | 18-07-19    | Delegate Permit Issued | 18 Lawford Street<br>Box Hill North<br>Vic 3129            | Elgar       | 2 lot subdivision                                                                                                  | Subdivision             |
| WH/2019/519    | 08-07-19    | Delegate Permit Issued | 30 Cosgrove Street<br>Vermont Vic<br>3133                  | Morack      | Two lot subdivision                                                                                                | Subdivision             |
| WH/2019/533    | 16-07-19    | Delegate Permit Issued | 34 Jessie Street<br>Blackburn North<br>Vic 3130            | Central     | Removal of 1 tree (No T7)                                                                                          | VicSmart - Tree         |
| WH/2019/534    | 16-07-19    | Delegate Permit Issued | 34 Jessie Street<br>Blackburn North<br>Vic 3130            | Central     | Remove a tree (No T9)                                                                                              | VicSmart - Tree         |
| WH/2019/536    | 16-07-19    | Delegate Permit Issued | 34 Jessie Street<br>Blackburn North<br>Vic 3130            | Central     | Removal of a tree (No T2)                                                                                          | VicSmart - Tree         |
| WH/2019/558    | 03-07-19    | Delegate Permit Issued | 6 Ian Crescent<br>Mitcham Vic<br>3132                      | Springfield | Removal of one tree                                                                                                | VicSmart - Tree         |
| WH/2019/564    | 02-07-19    | Delegate Permit Issued | 15 Summit Road<br>Burwood Vic<br>3125                      | Riversdale  | 3 lot subdivision                                                                                                  | Subdivision             |
| WH/2019/565    | 16-07-19    | Delegate Permit Issued | 1201-1205<br>Riversdale Road<br>Box Hill South<br>VIC 3128 | Riversdale  | Buildings and works to alter timber sills, replace existing windows and doors and install condenser unit           | Heritage                |
| WH/2019/567    | 01-07-19    | Delegate Permit Issued | 9 Elonara Road<br>Vermont South<br>VIC 3133                | Morack      | Removal of one tree                                                                                                | VicSmart - Tree         |
| WH/2019/574    | 02-07-19    | Delegate Permit Issued | 11 Johnston Street<br>Burwood Vic<br>3125                  | Riversdale  | Three lot subdivision                                                                                              | Subdivision             |
| WH/2019/584    | 01-07-19    | Delegate Permit Issued | 5 Cairo Road<br>Mont Albert<br>North Vic 3129              | Elgar       | Removal of one (1) tree                                                                                            | VicSmart - Tree         |
| WH/2019/599    | 19-07-19    | Delegate Permit Issued | 62 Relowe Crescent<br>Mont Albert<br>North Vic 3129        | Elgar       | Three lot subdivision                                                                                              | Subdivision             |
| WH/2019/60     | 19-07-19    | Delegate Permit Issued | 2 Loraine Avenue<br>Box Hill North<br>Vic 3129             | Elgar       | Removal of three (3) protected trees, together with buildings and works within 4 metres of protected trees (SLO9). | Special Landscape Area  |

**9.3.3**  
(cont)

| <b>Appl No</b> | <b>Date</b> | <b>Decision</b>        | <b>Street Address</b>                         | <b>Ward</b> | <b>Proposed Use or Development</b>                                   | <b>Application Type</b>        |
|----------------|-------------|------------------------|-----------------------------------------------|-------------|----------------------------------------------------------------------|--------------------------------|
| WH/2019/600    | 11-07-19    | Delegate Permit Issued | 6 Alwyn Court Mitcham Vic 3132                | Springfield | Removal of one (1) Melaleuca styphelioides (Prickly Paperbark) tree. | VicSmart - Tree                |
| WH/2019/608    | 01-07-19    | Delegate Permit Issued | 24 Dalmor Avenue Mitcham Vic 3132             | Springfield | Removal of one (1) tree                                              | VicSmart - Tree                |
| WH/2019/609    | 01-07-19    | Delegate Permit Issued | 24 Dalmor Avenue Mitcham Vic 3132             | Springfield | Removal of one (1) tree                                              | VicSmart - Tree                |
| WH/2019/611    | 01-07-19    | Delegate Permit Issued | 24 Dalmor Avenue Mitcham Vic 3132             | Springfield | Removal of one (1) tree                                              | VicSmart - Tree                |
| WH/2019/615    | 22-07-19    | Delegate Permit Issued | 33 Landale Street Box Hill Vic 3128           | Elgar       | Buildings and works to construct a front gate                        | VicSmart - General Application |
| WH/2019/617    | 02-07-19    | Delegate Permit Issued | 2 Grigg Avenue Vermont Vic 3133               | Springfield | Two lot subdivision                                                  | VicSmart - Subdivision         |
| WH/2019/624    | 22-07-19    | Delegate Permit Issued | 20 Orchard Grove Blackburn South Vic 3130     | Central     | Removal of one tree                                                  | VicSmart - Tree                |
| WH/2019/626    | 10-07-19    | Delegate Permit Issued | 16 Rishon Avenue Blackburn South Vic 3130     | Riversdale  | Removal of one (1) SLO9 tree                                         | VicSmart - Tree                |
| WH/2019/628    | 29-07-19    | Delegate Permit Issued | 221 Highbury Road Burwood Vic 3125            | Riversdale  | Six lot subdivision                                                  | Subdivision                    |
| WH/2019/634    | 02-07-19    | Delegate Permit Issued | 45 Great Western Drive Vermont South Vic 3133 | Morack      | Two lot subdivision                                                  | Subdivision                    |
| WH/2019/636    | 04-07-19    | Delegate Permit Issued | 17 Lynette Street Nunawading Vic 3131         | Springfield | Buildings and works and within 4 metres of protected vegetation      | VicSmart - General Application |
| WH/2019/640    | 22-07-19    | Delegate Permit Issued | 92B Railway Road Blackburn Vic 3130           | Central     | Construct and Carry Out Works (DDO8)                                 | VicSmart - General Application |
| WH/2019/645    | 17-07-19    | Delegate Permit Issued | 4 Selwyn Street Blackburn Vic 3130            | Central     | Removal of one (1) Eucalyptus mannifera – Red Spotted Gum tree.      | VicSmart - Tree                |

**9.3.3**  
(cont)

| <b>Appl No</b> | <b>Date</b> | <b>Decision</b>        | <b>Street Address</b>                      | <b>Ward</b> | <b>Proposed Use or Development</b>                                            | <b>Application Type</b>        |
|----------------|-------------|------------------------|--------------------------------------------|-------------|-------------------------------------------------------------------------------|--------------------------------|
| WH/2019/646    | 18-07-19    | Delegate Permit Issued | 31 Denis Street Mitcham Vic 3132           | Springfield | Two lot subdivision                                                           | VicSmart - Subdivision         |
| WH/2019/648    | 11-07-19    | Delegate Permit Issued | 5 Eugenia Street Nunawading Vic 3131       | Springfield | Removal of one (1) SLO9 tree                                                  | VicSmart - Tree                |
| WH/2019/653    | 09-07-19    | Delegate Permit Issued | 68 Vanbrook Street Forest Hill Vic 3131    | Morack      | Two lot subdivision                                                           | Subdivision                    |
| WH/2019/656    | 09-07-19    | Delegate Permit Issued | 710A Whitehorse Road Mitcham Vic 3132      | Springfield | Two lot subdivision                                                           | VicSmart - Subdivision         |
| WH/2019/657    | 18-07-19    | Delegate Permit Issued | 385 Springfield Road Nunawading Vic 3131   | Springfield | Two lot subdivision                                                           | Subdivision                    |
| WH/2019/659    | 24-07-19    | Delegate Permit Issued | 16 Joyce Street Nunawading Vic 3131        | Springfield | Removal of one (1) Cupressus sempervirens – Italian Cypress tree.             | VicSmart - Tree                |
| WH/2019/661    | 22-07-19    | Delegate Permit Issued | 25 Sherwood Rise Vermont South Vic 3133    | Morack      | Construction of front fence in an overlay                                     | VicSmart - General Application |
| WH/2019/667    | 24-07-19    | Delegate Permit Issued | 4 Kerrimuir Street Box Hill North Vic 3129 | Elgar       | Construction of new front fence within 4 metres of a protected tree           | VicSmart - General Application |
| WH/2019/678    | 18-07-19    | Delegate Permit Issued | 8 Karen Street Box Hill North VIC 3129     | Elgar       | Two lot subdivision                                                           | VicSmart - Subdivision         |
| WH/2019/684    | 24-07-19    | Delegate Permit Issued | 25 Hibiscus Road Blackburn North Vic 3130  | Central     | Removal of one tree (tree 1)                                                  | VicSmart - Tree                |
| WH/2019/691    | 29-07-19    | Delegate Permit Issued | 87 Benwerrin Drive Burwood East Vic 3151   | Riversdale  | Two lot subdivision                                                           | Subdivision                    |
| WH/2019/696    | 30-07-19    | Delegate Permit Issued | 170 Station Street Box Hill South Vic 3128 | Riversdale  | Removal of one protected tree in the Significant Landscape Overlay Schedule 9 | VicSmart - Tree                |

**9.3.3**  
(cont)

| <b>Appl No</b> | <b>Date</b> | <b>Decision</b>                  | <b>Street Address</b>                            | <b>Ward</b> | <b>Proposed Use or Development</b>                                                                                                                              | <b>Application Type</b> |
|----------------|-------------|----------------------------------|--------------------------------------------------|-------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|
| WH/2019/655    | 11-07-19    | Delegate Permit Issued           | 3 Barbara Street Mont Albert North Vic 3129      | Elgar       | Tree removal                                                                                                                                                    | VicSmart - Tree         |
| WH/2019/700    | 24-07-19    | Delegate Permit Issued           | 6 Murra Street Burwood VIC 3125                  | Riversdale  | Removal of Vegetation within Significant Landscape Overlay - Schedule 9                                                                                         | VicSmart - Tree         |
| WH/2019/95     | 10-07-19    | Delegate Permit Issued           | 29 McCubbin Street Burwood VIC 3125              | Riversdale  | Construction of 3 dwellings and buildings and works within 4m of vegetation                                                                                     | Multiple Dwellings      |
| WH/2014/402/C  | 10-07-19    | Delegate Refusal - S72 Amendment | 2/481 Middleborough Road Box Hill North Vic 3129 | Elgar       | Construction three double storey dwellings                                                                                                                      | Permit Amendment        |
| WH/2017/1053   | 04-07-19    | Delegate Refusal Issued          | 10 Short Street Vermont Vic 3133                 | Springfield | Development of the land for four double storey dwellings, including associated buildings and works and tree removal.                                            | Multiple Dwellings      |
| WH/2018/1142   | 17-07-19    | Delegate Refusal Issued          | 9 Devon Drive Blackburn North VIC 3130           | Central     | Development of the land for two (2) double storey dwellings, including associated buildings and works within 4 metres of protected trees and SLO9 tree removal. | Multiple Dwellings      |
| WH/2018/1199   | 01-07-19    | Delegate Refusal Issued          | 108 Brunswick Road Mitcham Vic 3132              | Springfield | Construction of 3 double storey dwellings and tree removal                                                                                                      | Multiple Dwellings      |
| WH/2018/1416   | 19-07-19    | Delegate Refusal Issued          | 24 Bishop Street Box Hill Vic 3128               | Elgar       | Buildings and works within 4 metres of protected SLO9 trees and SLO9 tree removal                                                                               | Special Landscape Area  |



**9.3.3**  
(cont)

| <b>Appl No</b> | <b>Date</b> | <b>Decision</b>         | <b>Street Address</b>                                  | <b>Ward</b> | <b>Proposed Use or Development</b>                                                               | <b>Application Type</b>        |
|----------------|-------------|-------------------------|--------------------------------------------------------|-------------|--------------------------------------------------------------------------------------------------|--------------------------------|
| WH/2018/837    | 01-07-19    | Delegate Refusal Issued | 35 Hay Street<br>Box Hill South<br>Vic 3128            | Riversdale  | Construction of 9 double storey and triple storey town houses                                    | Multiple Dwellings             |
| WH/2019/572    | 04-07-19    | Delegate Refusal Issued | 1/65 Orchard Crescent<br>Mont Albert<br>North Vic 3129 | Elgar       | removal of tree                                                                                  | VicSmart - Tree                |
| WH/2019/573    | 04-07-19    | Delegate Refusal Issued | 1/65 Orchard Crescent<br>Mont Albert<br>North Vic 3129 | Elgar       | Removal of one (1) Eucalyptus camaldul-ensis River Red Gum tree.                                 | VicSmart - Tree                |
| WH/2019/579    | 08-07-19    | Delegate Refusal Issued | 33 Morloc Street Forest Hill<br>Vic 3131               | Springfield | Removal of one protected tree in the SLO9                                                        | VicSmart - Tree                |
| WH/2019/587    | 04-07-19    | Delegate Refusal Issued | 1/40 Hamilton Street Mont Albert<br>Vic 3127           | Elgar       | Buildings and works to externally paint an existing building and business identification signage | VicSmart - General Application |
| WH/2019/594    | 18-07-19    | Delegate Refusal Issued | 6 Nelson Road<br>Box Hill Vic 3128                     | Elgar       | removal of easement                                                                              | Subdivision                    |
| WH/2019/598    | 10-07-19    | Delegate Refusal Issued | 7 Tiller Street<br>Burwood East<br>Vic 3151            | Riversdale  | Removal of one tree                                                                              | VicSmart - Tree                |
| WH/2019/614    | 17-07-19    | Delegate Refusal Issued | 23 Ireland Street<br>Burwood Vic 3125                  | Riversdale  | Removal of a tree                                                                                | VicSmart - Tree                |
| WH/2019/622    | 15-07-19    | Delegate Refusal Issued | 4 Gidgee Court Forest Hill<br>Vic 3131                 | Morack      | Removal of one (1) Eucalyptus camaldul-ensis River Red Gumtree.                                  | VicSmart - Tree                |
| WH/2019/672    | 31-07-19    | Delegate Refusal Issued | 5 Haslemere Road Mitcham<br>Vic 3132                   | Springfield | Removal of one protected tree                                                                    | VicSmart - Tree                |
| WH/2019/619    | 04-07-19    | Withdrawn               | 1/65 Orchard Crescent<br>Mont Albert<br>North Vic 3129 | Elgar       | Removal of tree                                                                                  | VicSmart - Tree                |

### 9.3.3 (cont)

| Appl No      | Date     | Decision  | Street Address                         | Ward       | Proposed Use or Development                                                                                                                                          | Application Type               |
|--------------|----------|-----------|----------------------------------------|------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|
| WH/2019/638  | 11-07-19 | Withdrawn | 33 Landale Street Box Hill Vic 3128    | Elgar      | Buildings and works to construct a front gate                                                                                                                        | VicSmart - General Application |
| WH/2019/698  | 18-07-19 | Withdrawn | 11 Lexton Road Box Hill North Vic 3129 | Elgar      | Five lot subdivision                                                                                                                                                 | Subdivision                    |
| WH/2019/97   | 18-07-19 | Withdrawn | 658 Canterbury Road Vermont Vic 3133   | Morack     | Construction of Four Double Storey Dwellings                                                                                                                         | Multiple Dwellings             |
| WH/9999/39/A | 08-07-19 | Withdrawn | 14 Banksia Street Burwood Vic 3125     | Riversdale | Use of land for a Dance Studio (Indoor Recreation Facility) including an ancillary Cafe, and buildings and works for alterations and additions to the existing shops | Permit Amendment               |

#### BUILDING DISPENSATIONS/APPLICATIONS JULY 2019

| Address                               | Date     | Ward    | Result                 |
|---------------------------------------|----------|---------|------------------------|
| 100 Orchard Grove, Blackburn South    | 11-07-19 | Central | Consent Granted 76     |
| 13 Bridgeford Avenue, Blackburn North | 02-07-19 | Central | Consent Granted 79     |
| 19 Shafer Road, Blackburn North       | 17-07-19 | Central | Consent Granted 76     |
| 26 Kevin Avenue, Blackburn            | 15-07-19 | Central | Consent Granted 74     |
| 26 Patricia Road, Blackburn           | 11-07-19 | Central | Consent Granted 89     |
| 32-34 Main Street, Blackburn          | 12-07-19 | Central | Consent Granted 90     |
| 5 Lilac Court, Blackburn North        | 23-07-19 | Central | Consent Granted 74, 85 |
| 1 Orana Street, Blackburn             | 02-07-19 | Central | Consent Refused 80     |
| 100 Orchard Grove, Blackburn South    | 11-07-19 | Central | Consent Refused 79, 74 |
| 14 Heath Street, Blackburn            | 19-07-19 | Central | Consent Refused 89     |
| 19 Dixon Grove, Blackburn             | 22-07-19 | Central | Consent Refused 74     |
| 24 Gonyah Road, Blackburn North       | 05-07-19 | Central | Consent Refused 83, 74 |
| 33 Aldinga Street, Blackburn South    | 25-07-19 | Central | Consent Refused 89     |
| 44 Faulkner Street, Forest Hill       | 03-07-19 | Central | Consent Refused 79     |
| 18 Primula Street, Blackburn North    | 25-07-19 | Central | Withdrawn 73           |
| 1 Gracefield Drive, Box Hill North    | 11-07-19 | Elgar   | Consent Granted 79, 80 |
| 12 Chessell Street, Mont Albert North | 29-07-19 | Elgar   | Consent Granted 80     |
| 26 Tower Street, Surrey Hills         | 19-07-19 | Elgar   | Consent Granted 74     |
| 440 Belmore Road, Mont Albert North   | 12-07-19 | Elgar   | Consent Granted 74, 79 |
| 545-563 Station Street, Box Hill      | 12-07-19 | Elgar   | Consent Granted 116    |

### 9.3.3

(cont)

| Address                            | Date     | Ward        | Result                     |
|------------------------------------|----------|-------------|----------------------------|
| 14 Aspinall Road, Box Hill North   | 03-07-19 | Elgar       | Consent Refused 74         |
| 14 Wingrove Street, Forest Hill    | 01-07-19 | Morack      | Consent Granted 80         |
| 7 Cedar Court, Forest Hill         | 26-07-19 | Morack      | Consent Granted 74, 75, 79 |
| 16 Glenice Avenue, Blackburn South | 03-07-19 | Riversdale  | Consent Granted 74         |
| 2 Gareth Drive, Burwood East       | 15-07-19 | Riversdale  | Consent Granted 74         |
| 24 Grange Road, Blackburn South    | 18-07-19 | Riversdale  | Consent Granted 76, 79     |
| 33 Davis Street, Burwood East      | 03-07-19 | Riversdale  | Consent Granted 79         |
| 98 Roslyn Street, Burwood          | 03-07-19 | Riversdale  | Consent Granted 74         |
| 21 Faalen Street, Burwood          | 12-07-19 | Riversdale  | Consent Refused 80, 79, 75 |
| 24 Grange Road, Blackburn South    | 18-07-19 | Riversdale  | Consent Refused 74         |
| 6 Medhurst Street, Burwood East    | 12-07-19 | Riversdale  | Consent Refused 81         |
| 98 Roslyn Street, Burwood          | 05-07-19 | Riversdale  | Consent Refused 81, 82     |
| 10 Rosstrevor Crescent, Mitcham    | 03-07-19 | Springfield | Consent Granted 89         |
| 14 Shrewsbury Road, Nunawading     | 15-07-19 | Springfield | Consent Granted 79         |
| 15 Winifred Street, Nunawading     | 01-07-19 | Springfield | Consent Granted 79         |
| 16 Joyce Street, Nunawading        | 02-07-19 | Springfield | Consent Granted 79         |
| 17 Lynette Street, Nunawading      | 11-07-19 | Springfield | Consent Granted 89         |
| 38 Deakin Street, Mitcham          | 11-07-19 | Springfield | Consent Granted 79, 76     |
| 4 Davison Street, Mitcham          | 18-07-19 | Springfield | Consent Granted 79         |
| 426 Springfield Road, Mitcham      | 15-07-19 | Springfield | Consent Granted 74         |
| 46 Lucknow Street, Mitcham         | 12-07-19 | Springfield | Consent Granted 89, 92     |
| 64 Luckie Street, Nunawading       | 12-07-19 | Springfield | Consent Granted 74         |
| 6A Dawe Road, Mitcham              | 23-07-19 | Springfield | Consent Granted 79         |
| 28 Morden Court, Nunawading        | 11-07-19 | Springfield | Consent Refused 79         |
| 426 Springfield Road, Mitcham      | 15-07-19 | Springfield | Consent Refused 86         |

#### DELEGATED DECISIONS MADE ON STRATEGIC PLANNING MATTERS JULY 2019

Under the Planning and Environment Act 1987: Nil

#### REGISTER OF CONTRACTS SIGNED BY CEO DELEGATION JULY 2019

| Contract Number | Service                                                                          |
|-----------------|----------------------------------------------------------------------------------|
| 30089           | Specialist Statutory and Strategic Planning Advisory & Associated Services Panel |
| 30174           | Provision of Workers Compensation                                                |
| 30172           | Property Valuation Services                                                      |
| 30074           | Cleaning Services for Various Facilities                                         |
| 30158           | Specialised Training and Professional Development Consultant                     |

### 9.3.3

(cont)

#### REGISTER OF PROPERTY DOCUMENTS EXECUTED JULY 2019

| Property Address                                                         | Document Type                                            | Document Detail                                                                                                   |
|--------------------------------------------------------------------------|----------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------|
| <b>Leases</b>                                                            |                                                          |                                                                                                                   |
| 64 Jolimont Road, Forest Hill                                            | Lease                                                    | Residential Lease                                                                                                 |
| <b>Fire Services Property Levy (FSPL)</b>                                |                                                          |                                                                                                                   |
| Fire Services Property Levy - Compliance Certification                   | 2019/2020 Annual Return, 2018/2019 Annual Reconciliation | Certification to the State Revenue Office that Council has complied with the Fire Services Property Levy Act 2012 |
| <b>Land Transfers</b>                                                    |                                                          |                                                                                                                   |
| Part of discontinued road at rear of 24 Kangerong Road Box Hill          | Client Authorisation for Transfer of Land                | Sale of Discontinued Road Section 207D Local Government Act 1989                                                  |
| Part of discontinued road at rear of 24 Kangerong Road Box Hill          | Goods Statutory Declaration                              | Duties Act 2000                                                                                                   |
| <b>Rateability Changes<br/>(Section 154 of the Local Government Act)</b> |                                                          |                                                                                                                   |
| 40 Grandview Road Box Hill South                                         | Exempt                                                   | Unoccupied State Government Owned land                                                                            |
| 142-180 Boronia Road Vermont                                             | Exempt                                                   | Unoccupied Crown land (formerly tenanted)                                                                         |
| 21 Wattle Valley Road, Mitcham                                           | Exempt                                                   | Unoccupied Council owned site (formerly tenanted)                                                                 |
| 2-4 Bruce Street Box Hill                                                | Property Now Rateable                                    | Former Council owned site sold                                                                                    |
| 9 Bristow Drive Forest Hill                                              | Property Now Rateable                                    | Former Ministers residence tenanted                                                                               |
| 8 Oxford Street Box Hill                                                 | Property Now Rateable                                    | Former Ministers residence tenanted                                                                               |
| 131 Central Road, Nunawading                                             | Property Now Rateable                                    | Part of former Seventh Day Adventist school site now under residential redevelopment                              |
| 517 Station Street, Box Hill                                             | Property Now Rateable                                    | Former Council owned site sold and now vacated by Council                                                         |
| 519-521 Station Street, Box Hill                                         | Property Now Rateable                                    | Former Council owned site sold and now vacated by Council                                                         |

### 9.3.3 (cont)

#### REGISTER OF DOCUMENTS AFFIXED WITH THE COUNCIL SEAL JULY 2019

Development Deed: Related to Contract of Sale (Volume 1 of 2) between Whitehorse City Council and MAB Bruce Street Pty Ltd (ACN620633749) for 2A and 2-4 Bruce Street and 7 Elland Avenue Box Hill (Refer to Item 630)

Instrument of Appointment of Authorised Officer under the Planning and Environment Act 1987

#### PARKING RESTRICTIONS APPROVED BY DELEGATION JULY 2019

**Address:** **Myrtle Grove, Blackburn:** Fuchsia Street to southern end of Myrtle Grove – both sides  
**Previously:** 20 'Unrestricted' parking spaces  
**Now:** 20 '3-Hour, 8am to 6pm, Monday to Friday area' parking spaces

**Address:** **Raleigh Street, Forest Hill:** 1m east of western boundary of 65 Raleigh Street to 9m west of eastern boundary of 67 Raleigh Street – east side  
**Previously:** 1 'Unrestricted' parking space  
**Now:** 1 'No Stopping' parking space

**Address:** **Merton Street, Box Hill:** from Maple Street to western boundary of 2 Merton Street – South side  
**Previously:** 14 'Unrestricted' parking spaces  
**Now:** 14 temporary '2-Hour, 8am to 6pm, Monday to Friday' parking spaces

**Address:** **Merton Street, Box Hill:** from Albion Road to southern boundary of 3 Merton Street – east side  
**Previously:** 4 'Unrestricted' parking spaces  
**Now:** 4 temporary '2-Hour, 8am to 6pm, Monday to Friday' parking spaces

**Address:** **Roycliff Court, Box Hill North:** from Elgar Road to western boundary of 10 Roycliff Court – north side  
**Previously:** 10 'Unrestricted' parking spaces  
**Now:** 10 temporary '1-Hour, 8am to 6pm, Monday to Friday' parking spaces

**Address:** **Victory Street, Mitcham:** from 5m south of the northern boundary of 4 Victory Street to 5m south of the northern boundary of 16 Victory Street – west side  
**Previously:** 10 'Unrestricted' parking spaces  
**Now:** 10 'Permit Zone' parking spaces

**Address:** **Victory Street, Mitcham:** from Whitehorse Road Service Road to 5m south of the northern boundary of 4 Victory Street – west side  
**Previously:** 7 'Unrestricted' parking spaces  
**Now:** 7 '2-Hour, 8am-6pm, Monday to Friday' parking spaces

### 9.3.3

(cont)

#### VENDOR PAYMENT SUMMARY – SUMS PAID DURING JULY 2019

| Date                          | Total Issued | Payments<br>(direct debit, cheques or<br>electronic funds transfer) | Transaction Type<br>EFT/CHQ/DD |
|-------------------------------|--------------|---------------------------------------------------------------------|--------------------------------|
| 04/07/2019                    | 23           | \$11,062.81                                                         | EFC                            |
| 04/07/2019                    | 265          | \$1,910,284.05                                                      | EFT                            |
| 04/07/2019                    | 47           | \$195,933.91                                                        | CHQ                            |
| 09/07/2019                    | 1            | \$1,459,561.68                                                      | EFT                            |
| 11/07/2019                    | 10           | \$13,463.70                                                         | EFC                            |
| 11/07/2019                    | 231          | \$1,488,707.02                                                      | EFT                            |
| 11/07/2019                    | 60           | \$71,785.57                                                         | CHQ                            |
| 18/07/2019                    | 17           | \$19,378.36                                                         | EFC                            |
| 18/07/2019                    | 63           | \$93,555.51                                                         | CHQ                            |
| 18/07/2019                    | 237          | \$3,011,837.00                                                      | EFT                            |
| 25/07/2019                    | 10           | \$12,220.94                                                         | EFC                            |
| 25/07/2019                    | 58           | \$121,334.01                                                        | CHQ                            |
| 25/07/2019                    | 427          | \$9,759,520.57                                                      | EFT                            |
| 25/07/2019                    | 1            | \$15,028.35                                                         | EFT                            |
| 29/07/2019                    | 1            | \$2,756.23                                                          | EFT                            |
| 31/07/2019                    | 1            | \$2,695.00                                                          | EFT                            |
| <b>GROSS</b>                  | 1452         | \$18,189,124.71                                                     |                                |
| <b>Monthly Lease Payments</b> |              | \$35,460.29                                                         |                                |
| <b>Direct Debit Payments</b>  |              | \$160,184.40                                                        |                                |
| <b>CANCELLED PAYMENTS</b>     | -29          | -\$31,622.90                                                        |                                |
| <b>NETT</b>                   | 1423         | \$18,353,146.50                                                     |                                |

## **10 REPORTS FROM DELEGATES, SPECIAL COMMITTEE RECOMMENDATIONS AND ASSEMBLY OF COUNCILLORS RECORDS**

### **10.1 Reports by Delegates**

(NB: Reports only from Councillors appointed by Council as delegates to community organisations/committees/groups)

- 10.1.1 Cr Carr reported on her attendance at the Audit Advisory Committee on 16 September 2019.
- 10.1.2 Cr Ellis reported on her attendance at the Eastern Region Affordable Housing Alliance on 1 August 2019.
- 10.1.3 Cr Barker reported on his attendance at the Box Hill Stakeholder Reference Group Meeting on 27 August 2019.
- 10.1.4 Cr Liu reported on her attendance at the:
- Box Hill Stakeholder Reference Group Meeting Event on 27 August 2019
  - Whitehorse Manningham Regional Library Corporation Meeting held 28 August 2019; a library event for volunteers and the launch of the Bert Lewis Room at Box Hill Library.
  - Eastern Alliance for Greenhouse Action on 29 August 2019
  - Whitehorse Business Group Board Meeting on 10 September 2019
- 10.1.5 Cr Massoud reported on her attendance at the Audit Advisory Committee on 16 September 2019.
- 10.1.6 Cr Munroe reported on his attendance at the Metropolitan Transport Forum on 4 September 2019 at Melbourne Town Hall. Guest speaker Sally Capp, Lord Mayor City of Melbourne spoke about City of Melbourne Transport Plan, key points raised are:
- Provocations in transport consultation (some of which were not supported by State);
  - Propositions thought right or worthy of debate;
  - Greatest congestion on pavements – taking back on-street parking;
  - Every 10% of pedestrian space adds \$2b to economy;
  - Pedestrians No. 1 – Transport No. 2. Sally has had a change in attitude in favour of bikes when in London, people are able to commute in work clothes;
  - 50km of new bicycle lanes around the City, more women need to get involved;
  - William and Exhibition bicycle streets.

These are valuable insights as we plan for the future of Box Hill.

- 10.1.7 Cr Cutts reported on her attendance at the Whitehorse Manningham Regional Library Corporation Meeting on 28 August 2019 and the Whitehorse Business Group Board Meeting on 10 September 2019.

### **COUNCIL RESOLUTION**

Moved by Cr Liu, Seconded by Cr Munroe

***That the reports from delegates be received and noted.***

**CARRIED**

**10.2 Recommendation from the Special Committee of Council Meeting of 9 September 2019**

**10.2.1 MAV: Rescue Our Recycling**

***SPECIAL COMMITTEE OF COUNCIL RECOMMENDATION***

***Moved by Cr Liu, Seconded by Cr Munroe***

***That Council endorse and actively participates in the Municipal Association of Victoria's "Rescue Our Recycling" Campaign.***

***CARRIED UNANIMOUSLY***

**COUNCIL RESOLUTION**

Moved by Cr Liu, Seconded by Cr Ellis

***That the recommendation from the Special Committee of Council Meeting of 9 September 2019 Item 10.2.1 be received and adopted.***

***CARRIED UNANIMOUSLY***



### 10.3 Record of Assembly of Councillors

| Meeting Date                   | Matter/s Discussed                                                                                                                                                                                                                                                                                                | Councillors Present                                                                                                                                  | Officers Present                                                                                                                                                                    | Disclosures of Conflict of Interest | Councillor /Officer attendance following disclosure |
|--------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------|-----------------------------------------------------|
| <b>26.08.19</b><br>6:15-7:00pm | <b>Councillor Informal Briefing Session</b> <ul style="list-style-type: none"> <li>2018/19 Annual Financial Statements and Performance Statements</li> <li>Proposed Developments and Other Matters</li> </ul>                                                                                                     | Cr Bennett (Mayor & Chair)<br>Cr Barker<br>Cr Carr<br>Cr Cutts<br>Cr Davenport<br>Cr Liu<br>Cr Massoud arrived at 6:24pm<br>Cr Munroe<br>Cr Stennett | ACEO A De Fazio<br>J Green<br>N Brown (AGMHS) T Johnson<br>P Smith (AEMG&CS) J Russell<br>J Thyer<br>M Hassan<br>S Cann<br>H Rowlands                                               | Nil                                 | Nil                                                 |
| <b>02.09.19</b><br>6:30-9:30pm | <b>Strategic Planning Session</b> <ul style="list-style-type: none"> <li>Vicinity Centres Box Hill Central Master Plan</li> <li>Social Media Policy</li> <li>Vision for Box Hill: Update on Consultation &amp; Project</li> <li>Amendment C219 Permanent Tree Protection Controls Update on Exhibition</li> </ul> | Cr Davenport (Acting Chair)<br>Cr Barker<br>Cr Carr<br>Cr Cutts<br>Cr Liu<br>Cr Massoud<br>Cr Munroe<br>Cr Stennett                                  | S McMillan<br>J Green<br>N Brown<br>T Wilkinson<br>P Smith<br>T De Fazio<br>K Marriott<br>J Hansen<br>A Egan<br>V McLean<br>D Shambrook<br>D Vincent-Smith<br>M Ackland<br>R Morrow | Nil                                 | Nil                                                 |
| <b>09.09.19</b><br>6:30-       | <b>Councillor Briefing Session</b> <ul style="list-style-type: none"> <li>Special Committee Agenda 9 September 2019</li> <li>Noted list of Public Speakers</li> <li>Other Business Motion</li> <li>Confidential Other Matter</li> <li>Draft Agenda 16 September 2019</li> </ul>                                   | Cr Davenport (Acting Chair)<br>Cr Barker<br>Cr Carr<br>Cr Cutts<br>Cr Ellis<br>Cr Liu<br>Cr Massoud<br>Cr Munroe<br>Cr Stennett                      | S McMillan<br>J Green<br>N Brown<br>T Wilkinson<br>P Smith<br>T De Fazio<br>J Russell<br>K Marriott<br>J Hansen<br>A Egan<br>V McLean<br>K Sinclair<br>T Peak<br>R Anania<br>J Xu   | Nil                                 | Nil                                                 |

#### COUNCIL RESOLUTION

Moved by Cr Cutts, Seconded by Cr Carr

*That the record of Assembly of Councillors be received and noted.*

**CARRIED UNANIMOUSLY**

## **11 REPORTS ON CONFERENCES/SEMINARS ATTENDANCE**

- 11.1 Cr Massoud reported on Managing the Modern Workforce Smart Cities Conference on 11 September 2019.
- 11.2 Cr Liu reported on the Melbourne Rail Plan 2020-2050 Council Briefing held on 12 September 2019.
- 11.3 Cr Ellis reported on the Ahuri National Housing Conference 2019 held on 27 - 30 August 2019.

### **COUNCIL RESOLUTION**

Moved by Cr Massoud, Seconded by Cr Liu

***That the record of reports on conferences/seminars attendance be received and noted.***

**CARRIED UNANIMOUSLY**

## **12 CONFIDENTIAL REPORTS**

### **COUNCIL RESOLUTION**

Moved by Cr Munroe, Seconded by Cr Cutts

***That in accordance with Section 89(2) (h) and (d) of the Local Government Act 1989 the Council should resolve to go into camera and close the meeting to the public as the matters to be dealt with relate to any other matter which the Council or special committee considers would prejudice the Council or any person and contractual matters.***

**CARRIED UNANIMOUSLY**

The meeting was closed to the public at 9.15pm.

### **Attendance**

Cr Cutts left the Chamber at 9:16 pm, returning at 9:18pm.

Cr Liu left the Chamber at 9:16 pm, returning at 9:18pm.

### **COUNCIL RESOLUTION**

Moved by Cr Liu, Seconded by Cr Munroe

***That the meeting move out of camera and be reopened to the public.***

**CARRIED UNANIMOUSLY**

The meeting was reopened to the public at 9:24pm.

### **Attendance**

Cr Ellis left the Chamber at 9:24pm, returning at 9:25pm.

**13 CLOSE MEETING**

Meeting closed at 9:26pm

**Confirmed this 21<sup>st</sup> day of October 2019**

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**CHAIRPERSON**