



# City of Whitehorse

## MINUTES

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### Ordinary Council Meeting

Held in the  
Council Chamber  
Nunawading Civic Centre

1022 Whitehorse Road Box Hill

on

**Monday 29 January 2018**

at 7:00pm

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

**Ms Noelene Duff**  
Chief Executive Officer

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Meeting opened at 7.00pm

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

## **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: Nil

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

Cr Liu declared an indirect conflict of interest in *Item 9.1.3 Amendment C194 to the Whitehorse Planning Scheme (517 & 519-521 Station Street & 2-8 Oxford Street, Box Hill) Consideration of Panel Report*. The applicant is a sponsor of Chinese New Year Festival Box Hill, Cr Liu holds an honorary position on the Asian Business Association of Whitehorse.

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

Minutes of the Ordinary Council Meeting 11 December 2017 and Confidential Ordinary Council Meeting 11 December 2017

### **COUNCIL RESOLUTION**

Moved by Cr Bennett, Seconded by Cr Ellis

***That the minutes of the Ordinary Council Meeting 11 December 2017 and Confidential Ordinary Council Meeting 11 December 2017 having been circulated now be confirmed.***

**CARRIED UNANIMOUSLY**

**5        RESPONSES TO QUESTIONS**

None submitted

**6        NOTICES OF MOTION**

Nil

**7        PETITIONS**

Nil

**8        URGENT BUSINESS**

Nil

## **9 COUNCIL REPORTS**

### **9.1 CITY DEVELOPMENT**

#### **Statutory Planning**

#### **9.1.1 20 Downing Street, BLACKBURN (LOT 31 LP 7479) Construction of a four (4) storey apartment building containing 19 apartments (including two basement levels)**

FILE NUMBER: WH/2016/430  
ATTACHMENT

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#### **SUMMARY**

*This application was advertised, and a total of 17 objections were received from 16 properties. The objections raised issues with amenity impacts, infrastructure (mainly capacity of flooding within the subject site), parking/vehicle movements, traffic, neighbourhood character, and loss of landscaping. A Consultation Forum chaired by Councillor Massoud was held on 11 July 2017, at which the issues were explored, however no resolution was reached between the parties. As a result, this matter is brought before Council to form a position on the application. 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 Munroe, Seconded by Cr Massoud

#### **That Council:**

- A Being the Responsible Authority, having caused Application WH/2016/430 for 20 Downing Street, BLACKBURN (LOT 31 LP 7479) 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 (4) storey apartment building containing 19 apartments (including two basement levels) 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 20 Downing Street, BLACKBURN (LOT 31 LP 7479) for the construction of a four (4) storey apartment building containing 19 apartments (including two basement levels), subject to the following conditions:**
  - 1. Before the development starts, amended plans and documents (two full size copies and one A3 size copy) must be submitted to and approved by the Responsible Authority. The plans must be drawn to scale, with dimensions, and be generally in accordance with the plans submitted with the application, but modified to show:**
    - a) A reduction of buildings to reduce the overall site coverage (per Standard B8) to be no greater than 60% of the total site area.**
    - b) Tree 26, including its TPZ and SRZ. This may be dashed as 'to be removed' if consent is obtained per Condition 31.**
    - c) The locations of Tree Protection Zones described in condition 6, with all nominated trees clearly identified and numbered on both site and landscape plans, and the requirements of conditions 5 (arborist report) 7 and 8 to be annotated on the development and landscape plans.**
    - d) Correct location of Tree Group 20 (comprising a patch of dense vegetation) on the north boundary, (not 1.8m off the boundary as currently shown on the plans).**
    - e) The TPZs and SRZs for Tree Group 20.**

**9.1.1**  
(cont)

- f) All dimensions for screening measures at 1.7 metre high above the relevant finished floor level to all windows/balconies with the potential for overlooking in accordance with Standard B22.*
- g) Any alterations to the plans as required by Landscaping Condition 3. This includes amendments to reflect a reduction of all terraces proposed to dwellings at ground floor (except Dwelling 1) to be reduced in size so to allow an area of 2.1 metres x 4 metres to facilitate acceptable growth of the tree, and changes to the species of canopy trees to reflect native/indigenous species.*
- h) Any alterations to the plans as required by Melbourne Water Conditions 16 – 24 (inclusive). This is to be annotated on the plans demonstrating how compliance is achieved.*
- i) No excavation or fill within the easement on the southern boundary unless without prior written consent from any relevant authority.*
- j) The car parking layout amended to include:
  - i. The proposed car stacker spaces at ground level are required to provide a minimum of 1.8m of clear headroom;*
  - ii. The proposed ramp grade from the property line is to be a maximum of 1:10 for the first 5m as required by Clause 52.06-8 of the Whitehorse Planning Scheme;*
  - iii. The proposed circulation roadway ramp width to comply with Australian Standard AS 2890.1 section 2.5 and figure 2.8;*
  - iv. The proposed circulation roadway requires a passing area within the development at the property line 6m long and 6m wide;*
  - v. The vertical headroom at the entry point and throughout the car park is to be a minimum of 2.2m throughout the parking area which is to be demonstrated by the provision of a longitudinal section;*
  - vi. The available sight distance at access driveways is to be in accordance with Clause 52.06-8 of the Whitehorse Planning Scheme.**
- k) The provision of communal clotheslines located within the rear area of private open space, clear of any canopy trees.*
- l) The habitable room windows of all dwellings and the windows located on the southern elevation (corridor) to be double glazed or have similar acoustic protection qualities.*
- m) A detailed schedule and samples of all external materials, colours and finishes, including the use of light coloured roofing material.*
- n) All service piping (excluding downpipes), ducting and heating/cooling appliances above the ground floor storey of the apartment buildings to be concealed from view where possible.*
- o) Development plans to reflect all sustainability features indicated in the Sustainability Management Plan required by Condition 11. 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 fittings and fixtures, etc.). These features must include, unless otherwise agreed with the Responsible Authority:
  - i. Water-sensitive urban design measures as required to achieve a STORM Rating of at least 100% or equivalent, including a rainwater tank capacity of at least 25,000 litres, plumbed to all toilets, irrigation and bin area wash down, as well as indicative pump and maintenance access.**

### **9.1.1** (cont)

- ii. Design measures as identified in the BESS (Built Environment Sustainability Scorecard) Report, as required to legitimately exceed an overall score 50% and exceed the 'pass' marks in the categories of Water, Energy Stormwater and IEQ (indoor environment quality).*
  - iii. All operable windows, doors, winter garden openings & vents in elevation drawings.*
  - iv. Shadows as per actual sun angles on all elevation drawings.*
  - v. Exterior shading for all east, north and west windows greater than 1.5 square metres, to shade at least 40% from 10am to 2pm in summer.*
  - vi. Any outdoor building services equipment, including heating, cooling, ventilation and hot water systems.*
  - vii. Include an annotation of the timber species intended for use as cladding, decking or other outdoor timber, noting that unsustainably harvested imported timbers (such as Merbau, Oregon, Western Red Cedar, Meranti, Luan, Teak etc.) must not be used.*
- p) The following reports to be amended or endorsed as required will form part of the endorsed documentation:*
- i. A landscape Plan in accordance with Condition 3*
  - ii. Sustainability Management Plan in accordance with Condition 11.*
  - iii. A Car Parking Management Plan in accordance with Condition 13.*
  - iv. Waste Management Plan in accordance with Condition 14.*
  - v. Construction Management Plan in accordance with Cond 15.*

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

- 2. The layout and operation of the site and the size, design and location of the buildings and works permitted must always accord with the endorsed plans and documents, and must not be altered or modified without the further written consent of the Responsible Authority.**

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

- 3. No building or works shall be commenced (and no trees or vegetation shall be removed) until an amended landscape plan prepared by a suitably qualified and experienced person has been submitted to and endorsed by the Responsible Authority. The amended landscape plan must be modified to show:**
- a) The provision of an additional canopy tree located in the rear setback with a minimum mature height of 10 metres.**
  - b) Canopy tree species to be amended to reflect native/indigenous species.**
  - c) The addition of a canopy tree with a height of 6 metres to each dwelling at ground floor (except Dwelling 1) along the northern interface to minimise the visual bulk of the building. The terraces proposed to all dwellings at ground floor (except Dwelling 1) are to be reduced in size so to allow an area of 2.1 metres x 4 metres to facilitate acceptable growth of the tree.**
  - d) Any requirements of Conditions 4 – 9 (inclusive).**

**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.**

### **9.1.1**

(cont)

4. *The garden areas and street plantings shown on the endorsed plan and schedule shall only be used as gardens and must be maintained in a proper, healthy and orderly condition at all times to the satisfaction of the Responsible Authority. Should any tree or plant be removed or destroyed it must be replaced by a similar tree or plant of similar size and variety.*
5. *No building or works shall be commenced (and no trees or vegetation shall be removed) until an amended arborist report, prepared by a suitably qualified and experienced person has been submitted to and endorsed by the Responsible Authority. This amended report, when endorsed, shall form part of this permit. This report shall detail:*
  - a) *A tree root investigation for Tree Group 20 (located on the adjoining property to the north as 'dense vegetation'), which must identify the number and size of roots in the location of, and to the depth of, the planned works where the basement is shown on the boundary, within the TPZ. The tree root investigation must include recommendations of alternative construction techniques to the satisfaction of the Responsible Authority. At a minimum the following construction techniques are to be included:*
    - i. *The decking where within the TPZs of Tree Groups 20 must be constructed on tree sensitive footings, such as post footings or screw piles, with no grade change within the TPZs. The post holes are to be hand dug and no roots greater than 25mm in diameter are to be cut or damaged.*
    - ii. *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 within 1.5m of the north boundary fence where within the TPZs of Tree Group 20, unless otherwise shown by the tree root investigation, and to Councils satisfaction, that the trees will not be adversely impacted.*
    - iii. *If the tree root investigation shows that there will be trees from Tree Group 20 adversely impacted by the proposed development, then the basement car park where within the TPZs must be setback 1.5m from the north boundary.*
6. *Prior to the commencement of any building and or demolition works on the land, a Tree Management Plan must be submitted to Council detailing how Trees 1, 2, 29, 30, 31, 32, and 33 will be protected during and post construction of the development. It must include details of crown, trunk and root protection and how demolition of the existing infrastructure and construction of the development will be undertaken where within the TPZ. It must also demonstrate how Trees 1, 2, 29, 30, 31, 32, and 33 will remain viable if works go ahead, to the satisfaction of the Responsible Authority.*

*The requirements of the Tree Management Plan must be demonstrated on the plans and elevations submitted for endorsement.*

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

*The requirements of the Tree Management Plan must be implemented to the satisfaction of the Responsible Authority.*



### **9.1.1** (cont)

***Prior to the commencement of any building and or demolition works on the land, a Tree Protection Zone (TPZ) must be established and maintained on the subject land 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 – 3.7 metre radius from the centre of the tree base.***
  - ii. Tree 2 – 7.0 metre radius from the centre of the tree base.***
  - iii. Tree Group 20 – 2.0 metre radius from the centre of the tree base.***
  - iv. Tree 21 – 3.9 metre radius from the centre of the tree base.***
  - v. Tree 22 – 3.0 metre radius from the centre of the tree base.***
  - vi. Tree 23 – 8.5 metre radius from the centre of the tree base.***
  - vii. Tree 29 – 5.7 metre radius from the centre of the tree base.***
  - viii. Tree 30 – 4.2 metre radius from the centre of the tree base.***
  - ix. Tree 31 – 4.0 metre radius from the centre of the tree base.***
  - x. Tree 32 – 5.0 metre radius from the centre of the tree base.***
  - xi. Tree 33 – 5.3 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 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 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. All sub surface utilities and utility connection points, inspection pits and associated infrastructure trenching and installation are to be designed so that they are located outside the TPZs of retained trees, to the satisfaction of the Responsible Authority. Utility conduits can be located beneath TPZs but must be installed using trenchless excavation (eg: boring) and installed to a minimum depth of 0.6 metres below natural grade.***
  - vii. Where construction is approved within the TPZ, fencing and mulching should be placed at the outer point of the construction area.***

***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.***

**9.1.1**  
(cont)

7. *During the construction of any buildings or works, the following tree protection requirements must be carried out to the satisfaction of the Responsible Authority:*
  - a) *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 within 4.0m of the west boundary fence and 1.5m of the north boundary fence where within the TPZs of Tree Group 20.*
  - b) *The decking where within the TPZs of Tree Group 20 must be constructed on tree sensitive footings, such as post footings or screw piles, with no grade change within the TPZs. The postholes are to be hand dug and no roots greater than 25mm in diameter are to be cut or damaged.*

**Building Services**

8. *The apartment buildings must provide the capacity for television signal distribution to each dwelling unit and any satellite dish, antenna or similar structure must be designed and located at a single point to the satisfaction of the Responsible Authority.*
9. *All building plant and equipment on the roofs, balcony areas, common areas, or public thoroughfares are 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, 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 mechanical exhaust systems for the car park hereby approved must be located and sound attenuated to prevent noise and general nuisance to the occupants of the surrounding properties, to the satisfaction of the Responsible Authority.*

**Environmentally Sustainable Development**

11. *Prior to the commencement of any buildings or 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, including a rainwater tank of no less than 25,000 litres from a roof catchment area of 614 square metres to supply all toilet flushing, irrigation and wash down, in addition to fire testing water testing.*
  - b) *A complete, published BESS Report, with an overall score that legitimately exceeds 50% and exceed the 'pass' marks in the categories of Water, Energy Stormwater and IEQ (indoor environment quality).*
  - c) *Include a preliminary sample set of NatHERS scores as per Guide to NatHERS Sample Sizes – see <http://bit.ly/NatHERS-sampleset>, including a score for unit 3.15.*
  - d) *Control car park ventilation with CO<sub>2</sub> sensors.*
  - e) *Control car park lighting (at least 75% of lighting fixtures) with motion sensors*
  - f) *Commit to controlling all service & lift area lighting with occupancy sensors.*

### **9.1.1**

(cont)

- g) Commit to control common, service & lift area ventilation with occupancy sensors.**
- h) Commit to diverting at least 80% of construction/demolition waste from landfill.**

**The requirements of the above Sustainability Management Plan must be illustrated on the plans and elevations submitted for endorsement.**

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

**All works must be undertaken in accordance with the endorsed Sustainability Management Plan to the satisfaction of the Responsible Authority, and the approved uses and building must operate in accordance with this Plan, to the satisfaction of the Responsible Authority. No alterations to the Sustainability Management Plan may occur without the written consent of the Responsible Authority.**

#### **Car Parking**

- 12. The car parking areas and access ways 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.**
- 13. Prior to the occupation of the building, a Parking Management Plan, detailing how car and bicycle parking areas, and access ways will be allocated and managed, must be submitted to and approved by Council.**

**This plan is to be to the satisfaction of the Responsible Authority and must include, but is not limited to, the following:**

- a) Allocation of all parking spaces (except visitor spaces) to individual dwellings.**
- b) Signing of car and bicycle parking spaces.**
- c) Location and face of bicycle parking signs in accordance with Clause 52.34-5**
- d) Detail the signing and line marking of parking spaces.**
- e) Detail how access to the proposed parking spaces will be secured for residential and visitor 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.**

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

**When approved the Parking Management Plan will form part of this permit and must be implemented to the satisfaction of the Responsible Authority.**

#### **Waste Management Plan**

- 14. 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) Acknowledgement that the waste vehicle is to only reverse into the 'passing area' from Downing Street as delineated on the plans and complete the collection of the bins within that location.**

### **9.1.1** (cont)

*The management of waste must always be in accordance with the Waste Management Plan submitted by Poetic (Reference: March 2016) or any subsequent or amended version. The Waste Management Plan must be implemented to the satisfaction of the Responsible Authority.*

#### **Construction Management Plan**

- 15. 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.*

#### **Melbourne Water Conditions**

- 16. Finished floor levels of the building must be constructed no lower than 83.61 metres to Australian Height Datum (AHD).**
- 17. The basement car park must incorporate a flood proof apex and associated bunding constructed no lower than 83.61 metres to AHD.**
- 18. The layout of the 'subfloor' area including the size, design and location as shown on the submitted plans must not be altered without prior written consent from Melbourne Water.**
- 19. Imported fill must be kept to a minimum on the property and must only be used for the sub floor areas of the building and driveway ramp.**
- 20. A minimum of 40% of the site must be maintained at natural surface levels for flood storage.**
- 21. The flood storage calculations provided within the document 'Flood Storage Capacity Calculations' prepared by Poetica Architecture dated March 2017 must not be altered without further approval and written consent from Melbourne Water.**
- 22. The subfloor screen must be open style, a minimum of 50% or more to allow for flood storage.**
- 23. Any new fencing must be open style, a minimum or 50% of construction to allow for the conveyance of overland flow.**
- 24. 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 levels have been constructed in accordance**

#### **Asset Engineering**

- 25. All stormwater drains must be connected to a point of discharge to the satisfaction of 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.**

### **9.1.1**

(cont)

26. *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.*
27. *Stormwater that could adversely affect any adjacent land shall not be discharged from the subject site onto the surface of the adjacent land.*
28. *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.*
29. *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.*
30. *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.*
31. *Tree 26 must not be removed unless written consent is obtained from any relevant owner.*

#### **Expiry**

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

*The Responsible Authority may extend the periods referred to if a request is made in writing in accordance with 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 Engineering**

- 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.*

### **9.1.1**

(cont)

- 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.*
  - 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 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.*

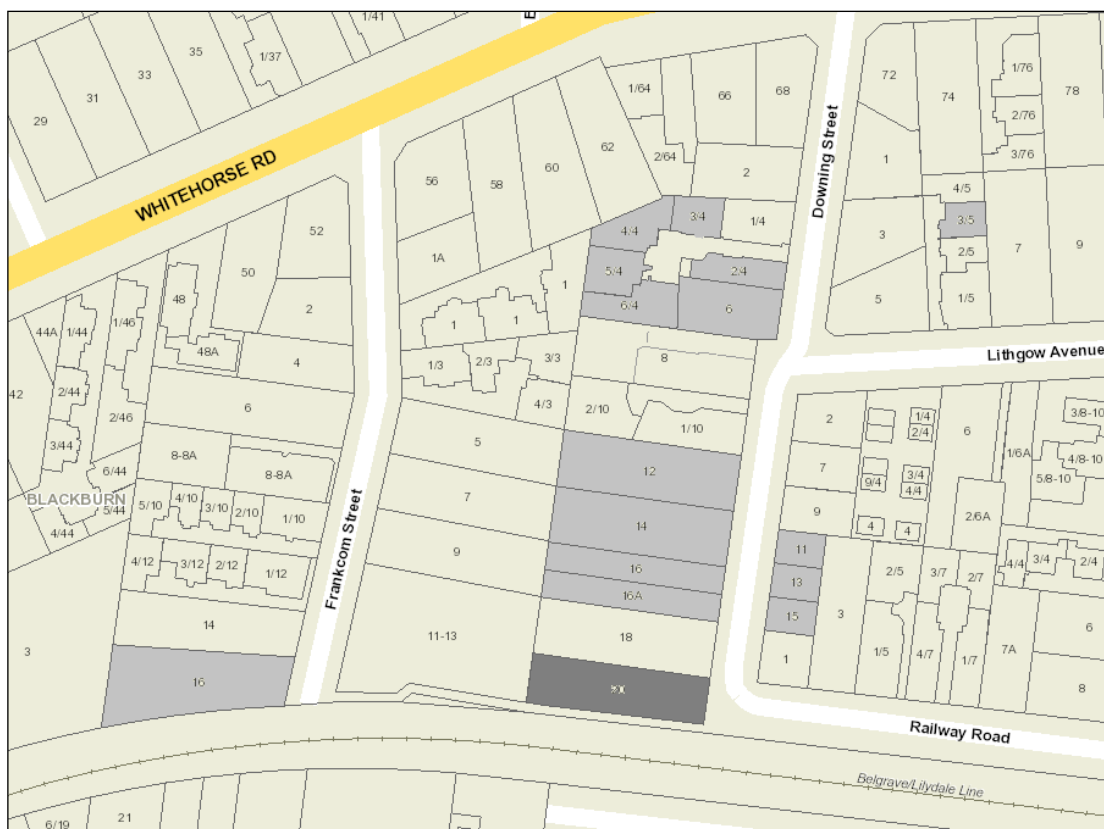
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**CARRIED UNANIMOUSLY**

**9.1.1**  
(cont)

MELWAYS REFERENCE 47 J10

Applicant:	Poetica Architecture Pty Ltd
Zoning:	Residential Growth Zone Schedule 2
Overlays:	Special Building Overlay (SBO)
Relevant Clauses:	<p>Clause 10      Operation of State Planning Policy Framework</p> <p>Clause 11      Settlement</p> <p>Clause 15      Built Environment and Heritage</p> <p>Clause 18      Transport</p> <p>Clause 19      Infrastructure</p> <p>Clause 21.05   Environment</p> <p>Clause 21.06   Housing</p> <p>Clause 22.03   Residential Development</p> <p>Clause 22.04   Tree Conservation</p> <p>Clause 32.07   Residential Growth Zone Schedule 2</p> <p>Clause 52.06   Car Parking</p> <p>Clause 52.34   Bicycle Facilities</p> <p>Clause 55      Two or More Dwellings on a Lot or Residential Buildings</p> <p>Clause 65      Decision Guidelines</p>
Ward:	Central



		Subject site		15 Objector Properties (1 objector not shown on map)	<p>↑ North</p>
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### 9.1.1

(cont)

#### BACKGROUND

The plans originally submitted with the application were not supported by Council's Waste team as there was insufficient space provided to enable a waste collection vehicle to access and exit the site.

In response to concerns raised, amended plans were submitted under Section 57(a) of the Planning and Environment Act 1987 on 14 December, 2017 (and are the decision plans), which responded to these concerns. The predominant alterations included revising the layout to G.01 to allow for a passing area to be incorporated into the access way for a waste collection vehicle.

#### The Site and Surrounds

The subject site comprises one allotment located to the south-west corner of Downing Street and Railway Road, abutting a public path and the railway line to the south. The site is rectangular in shape with a frontage to Downing Street of approximately 15.24 metres, a southern (side) boundary of approximately 50.28 metres, a northern (side) boundary of approximately 57.96 metres, a rear boundary of approximately 16.34 metres and a total site area of 922.13m<sup>2</sup>.

The site is occupied by a single storey weatherboard dwelling, set within an established garden setting.

The land has a considerable fall from Downing Street to the west of approximately 2 metres across the site and is subject to flooding (as determined by both Council and Melbourne Water). A 1.83 metre wide sewerage easement is located parallel to the rear boundary.

The immediate context comprises:

South:

- Land on the southern side of the railway line, approximately 40 metres away, generally consists of single storey post-war dwellings located in a General Residential Zone. This area transitions into a Neighbourhood Residential Zone further to the south, approximately 150 metres from the subject site.

West:

- The subject site abuts a consolidated lot (11-13 Frankcom Street) which contains a double storey brick veneer dwelling. A planning permit (WH/2016/1172) was issued in December 2017 after a Compulsory Conference at VCAT for Construction of a residential apartment building comprising up to 35 dwellings.
- Within the wider Frankcom Street location, there is evidence of multi-unit developments, including 10, 12, and 14 Frankcom Street (5, 4, and 4 dwellings respectively).

East:

- To the east, at numbers 11, 13, 15 Downing Street, and 1 Railway Road are four (4) – three (3) storey dwellings, approved by Council under planning permit WH/2010/494.
- Further along Railway Road there is evidence of multi-unit developments, including two single storey dwellings located at number 5 Railway Road, and four single storey dwellings located at number 7 Railway Road.
- Located in the wider context is Blackburn railway station located approximately 300 metres east of the subject site. The immediate context surrounding the railway station includes land zoned for commercial uses.



### 9.1.1

(cont)

North:

- Whitehorse Road, a major road, is located approximately 200 metres due north of the subject site.
- Land on the northern side of Whitehorse Road comprises a mix of higher and medium density residential development. Elmhurst Basin, a public park available for recreational purposes is located within this area.

#### Planning Controls

Zone:

The site is within the Residential Growth Zone Schedule 2 (RGZ). The purpose of Clause 32.07 (Residential Growth Zone) includes:

- *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *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.*
- *To ensure residential development achieves design objectives specified in a schedule to this zone.*
- *To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.*

Pursuant to Clause 32.07-5 (RGZ), a planning permit is required for the construction of two or more dwellings on a lot. At the time this application was lodged the preferred maximum building height was 14.5 metres that applies to dwellings and residential buildings, as contained at Clause 32.07-7 (as there is a slope of the land of 2.5 degrees or greater). This is still applicable.

Overlay:

A Special Building Overlay (SBO – contained at Clause 44.05) which relates to urban areas liable to inundation by overland flows affects a portion of the rear of the site. The overlay purpose states:

- *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *To identify land in urban areas liable to inundation by overland flows from the urban drainage system as determined by, or in consultation with, the floodplain management authority.*
- *To ensure that development maintains the free passage and temporary storage of floodwaters, minimises flood damage, is compatible with the flood hazard and local drainage conditions and will not cause any significant rise in flood level or flow velocity.*
- *To protect water quality in accordance with the provisions of relevant State Environment Protection Policies, particularly in accordance with Clauses 33 and 35 of the State Environment Protection Policy (Waters of Victoria).*

### 9.1.1

(cont)

Pursuant to Clause 44.05-1 a planning permit is required to construct a building, or to construct or carry out works. The application was referred to Melbourne Water under Section 55 of the Act.

Particular Provisions:

- Clause 52.06 (Car Parking) deals with a new use on site and deals with car parking provision and design. No car parking reduction is being sought as part of this application.
- Clause 52.34 (Bicycle Facilities) applies to residential developments of four or more storeys and encourages cycling as a mode of transport through requiring the provision of suitable bicycle facilities. The proposal provides sufficient on site bicycle spaces.
- Clause 55 (Two or More Dwellings on a Lot and Residential Buildings) is applicable for this application and contains 34 design Standards and Objections to be satisfied.

### PROPOSAL

The application seeks approval for the development of the land for a four storey apartment building, plus two basement car parking levels. The main pedestrian entrance is located with a frontage, and vehicle access into the basement levels, via Downing Street.

The proposal includes 19 dwellings, with 12 dwellings containing two bedrooms, two dwellings containing one bedroom, and five dwellings containing 3 bedrooms. The terraces at ground floor and balconies at first, second, and third floors are north-facing. The ground floor includes the lobby, gymnasium, and shared garden/BBQ area. The massing of the building is generally uniform throughout each of the four levels.

The development contains 2 basement levels comprising the sub floor area, store room, plant room, bin store, bike store and car parking spaces.

Overall, the site coverage equates to 63.68 per cent and the overall site permeability equates to 36.32 per cent.

#### *Vehicle access and basement levels*

The proposal includes the following components:

- The existing vehicle crossovers will be widened to 3.5 metres and offers access via a ramp to the basement car parking.
- 28 car parking spaces are provided within the basement levels.
- 25 resident car spaces are provided using a combination of the Klaus 'Trendvario 4000' and 'Trendvario 4300' stacker system. The car stacker system is a semi-automatic system providing triple or double height platforms.
- Three visitor spaces are provided adjacent to the amenities store area.
- A total of 12 bicycle spaces are provided as part of the proposal. Eight bicycle parking spaces are provided adjacent to the visitor car spaces in the basement and another 4 space are located on the pedestrian pathway from Downing Street.
- There are 19 storage cages located in the sub-floor basement level, with lift access.

#### *Landscaping*

- The proposal allows for small shrubs along a part of the southern boundary, and almost the entire northern boundary, while providing more substantial landscaping to the rear of the site, given the benefit of the basement level setback from the rear boundary. A concept landscaping plan has been submitted with the application.

### **9.1.1**

(cont)

#### *General*

- The materials include various types of powder-coated metal cladding, timber eaves cladding, brick, aluminium framed double-glazed windows, and render finish.
- Given the slope of the land, the apartment building height varies between approximately 12.7 metres (at the east elevation) and 14.15 metres (at the west elevation).
- The site coverage is 63.68 per cent with a permeability of 36.32 per cent.

### **CONSULTATION**

#### **Public Notice**

The application was advertised by mail to the adjacent and nearby property owners and occupiers and by erecting notices to the Downing Street frontage. Following the advertising period 17 objections were received.

The issues raised are summarised as follows:

- Out of keeping with the neighbourhood character and VPO2.
- Loss of landscape character and habitat for birds.
- Overshadowing of neighbouring properties and gardens.
- Overlooking.
- Excessive visual bulk and building height.
- Tree removal and impacts to neighbouring trees.
- Insufficient open space and landscaping provision.
- Tight on-site vehicle movements.
- Steep driveway ramp grades.
- Proposed permeable paving is unsuitable for steep grades.
- Loss of on-street parking.
- Increased traffic and associated safety impacts.
- Increased noise and light emissions.
- Drainage and flooding impacts
- Negative impact on property values
- Inaccuracies on plans - permeability calculation and neighbouring addresses.

#### **Consultation Forum**

A Consultation Forum was held on 11 July 2017 and was chaired by Cr Massoud. Approximately 11 objectors attended the meeting, along with planning officers and the permit applicant. Whilst much discussion occurred with regard to the key areas of concern for objectors, no resolution was reached, and consequently the objections remain.

#### **Referrals**

##### **External**

##### Melbourne Water

The application was referred to Melbourne Water under Section 55 of the Act as required by the Special Building Overlay. Melbourne Water granted approval of the application subject to conditions on 1 June, 2017.

It is noted that the applicant has provided Flood Storage Capacity Calculations which offer a demonstration of the water storage capacity of the subject site, in both the existing and proposed contexts. The calculations were submitted to Melbourne Water for approval which demonstrates that the Sub-Floor level and rainwater tanks of the proposed development will increase the capacity of water storage on site by approximately 39,850 litres.

### 9.1.1

(cont)

The conditions imposed by Melbourne Water seek to ensure that the relevant finished floor/surface levels across the site will not impede stormwater flows across property boundaries. The applicable finished floor level of 83.61 to AHD is a conditional requirement imposed by Melbourne Water to incorporate both the ground floor of the dwellings and a flood proof apex at the entrance of the site. The sub floor level includes permeable screens which allow water to flow across the site.

#### VicTrack

The application was referred to VicTrack under Section 52 of the Act as the land is adjacent (no common boundary) to a VicTrack railway line. VicTrack stated no objection to the proposal.

#### **Internal**

#### Engineering and Environmental Services Department

- Transport Engineer

The Transport Unit support the proposal, subject to the following comments/conditions:

#### *Car Parking*

Usage	Proposal	Planning Scheme Rate	<u>Required Spaces</u>	<u>Spaces provided</u>
Dwellings				
1 & 2 bedroom dwellings	14	1 space per dwelling	14	15
3+ bedroom dwellings	5	2 spaces per dwelling	10	10
• Visitor parking		1 space per 5 dwellings	3	3
Total spaces required			27	28

The proposal provides 28 car parking spaces which meets the requirements of Clause 52.06 of the Whitehorse Planning Scheme.

#### *Traffic Generation*

As detailed in the traffic impact assessment report submitted by the applicant, it is unlikely that there will be a significant impact upon the local road network or nearby intersections; therefore there is no objection to the proposal based on traffic impact.

#### *Recommendations*

The following recommendations relating to the development are made:

#### *Parking Management Plan*

- A parking management plan needs to be submitted which will include allocating parking spaces to individual properties, signing of parking spaces, line marking of parking spaces and detail how access will be achieved by visitors i.e. an intercom and how parking will be secured.

#### *Car Parking Facilities*

- The plans state that it is proposed to use a Trendvario 4300 and 4000 Standard Type. The Ratio report states that 1.8m of headroom will be provided in the ground floor and in the pit, however the plans need to state this by detailing the model i.e. Trendvario 4300 GT 200.

### 9.1.1

(cont)

#### *Ramp Grades and Width*

- The ramp grade from the property line is to be modified so that a maximum grade of 1:10 for the first 5m is provided as required by Clause 52.06-8 'Design Standard 3: Gradients' of the Whitehorse Planning Scheme. The proposed single lane ramp is to be widened to 3.6m as required by Australian Standard AS 2890.1 figure 2.8.

#### *Passing Area*

- The proposed ramp is approximately 30m long which requires a passing area at the property line to reduce potential congestion on Downing Street when vehicles are trying to pass each other. It is recommended that the passing area should be 6m long by 6m wide which allows a visitor intercom on a splitter island to be installed.

#### *Head Room*

- Insufficient information has been provided to determine if the required headroom has been provided. The designer is to submit a longitudinal section of the circulation roadway showing the headroom provided at the entry point and throughout the parking area demonstrating a minimum vertical headroom of 2.2m.

#### *Sight distance*

- It is unclear as to whether the required sight distance at the property boundary to pedestrians is provided. The maximum height of any structure or foliage is 700mm within the area two (2) metres along the frontage road from the edge of an exit lane and 2.5 metres along the exit lane from the frontage or provide fifty percent (50%) clear of visual obstructions as required by Clause 52.06-08 of the planning scheme.
- Waste Engineer

It is noted that Council's waste engineer originally objected to the proposal based on there being an inadequate location for bin collection. However, the amended plans submitted under Section 57(a) have included a passing area which allows the waste vehicle to prop whilst the bins are collected; ensuring traffic is uninhibited along the accessway. To achieve this without impacting upon residents within Downing Street or future residents of the apartments, the front apartment has been reconfigured and the frontage narrowed. Therefore, Council's waste engineer supports the proposal, subject to a number of conditions, including the provision of a private waste collection.

- Assets Engineer

Council's asset engineer supports the proposal, subject to standard conditions. It is noted that the relevant flood authority for this site is Melbourne Water; whilst the Special Building Overlay affects the rear portion of the lot, flood mapping from Melbourne Water covers the entire subject site. .

#### Planning Arborist

Council's planning arborist supports the proposal, subject to a number of conditions requiring tree protection areas to be designated on the plans, and tree protection fencing to be provided. It is however noted that one tree has been identified by Council's arborist that has not been shown the plans; Tree 26.

This tree is not shown on the plans and is located on the adjacent land to the south. It is positioned immediately outside and adjacent to the south boundary fence of the subject site.

The proposal includes buildings and works within a significant portion of the tree protection zone of this tree, which means it could become unstable at ground level. If it was to fail at ground level it could fall on the train tracks. To ensure the tree is not adversely impacted, the plans must be amended to show no soil level changes within 3.6m of the south boundary fence where within the TPZ of this tree.

### **9.1.1**

(cont)

Considering that the tree is not located within the subject site a condition of permit, should one be granted, will require the developer to obtain consent for the tree's removal prior to the construction of buildings and works.

It is noted that Council's Property and Rates Department confirmed that the land is designated as a road on title, however is not registered as a road on Council's Road Register.

#### ESD Advisor

Council's ESD officer supports the proposal, subject to conditions including an amended Sustainability Management Plan (SMP).

### **DISCUSSION**

#### **Consistency with State Planning Policies**

The strategic planning directions in both State and Local Planning Policy Frameworks identify the subject site as suitable for high density housing, which will widen housing choice and make better use of existing infrastructure. The proposed development achieves this overarching strategic objective to provide a greater range and intensification of residential development. The site is within walking distance of public transport (trains and buses) and parks, provides direct access to the Blackburn Activity Centre and is within 2km of the Box Hill Metropolitan Activity Centre.

The proposal complies with Clauses 10.04 (Integrated decision making) of the Whitehorse Planning Scheme. Clause 10.04 requires that planning/responsible authorities integrate the range of policies and balance conflicting objectives of net community benefit. It is considered that the proposal responds appropriately to economic, social, and environmental factors by incorporating a proposal that will provide:

- A development which will contribute to housing affordability within the municipality; and
- A site responsive design that will respect the surrounding environment without affecting the amenity of the locality.

In accordance with Plan Melbourne: Metropolitan Planning Strategy, Clause 11.06-2, Housing Choice, includes the objective to provide a diversity of housing in defined locations that cater for different households and are close to jobs and services. Increasing housing supply near services and public transport is encouraged to reduce the cost of living and facilitate the supply of affordable housing.

Clause 15 Built Environment and Heritage, identifies that planning should ensure all new land use and development appropriately responds to valued built form and cultural context.

Clause 16.01-2 Location of Residential Development encourages new housing to be located in or close to activity centres, employment corridors, services and transport. This is to be achieved by increasing the proportion of housing in Metropolitan Melbourne to be developed within the established urban area, to reduce the pressure for fringe development. In addition, Clause 16.01-4, Housing Diversity, recommends the provision of a range of housing types to meet increasingly diverse needs by widening housing choice, particularly in the middle and outer suburbs.

Clause 18 has objectives to encourage higher land use densities and mixed use developments near the Principal Public Transport Network. Pursuant to the State Transport Policy, Clause 18.02-1 also promotes the use of sustainable personal transport, including walking and cycling.

Clause 19.01 promotes renewable energy use in development and Clause 19-03-05 seeks to minimise waste and encourage recycling within new development.

### 9.1.1

(cont)

#### **Consistency with Local Planning Policies**

Clause 22.03, Residential Development, identifies the site as being within a Substantial Change area. This policy recommends that development is facilitated within Substantial Change Areas as these have been identified as being able to sustain higher density development based on environmental and infrastructure considerations, and will make a significant contribution to increases in housing stock. Apartment style building forms are encouraged within Substantial Change Areas, however it is noted that buildings interfacing sensitive areas should have a scale and massing appropriate to the character and scale of their context, and higher density building forms should be located away from sensitive interfaces.

The proposal is consistent with the purpose of the Residential Growth Zone which seeks to provide housing at increased densities, to encourage a diversity of housing types in locations offering good access to services and transport, and to a transition of building scales between areas of more intensive development and areas of restricted housing growth. It is noted that the purpose also references building forms up to four storeys.

The site is included within the Garden Suburban Precinct 13. Substantial Change Areas within this precinct, including the subject site, are expected to accommodate more dwellings *'with slightly more compact siting than the remaining residential areas, but with space for large trees and gardens'*. It is considered that the site can accommodate a more robust built form than is typically encouraged within the Substantial Change Areas of Garden Suburban Precinct 13 due to the subject land's context to the south (railway line). The substantial setback proposed along the rear boundary affords an opportunity for large canopy planting in accordance with the preferred character statement under Garden Suburban Precinct 13. As landscaping areas have been made available along the rear and east boundaries it is considered appropriate to include conditions of permit that require additional planting to enhance the tree coverage and landscape character (see discussion below).

Clause 22.04, Tree Conservation, seeks to encourage the retention and regeneration of significant vegetation. The development proposes the removal of 17 trees located within the subject site which does not require planning permission from the Responsible Authority. As identified within the consultant arborist report the trees were given a rating of none, low, or moderate. With regard to the acceptability of replanting, please refer to the discussion below (under Standard B13).

The trees located on adjoining properties will be protected via conditions of permit. Council's arborist has suggested that a tree root investigation and a Tree Management Plan (TMP) written in accordance with AS4970-2009 be conditioned for Trees 1 and 2 on the subject site and Tree Group 20 on the adjoining property.

The proposal does provide space within the front and rear of the site for landscaping and tree planting that will serve to replace the trees being removed.

#### **Clause 55 (ResCode)**

##### Standard B8 (Site coverage)

It is noted that the overall site coverage for the proposed development is 63.68% which is greater than the 60% stated within Standard B8. Considering that the conditional approval from Melbourne Water requires the development to achieve a minimum of 40% to be maintained at natural surface levels, it is suggested that the total site coverage (building envelope) be reduced to 60% to achieve compliance with both Standard B8 and Melbourne Water. The reduction of 3.68% represents 33.92sqm which will have to be reduced from the proposed building envelope.

### 9.1.1

(cont)

#### Standard B13 (Landscaping)

Relevant objective(s):

- *To encourage development that respects the landscape character of the neighbourhood.*
- *To encourage development that maintains and enhances habitat for plants and animals in locations of habitat importance.*
- *To provide appropriate landscaping.*
- *To encourage the retention of mature vegetation on the site*

The Schedule 2 variation to the standard under the Residential Growth Zone qualifies that [a landscape layout and design should provide for]:

*Provision of at least one canopy tree that has the potential of reaching a minimum mature height of 8 metres. The species of canopy tree should be native, preferably indigenous.*

The applicant has provided a landscape plan which includes the provision of 4 x 5 metre (h) canopy trees (Japanese Maple) and 2 x 10 metre (h) advance canopy trees (Chinese Elm) to the rear. In addition to the proposed vegetation, two existing canopy trees located within the frontage are proposed to be retained (a 12(h) x 4(w) metre Bhutan Cypress, and a 12(h) x 12(w) metre Eucalyptus nicolii). A preference for more native and indigenous species will be reflected in any conditions for approval.

In considering the landscaping layout of the proposed development it must be weighed against its zoning and locational context, being in a Residential Growth Zone adjacent a railway line (to the south). There is no typical 'sensitive' amenity interface of existing residential properties to the south as this is a laneway/railway interface; and as such the scale of built form anticipated along this boundary can be more 'intensive' – and landscaping to soften built form is less required.

In considering the northern interface the context includes a residential dwelling with an area of secluded private open space (SPOS) in the rear yard. The ground floors to Dwellings G.02 to G.05 propose private terraces within the SPOS areas and therefore limit the opportunity for screen planting to soften the built form. It is noted that the landscaping plan indicates that these spaces will be filled with Viburnums 'Emerald Lustre' which have a mature height of 4 metres. As such, it is considered that a condition of permit (should one be granted) will require the terraces reduced in size to accommodate the provision of one 6 metre canopy tree in conjunction with the Viburnums proposed to enhance the landscaping perspective along the northern boundary.

Further, it is considered that an additional 10 metre canopy tree can be provided within the rear yard to soften the western interface and contribute to the Garden Suburban preferred character guidelines.

#### Standard B17 variation

Relevant objective(s):

- "To ensure that the height and setback of a building from a boundary respects the existing or preferred neighbourhood character and limits the impact on the amenity of existing dwellings."



### 9.1.1

(cont)

It is noted that the proposed northern and southern wall setback distances are non-complaint with Standard B17. The building wall height to the south is measured at 13.1 metres where viewed from the east elevation (Downing Street) and therefore requires a setback distance of 8.19 metres (whereas 2.2 metres is provided). It is noted that this interface is adjacent to the railway line and consequently the neighbourhood character context is divided between the north and south. As this interface is to a non-sensitive railway and surrounding context (e.g. laneway) it is considered an acceptable design response. The proposal does not impact upon an existing dwelling's sensitive amenity or cause detrimental overshadowing of private open space. Given the context, the proposal variation sought is acceptable.

The northern setback includes a 12.7 metre maximum wall height which is setback between 3.7 to 4.9 and 6.6 (where inset) metres from the boundary. The 12.7 metre point requires a setback distance of 7.79 metres at its maximum, thus is non-compliant.

In seeking to vary the Standard B17 requirement the relevant assessment criteria include the following:

Decision guidelines (as relevant) listed within the Schedule 2 to the Residential Growth Zone, being:

- *The potential impact on the amenity of existing adjoining residential dwellings in the Residential Growth Zone.*

Strategies for Substantial Change Areas as listed within Clause 22.03 (Residential Development), being:

- *Locate new development in the form of flats and apartments in Substantial Change Areas only.*
- *Provide a range of dwelling types, sizes and tenures, including affordable housing, in larger developments.*
- *Ensure buildings interfacing sensitive areas and uses have a scale and massing appropriate to the character and scale of their context.*
- *Create a new, higher density urban character in areas located away from sensitive interfaces.*

Building height and form guidelines as listed within the Garden Suburban, Precinct 13 character guidelines, being:

- *In Substantial Change Areas buildings should not exceed 4 storeys in height, unless otherwise specified in the current adopted structure plan or urban design framework applying to the location.*

Correspondence during the course of the application raised a concern about the northern wall (in a request for further information letter on 14 June, 2016) and stated the following:

- *The height and length of the wall on the northern boundary will have an unreasonable impact upon the amenity of the adjoining properties, especially considering the scale of the development and lack of setbacks from these boundaries.*

In response to Council's initial concerns the applicant submitted amended plans which included the alteration of the façade form (e.g. fenestrations, treatment) and a substantial variation and addition of materials, including brick enclosed within architectural feature elements (large rectangular rendered sections). The images below include the northern elevation and the third floor layout adjacent to the northern boundary. It can be seen from the third floor layout that it provides an appropriate amount of articulation via insets of form to create a staggered interface that allows a transition of setback distances from the boundary. There are only three points (being the bedrooms) which include the lesser setback distance, while the majority is either balconies, or 4.9 metres or 6.6 metre insets. This creates a perception of the built form being broken up rather than a dominating continuous mass.

### 9.1.1 (cont)



Figure 1 – Northern elevation (partial)

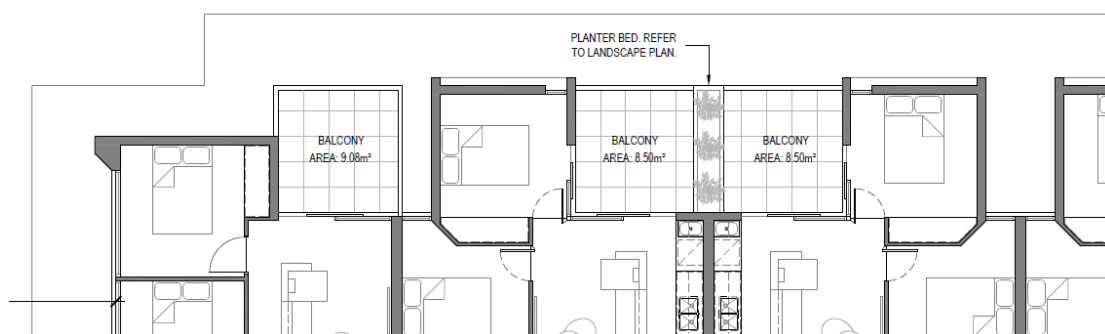


Figure 2 - Third floor layout (partial)

In reviewing the immediate context to the north it includes a single storey dwelling with a rear SPOS area, moderately vegetated. It is noted that number 18 Downing Street, the abutting property, has not lodged an objection to the application with Council. Although the setback distance is non-compliant it is not considered that the amenity of the dwellings to the north is being compromised to a point that is unreasonable. The orientation of the lot means that no solar access is diminished from number 18 Downing Street, there are no overlooking impacts, and vegetation is being protected. The relevant scope of assessment is therefore limited to visual amenity, which as discussed above is being mitigated by the variation of materials, fenestrations, and form articulation.

The Residential Growth Zone and the Garden Suburban – Substantial Change Area envisage up to four storeys and consequently an increase in height, bulk, and mass is anticipated. Therefore, on balance it is considered that the proposed apartment building offers appropriate design responses which will not unreasonably detract from the immediate existing amenity of adjoining dwellings.

#### Standard B24 (Noise Impacts)

Relevant objective(s):

*“To contain noise sources in developments that may affect existing dwellings.”*

*“To protect residents from external noise.”*

### **9.1.1**

(cont)

Due to the location of the development within close proximity to a railway line it is considered that dwellings may be compromised by excessive noise associated with trains. Therefore, all windows to the dwellings will require acoustic glazing. This will ensure that all rooms are protected from noise in accordance with the objective of this clause.

#### **Vehicle Access Arrangements and Car Park Layout**

A number of the objections raised concern with the lack of appropriate on-site car parking for the development. As set out above, the statutory car parking requirement is 27 spaces (24 resident spaces and 3 visitor spaces) which the proposal meets by providing 28 spaces (25 resident spaces and 3 visitor spaces). Council's Transport Engineers support the above assessment.

#### *Bicycle facilities*

Bicycle parking requirements applicable to the proposed development are specified in Clause 52.34. The proposed development generates a requirement for 3 resident spaces and 1 visitor spaces. Within the ground level car park is a bicycle compound containing 8 racks. The provision of 8 bike spaces exceeds the statutory requirement. There is a further rack of 4 spaces adjacent to the pedestrian walkway from Downing Street.

The proposed provision of bicycle parking meets the Planning Scheme Requirements.

#### *Public Transport Access*

The site is well-serviced and within convenient walking distance from Blackburn train station and bus interchange.

Whitehorse Road itself has substantial access to a number of main north-south metropolitan roads including; Springvale Road, Blackburn Road and Eastlink.

#### **Flooding, drainage, and the Special Building Overlay**

It is acknowledged that aside from matters of neighbourhood character and built form, the most pressing issues for objectors is that of flooding; specifically, the historic nature of floodwaters within this section of Downing Street, and adjacent Frankcom Street. Objectors have presented significant amounts of information including recent and historic photos demonstrating the extent to which the subject site and the site immediately to the west in Frankcom Street have been flooded.

Officers acknowledge that the issue of flooding is a relevant one, and as such have sought to thoroughly consider and understand the impacts that this development may have. The subject site is partially covered by a Special Building Overlay, which reflects the propensity of the site to flood resulting from stormwater through the nearby Melbourne Water drain.

The whole site however is not covered by a flood overlay under the planning scheme. From a statutory perspective, Council's Asset team have identified that the responsibility for imposing the flood mapping is within the remit of Melbourne Water and as such implementation of measures to ensure flooding is appropriately managed is within their jurisdiction. Melbourne Water as previously identified, have granted consent for the proposed development, having been provided with a full set of plans for the development.

From a design perspective, the proposed design has sought to implement a unique response through raising the finished floor level, allowing for provision of a sub-floor with a permeable barrier, and increasing the overall flood storage capacity. It is not anticipated that there will be any detrimental flooding impacts associated with the proposed development; this has also been accepted by Melbourne Water.

### 9.1.1 (cont)

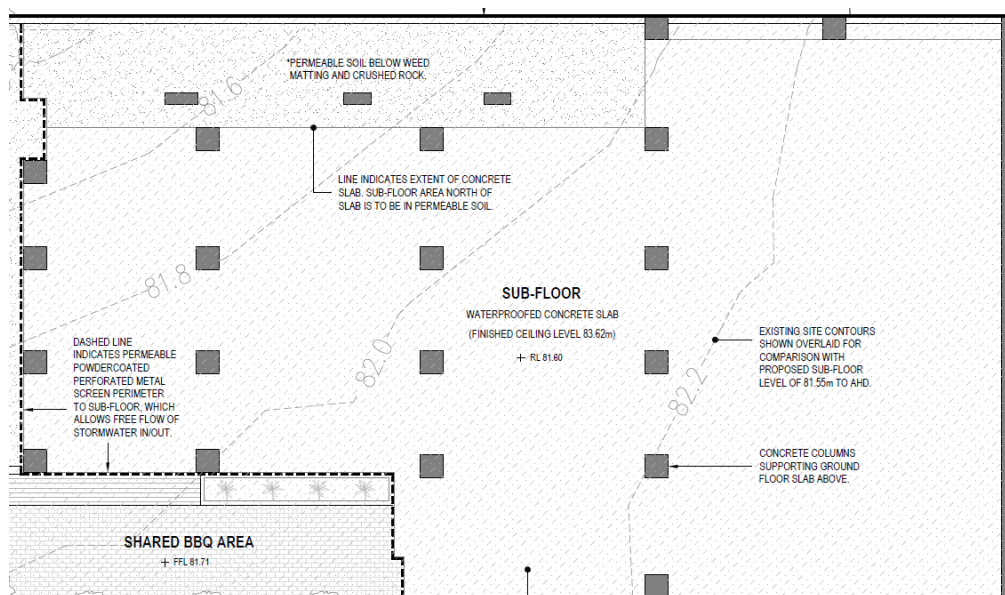
In considering the proposal against the requirements of the Whitehorse Planning Scheme, the Special Building Overlay contains decision guidelines at Clause 44.05-6 that must be considered. The guidelines are listed below (as relevant):

- *Any comments from the relevant floodplain management authority.*
- *The existing use and development of the land.*
- *Whether the proposed use or development could be located on flood-free land or land with a lesser flood hazard outside this overlay.*
- *The susceptibility of the development to flooding and flood damage.*
- *Flood risk factors to consider include:*
  - *The frequency, duration, extent, depth and velocity of flooding of the site and access way.*
  - *The flood warning time available.*
  - *The danger to the occupants of the development, other floodplain residents and emergency personnel if the site or access way is flooded.*
- *The effect of the development on redirecting or obstructing floodwater, stormwater or drainage water and the effect of the development on reducing flood storage and increasing flood levels and flow velocities.*

In response to these decision guidelines, the relevant floodplain management authority is Melbourne Water who has provided consent for the proposed development. The development, whilst not able to locate on flood free land, has sought to provide a unique response in recognition of the unique and challenging context of the site.

Further, it is noted that appropriate construction techniques have been incorporated into the design, including creation of a Sub-floor (image below) into the design to allow retention of floodwaters beneath the applicable 1:100 year flood level provided by Melbourne Water.

The sub-floor concrete finished ceiling level is 83.62m and includes permeable metal screens to its periphery to allow unimpeded flows across the subject site. Therefore, in response to the 'obstructing/redirecting' flows decision guidelines it is considered that the proposed building will have minimal implications on this.



### 9.1.1

(cont)

With regard to the overflow pipe it is noted that this is located outside the subject site and is a separate issue to the consideration of this planning application. The flooding and drainage issues associated with the broader street network, Council and Melbourne Water drainage assets, are for consideration outside the scope of this planning application and will need to be appropriately managed to meet all necessary statutory requirements.

#### Objectors Concerns not Previously Addressed

- Represents unacceptable and excessive loss of established vegetation and impact on wildlife habitats

*Response:* The subject site does not have a significant landscape overlay, environmental significance overlay or vegetation protection overlay, all of which would restrict the removal of vegetation and/or identify strategic bio-diverse locations. It is considered that the proposed landscaping will contribute to the vegetative character of the area and whilst existing vegetation on site is proposed to be removed, it is considered an acceptable outcome when balanced against the other objectives of the State and Local Planning Policy Framework.

- The building of apartments will significantly alter the demographic of the area

*Response:* *This is not a matter that can be considered as part of a planning application and therefore cannot be assessed as part of this report.*

- Not safe for children to walk on the pavement

*Response:* *The issue of pedestrian safety has not been raised by Council's Transport unit.*

- Does not meet the objectives of the Special Building Overlay; and
- The drain connected to the overflow pipe located at the end of the road is ineffective

*Response:* *The proposal has been appropriately considered against the applicable planning controls as discussed in detail previously in this report. The assessment of the existing flooding issues outlines how these have been mitigated through the design response, whilst ensuring this design response does not defer floodwaters into surrounding properties. Council's Assets team, as well as Melbourne Water and the applicant's consultant engineer are satisfied with the response to flooding on this and surrounding properties.*

- Removal of two Magenta Cherry trees location on the land

*Response:* An objector stated that the Magenta Cherry tree is listed as vulnerable under the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999* and therefore should be protected. It is noted that the subject site is not affected by any tree protection overlays (such as a Significant Landscape Overlay or Vegetation Protection Overlay) and therefore the planning scheme does not afford any protection to these trees at either a State or local policy level. Nevertheless, review of the status of this species under the EPBC Act confirms it as vulnerable; however there is no approved conservation advice for the Magenta Cherry,

- Overlooking/Privacy

*Response:* The proposed elevations demonstrate screening to all balconies and habitable room windows, which would comply with the requirements of Standard B22 (Overlooking). However, the dimensions have not been stated on the submitted plans and as such a condition of permit, should one be granted, will require the plans be amended to include 1.7 metre high screens to all windows/balconies with the potential for overlooking.

### 9.1.1

(cont)

- Traffic congestion/car parking

*Response:* The objectors are essentially concerned with the impact of the new development in relation to vehicles, traffic, nearby bus stop/route and parking locations. The proposed development satisfies the requirements pursuant to Clause 52.06 as each dwelling has one or two associated car parking spaces and it cannot be assumed that the new residents will park their vehicles on the street or in a location which would prejudice the amenity of the objector's property, disrupt the bus route and/or further congest the street. It is further noted that local laws prohibit the parking of vehicles on nature strips.

- Noise

*Response:* The proposed development is for a residential land use in a residential area and there are not anticipated to be any associated noise impacts beyond what is normally expected for dwellings.

### CONCLUSION

The proposed construction of a four storey apartment building is considered to be generally consistent with the relevant provisions contained within the Whitehorse Planning Scheme, including the State and Local Planning Policies, the Residential Growth Zone Schedule 2, the Special Building Overlay, and Clause 52.06 Car Parking. The proposal is considered appropriate as it responds to the broader strategic direction of the SPPF through the appropriate location of housing stock in close proximity to community and transport infrastructure, and satisfies Council's LPPF by offering a responsive sustainable design which includes predominantly northern solar orientation, retention of some existing vegetation, the opportunity for future canopy tree planting, and diversity of housing:

- This report identifies the issues relevant to consideration of the proposed development and concludes that the proposal, subject to conditions, addresses the requirements of the Whitehorse Planning Scheme.

A total of 17 objections from 16 properties were received as a result of public notice and all of the issues raised have been discussed in this report.

It is recommended that the proposal be supported.

### ATTACHMENT

- 1 Decision Plans [↗](#)



**9.1.2 739-743 Highbury Road, VERMONT SOUTH (Lot 2 LP 28492)  
Use & development of part of the land for a childcare centre, the  
removal of vegetation under Clause 52.17 and the Vegetation  
Protection Overlay, and alteration of access to a road in a Road  
Zone, Category 1**

FILE NUMBER: WH/2017/414  
ATTACHMENT

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**SUMMARY**

*This application was advertised, and a total of 25 objections were received. The objections predominantly raised issues with traffic congestion, on-street parking, access, noise, and vegetation. A Consultation Forum was held on 28 November 2017 chaired by Councillor Bennett, 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.*

**RECOMMENDATION**

**That Council:**

- A** *Being the Responsible Authority, having caused Application WH/2017/414 for 739-743 Highbury Road, VERMONT SOUTH (Lot 2 LP 28492) to be advertised and having received and noted the objections is of the opinion that the granting of a Planning Permit for the use and development of part of the land for a childcare centre, the removal of vegetation under Clause 52.17 and the Vegetation Protection Overlay, and alteration of access to a road in a Road Zone, Category 1 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 739-743 Highbury Road, VERMONT SOUTH (Lot 2 LP 28492) for the use and development of part of the land for a childcare centre, the removal of vegetation under Clause 52.17 and the Vegetation Protection Overlay, and alteration of access to a road in a Road Zone, Category 1, subject to the following conditions:*
- 1.** *Before the use and development starts, or any trees or vegetation removed, amended plans (three copies in A1 size and one copy reduced to A3 size) shall be submitted to and approved by the Responsible Authority. The plans must be drawn to 1:100 scale, with dimensions, and be generally in accordance with the plans submitted with the application but modified to show:*
    - a)** *A total of 110 children places, inclusive of a maximum of 44 children places at first floor.*
    - b)** *All barrier heights increased to 1.7 metres above finished floor level and be of a non-transparent material to restrict overlooking, for all outdoor play areas within 9 metres of adjoining properties' private open space or habitable room window areas.*
    - c)** *Any window sill heights increased to 1.7 metres above finished floor level where within 9 metres of adjoining properties' private open space areas.*
    - d)** *Any alterations as required by the revised WMP (Condition 10).*
    - e)** *Wheel stops adjacent to the Highbury Road boundary to prevent overhang of vehicles on landscaping and prevent vehicles rolling onto the verge.*
    - f)** *Wheel stops where adjacent to the proposed building to prevent rolling.*

### **9.1.2**

(cont)

- g) Provision of the acoustic fence as per the acoustic report provided with the application, to be freestanding within the boundary of the subject site, and not attached to the existing fence.*
- h) Landscape Plan in accordance with Condition 3, including the following:*
  - i. Four canopy trees capable of growing in excess of 10 metres within the frontage.*
  - ii. Two canopy trees capable of growing in excess of 10 metres in the rear play space.*
  - iii. All new trees must be planted at a minimum height of 1.5 metres.*
- i) All sustainability features indicated in the submitted, amended and approved Sustainability Management Plan (SMP). 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.). At a minimum the plans must include:*
  - i. Design measures as identified in the BESS Report, as required to legitimately exceed an overall score 50% and exceed the 'pass' marks in the categories of Water, Energy Stormwater and IEQ (indoor environment quality).*
  - ii. Water-sensitive urban design measures as required to achieve a STORM Rating of at least 100% or equivalent, including a rainwater tank capacity of at least 25,000 litres, plumbed to all toilets, irrigation and bin area wash down, as well as indicative pump and maintenance access, and cross section details of rain garden, grass buffer and permeable paving.*
  - iii. Include arrows on stormwater plan, describing indicative flow paths.*
  - iv. Indicative locations for all exterior building services equipment, i.e. utility meters, condensers, hot water units, etc.*
  - v. All operable windows, doors, winter garden openings & vents in elevation drawings.*
  - vi. Shadows as per actual sun angles on all elevation drawings.*
  - vii. Exterior shading for all east, north and west windows greater than 1.5 square metres, to shade at least 35% from 11am to 3pm in summer.*
  - viii. Consistency between the architectural and landscape drawings, regarding general planter areas, tree size & locations.*
  - ix. At least 2 operable openings for each childcare space tenancy. One of these may be a door with access to outside, while the second may be a smaller operable vent or operable, preferably spaced further apart.*
  - x. Include an annotation of the indicative timber species intended for use as decking or cladding and other outdoor timber.*
- j) A notation stating that access between Tracey Drive and the subject site must be restricted to allow access only by residents of the site.*

*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.*



### **9.1.2**

(cont)

3. *No building or works must 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 and around the perimeter of the site comprising trees and shrubs capable of:*
    - i. *Providing a complete garden scheme,*
    - ii. *Softening the building bulk,*
    - iv. *Providing some upper canopy for landscape perspective,*
  - d) *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.*
  - e) *The proposed design features such as paths, paving, lawn and mulch.*
  - f) *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.*

*Landscaping in accordance with this approved plan and schedule shall be completed before the addition to the building is occupied.*

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

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 the occupation of the development, all boundary walls must be constructed, cleaned and finished to the satisfaction of the Responsible Authority.*
6. *Unless with the prior written consent of the Responsible Authority, the hours of operation are:*
  - a) *Monday to Friday - 7:00am to 6:00pm.*
7. *Unless with the prior written consent of the Responsible Authority, the permitted number of children at the centre at any one time is 110.*
8. *Unless with the prior written consent of the Responsible Authority, the loading and unloading of any goods or materials must only be during the hours between 10:00am to 2:30pm (Monday to Friday).*
9. *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.*

**9.1.2**  
(cont)

*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.*

- 10.** *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 SMP submitted with the application, but amended to include the following changes:*

- a) Collection vehicles to exit the subject site using the service road adjacent to Highbury Road and not Tracey Drive.*
- b) Relocation of the bin storage area adjacent to car parking space 11 (the bin storage area must not be located within greater than 10% of a TPZ of any proposed trees).*

*The management of waste must always be in accordance with the Waste Management Plan submitted by OneMileGrid (Reference: 170300WMP001B-F) or any subsequent or amended version. The Waste Management Plan must be implemented to the satisfaction of the Responsible Authority.*

- 11.** *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 legitimate a score of at least 100% or equivalent, including but not limited to rainwater harvesting with reuse, rain gardens and grass buffers.*
- b) A complete, published BESS Report, with an overall score that legitimately exceeds 50% and exceed the 'pass' marks in the categories of Water, Energy Stormwater and IEQ (indoor environment quality).*
- c) In order to substantiate Energy score, provide preliminary specifications on how the proposed development is to achieve the Energy Deemed-to-Satisfy criteria. This includes exterior wall insulation, glazing specification values, heating and cooling systems, and hot water systems.*
- d) Control car park lighting (at least 50% of lighting fixtures) with motion sensors*
- e) Commit to diverting at least 80% of construction/demolition waste from landfill.*
- f) 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 the AS6400 standard of 1 full- and 4 half-flushes per person per day (giving 16.5 L/person/day for 4 star WELS rated toilet). A new rainwater tank size should be selected based on the revised calculations, ensuring adequate reliability of supply is maintained. Alternately, increase the size of the rainwater tank to 26kL, which would enable a longer period of water security.*
- g) Connect the rainwater tanks to all toilet flushing, irrigation and bin area wash-down.*

*All to the satisfaction of the Responsible Authority*

## **9.1.2**

(cont)

- 12. Before occupation of the development hereby permitted, areas set aside for parking vehicles, access lanes and paths as shown on the endorsed plans must be:**
  - a) Constructed to the satisfaction of the Responsible Authority.**
  - b) Properly formed to such levels that they can be used in accordance with the plans.**
  - c) Surfaced with an all-weather sealcoat to the satisfaction of the Responsible Authority.**
  - d) Drained to the satisfaction of the Responsible Authority.**
  - e) Line-marked to indicate each car space, all access lanes and, if necessary, the direction in which vehicles are to travel to the satisfaction of the Responsible Authority.**
  - f) In accordance with any Council adopted guidelines for the construction of car parks.**
  - g) Parking areas and access lanes must be kept available for these purposes at all times and maintained to the satisfaction of the Responsible Authority.**
- 13. The loading and unloading of goods from vehicles must only be carried out within the boundaries of the site or a dedicated loading bay and must not affect the function of adjacent roads.**
- 14. The amenity of the area shall not be detrimentally affected by the use or development, through:**
  - a) Transportation of materials, goods or commodities to or from the land,**
  - b) Appearance of any building, works or materials,**
  - c) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot ash, dust, waste water, waste products, grit or oil,**
  - d) Presence of vermin,**
  - e) In any other way.**
- 15. Alarms must be directly connected to a security service and must not produce noise beyond the premises.**
- 16. 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.**
- 17. 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.**
- 18. Stormwater that could adversely affect any adjacent land shall not be discharged from the subject site onto the surface of the adjacent land.**
- 19. 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)

- 20. 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.**
- 21. 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.**
- 22. Prior to the commencement of construction, offset requirements in accordance with the 'Permitted clearing of native vegetation – Biodiversity assessment guidelines (Department of Environment and Primary Industries, September 2013)' must be completed to the satisfaction of the Responsible Authority.**
- 23. Documentation proof providing the details that the offset has been satisfied must be provided to Council prior to the commencement of the development or tree removal.**
- 24. Prior to felling, trees identified for removal/felling must be examined (by a qualified zoologist) for the presence of fauna, including those using external nests (e.g. Common Ringtail Possums, bird nests) and tree hollows. If native fauna species are located, they are to be salvaged and relocated in accordance with all relevant legislation and approvals further to consultation with the Department of Sustainability and Environment.**
- 25. 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.**
  - c) The use does not commence within six (6) months of the completion of the development.**

**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 Engineering**

- 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.**

### **9.1.2**

(cont)

- 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.*
  - 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. 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"*
- 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.*

### **COUNCIL RESOLUTION**

Moved by Cr Bennett, Seconded by Cr Carr

**That Council:**

- A. Being the Responsible Authority, having caused Application WH/2017/414 for 739-743 Highbury Road, VERMONT SOUTH (LOT 2 LP 28492) to be advertised and having received and noted the objections is of the opinion that the granting of a Planning Permit for the Use and development part of the land for a childcare centre, the removal of vegetation under Clause 52.17 and the Vegetation Protection Overlay, and alteration of access to a road in a Road Zone, Category 1 is unacceptable and would unreasonably impact the amenity of adjacent properties.*
- B. Issue a Refusal to Grant a Planning Permit under the Whitehorse Planning Scheme to the land described as 739-743 Highbury Road, VERMONT SOUTH (LOT 2 LP 28492) for the Use and development part of the land for a childcare centre, the removal of vegetation under Clause 52.17 and the Vegetation Protection Overlay, and alteration of access to a road in a Road Zone, Category 1 on the following grounds:*

### **9.1.2**

(cont)

- 1. *The proposal is contrary to the objective of Clause 32.09 Neighbourhood Residential Zone of the Whitehorse Planning Scheme which is to manage and ensure that development respects the identified neighbourhood character, and landscape characteristics of the area.***
  - 2. *The proposal is contrary to the objectives of Clause 42.02 Vegetation Protection Overlay of the Whitehorse Planning Scheme which is to protect areas of significant vegetation, and to ensure that development minimizes loss of vegetation.***
  - 3. *The proposal is contrary to the decision guidelines of clause 32.09-12 Neighbourhood Residential Zone as it will not result in efficient and safe vehicle access to and egress from the site. The likely peak drop off and collection times will further exacerbate poor local traffic conditions at the corner of Springvale and Highbury Roads, and the intersection of the service lane to be used for egress with Sherwood Rise and Highbury Road. It is considered that this will potentially have a detrimental impact on surrounding residents.***
- 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.***

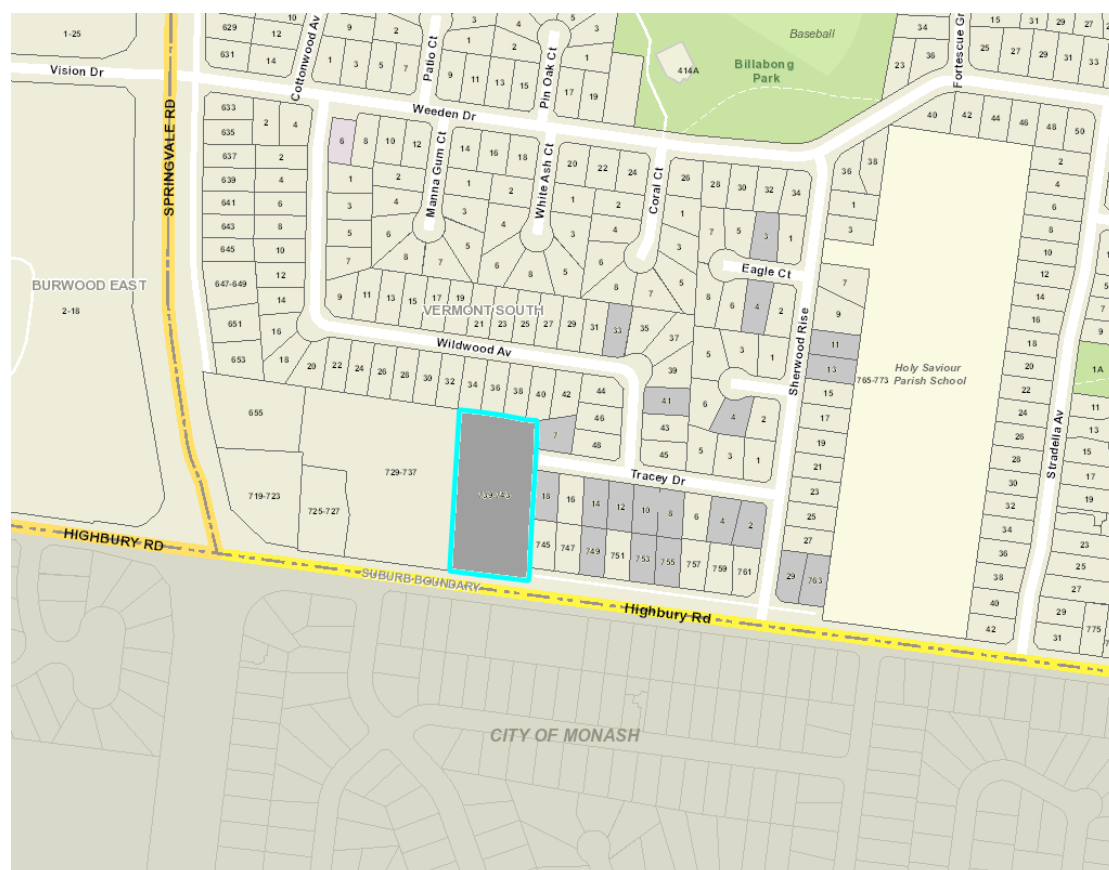
**CARRIED**

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**9.1.2**  
(cont)

MELWAYS REFERENCE 62 E9

Applicant:	Auswell Building Design & Consulting
Zoning:	Neighbourhood Residential Zone, Schedule 5 (NRZ5)
Overlays:	Vegetation Protection Overlay, Schedule 3 (VPO3)
Relevant Clauses:	
Clause 11	Settlement
Clause 12	Environment and Landscape Values
Clause 15	Built Environment and Heritage
Clause 21.05	Environment
Clause 22.04	Tree Conservation
Clause 22.05	Non-Residential Uses in Residential Areas
Clause 32.09	Neighbourhood Residential Zone
Clause 42.02	Vegetation Protection Overlay
Clause 52.06	Car Parking
Clause 52.07	Loading and Unloading of Vehicles
Clause 52.17	Native Vegetation
Clause 52.29	Land Adjacent to a Road Zone, Category 1
Clause 52.34	Bicycle Facilities
Clause 65	Decision Guidelines
Ward:	Morack



		Subject site		25 Objector Properties (5 outside of map)	 North
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## 9.1.2

(cont)

### BACKGROUND

#### History

No recent, relevant planning applications are noted.

#### The Site and Surrounds

The site is generally rectangular in shape with a frontage of 57.91 metres, an average depth of approximately 118.56 metres, and an overall site area of 6,826 square metres. A 1.83 metre wide drainage easement is located parallel to the eastern boundary. A 1.83 metre wide drainage and sewerage easement is located parallel to the northern boundary.

The land is sitting approximately 3m higher than Highbury Road and slopes from the south-west corner towards the north-east corner approximately 5m. There is a single storey dwelling and a detached 'summer house' with a tennis court located in the rear portion of the land. The land can be accessed both via Highbury Road from the south and Tracey Drive from the north-east.

The subject site contains a considerable amount of vegetation, including canopy trees situated along the frontage of the subject land. The remaining vegetation is generally scattered throughout the remainder of the site, including to the periphery.

The wider context comprises predominantly residential land use, particularly noting that the immediate context to the north and east contains typical single and double storey detached dwellings set within rear open yards. The residential property to the west is a very large parcel of land with an extensive garden area and a residential dwelling located approximately 80 metres to the west. Land to the south of Highbury Road consists of residential properties within the City of Monash's municipality.

Land located approximately 235 metres to the west of the subject site contains the Baptist Union of Victoria Church (Crossways Church), which is situated within a Commercial 1 Zone. Billabong Park, an area for recreation, including the provision of baseball fields, is located approximately 240 metres to the north-east.

#### Planning Controls

##### Zone:

The site is within the Neighbourhood Residential Zone Schedule 5 (NRZ5). The purpose of Clause 32.09 (Neighbourhood Residential Zone) includes:

- *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *To recognise areas of predominantly single and double storey residential development.*
- *To manage and ensure that development respects the identified neighbourhood character, heritage, environmental or landscape characteristics.*
- *To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.*

A planning permit is required for use of the land for a Child care centre pursuant to Clause 32.09-2 (Table of uses). It is noted that as the use is not listed within the table it automatically becomes a Section 2 – permit required use.

A planning permit is required for the construction of buildings and works associated with a Section 2 use pursuant to Clause 32.09-8.



### 9.1.2

(cont)

#### Overlay:

A Vegetation Protection Overlay, Schedule 3 (VPO3 – contained at Clause 42.02) affects the subject site, which relates to Council's Significant Tree Study (2006), and identifies significant vegetation to be protected, and as the purpose states:

- *To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.*
- *To protect areas of significant vegetation.*
- *To ensure that development minimises loss of vegetation.*
- *To preserve existing trees and other vegetation.*
- *To recognise vegetation protection areas as locations of special significance, natural beauty, interest and importance.*
- *To maintain and enhance habitat and habitat corridors for indigenous fauna.*
- *To encourage the regeneration of native vegetation.*

Pursuant to Clause 42.02-2 a planning permit is required to remove, destroy or lop vegetation. The Schedule 3 to the this Overlay does not exempt this requirement as the trees are identified within Incorporated Document No. 11 – City of Whitehorse – Statements of Tree Significance, 2006.

#### Clause 52.06 – Car Parking

Clause 52.06 applies to:

- A new use; or
- An increase in the floor area or site area of an existing use; or
- An increase to an existing use by the measure specified in Column C of Table 1 in Clause 52.06-5 for that use.

The purpose of Clause 52.06 includes:

- *To ensure that car parking is provided in accordance with the State Planning Policy Framework and Local Planning Policy Framework.*
- *To ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated, the activities on the land and the nature of the locality.*
- *To support sustainable transport alternatives to the motor car.*
- *To promote the efficient use of car parking spaces through the consolidation of car parking facilities.*
- *To ensure that car parking does not adversely affect the amenity of the locality.*
- *To ensure that the design and location of car parking is of a high standard, creates a safe environment for users and enables easy and efficient use.*

The planning scheme requires 0.22 parking spaces per child to be provided for a child care centre. This equates to a requirement for 24 car parking spaces.

The proposal is not seeking a reduction in the car parking rate and therefore no permit is required under this clause.

#### Clause 52.07 – Loading and Unloading of vehicles

The purpose of this clause is:

- *To set aside land for loading and unloading commercial vehicles to prevent loss of amenity and adverse effect on traffic flow and road safety.*

### 9.1.2

(cont)

No building or works may be constructed for the manufacture, servicing, storage or sale of goods or materials unless:

- Space is provided on the land for loading and unloading vehicles as specified in the table below.
- The driveway to the loading bay is at least 3.6 metres wide. If a driveway changes direction or intersects another driveway, the internal radius at the change of direction or intersection must be at least 6 metres.
- The road that provides access to the loading bay is at least 3.6 metres wide.

It is noted that no planning permit is required for the waiver or reduction of loading as the child care centre is not manufacturing, servicing, storing or selling goods or materials from the land. However, it is noted that a condition of permit, should one be granted, will require the loading/unloading of goods to be in between peak periods, i.e. from 10am to 2:30pm.

#### Clause 52.17 – Native Vegetation

It is noted that an amendment to the planning scheme under VC138 was gazetted into the scheme on 12 December, 2017 which included transitional provisions for any applications to remove, lop, or destroy native vegetation (contained at Clause 52.17-6). As the application was lodged with Council prior to this date the scope of Clause 52.17 is considered under the previous policy controls. As such, the following is based on Clause 52.17 policy prior to 12 December, 2017.

The purpose of this clause is:

- *To ensure permitted clearing of native vegetation results in no net loss in the contribution made by native vegetation to Victoria's biodiversity. This is achieved through the following approach:*
  - Avoid the removal of native vegetation that makes a significant contribution to Victoria's biodiversity.
  - Minimise impacts on Victoria's biodiversity from the removal of native vegetation.
  - Where native vegetation is permitted to be removed, ensure that an offset is provided in a manner that makes a contribution to Victoria's biodiversity that is equivalent to the contribution made by the native vegetation to be removed.
- To manage native vegetation to minimise land and water degradation.
- To manage native vegetation near buildings to reduce the threat to life and property from bushfire.

Clause 52.17-2 notes that a permit is required to remove, destroy or lop native vegetation, including dead native vegetation.

#### *Class of application*

An application to remove, destroy or lop native vegetation must be classified as one of the following risk-based pathways: low, moderate or high, as defined in the Permitted clearing of native vegetation – Biodiversity assessment guidelines (Department of Environment and Primary Industries, September 2013). The application requirements and decision guidelines included in this clause must be applied in accordance with the classified pathway.

It is noted that the identified pathway is 'low'.

### 9.1.2

(cont)

#### *Offset requirements*

Clause 52.17-6 contains the policy for offsets:

The biodiversity impacts of the removal of native vegetation are required to be offset, in accordance with the Permitted clearing of native vegetation – Biodiversity assessment guidelines (Department of Environment and Primary Industries, September 2013). The conditions on the permit for the removal of native vegetation must specify this offset requirement. The offset requirements must take account of:

- The location of the native vegetation to be removed.
- The condition and extent of native vegetation to be removed.
- The strategic biodiversity score of the native vegetation to be removed.
- Whether the native vegetation to be removed is important habitat for rare or threatened species, and the proportional impact of the removal on those species' habitat.

#### *Referral*

The application does not require a referral to the Department of Environment, Land, Water and Planning as per Clause 66.02-2 (native vegetation). A referral of an application to remove native vegetation only applies if the application is one of the following:

- To remove, destroy or lop native vegetation if the area to be cleared is 0.5 hectare or more.
- To remove, destroy or lop native vegetation for the following class of application based on the risk-based pathway as defined in the Permitted clearing of native vegetation – Biodiversity assessment guidelines (Department of Environment, and Primary Industries, September 2013).

The area of native vegetation to be cleared is less than 0.5 hectare and the identified pathway is 'low', therefore no referral is required.

### **PROPOSAL**

#### Use:

It is proposed to utilise the vacant front portion of the site as a child care centre. The proposed child care centre will offer a maximum of one hundred and ten (110) places. It is noted that the architectural plans and traffic assessment report show the total number of the childcare centre to be 107 places which is incorrect.

The child care centre will utilise the existing entry from Highbury Road and exit via the service road from Highbury Road to the east. A total of 26 car spaces are provided on site: 22 of the car spaces will be within the frontage of Highbury Road.

#### Staff:

The proposed childcare centre will have a maximum of 16 staff with potential 2 contractors if needed.

#### Proposed hours of operation:

The proposed childcare centre is to operate during weekdays: Monday – Friday: 7am to 6pm.

#### Development:

The existing dwelling with the detached 'summer house' and tennis court located in the northern half of the subject site will be retained. The proposed childcare centre will be constructed within the existing front garden area. The proposed childcare centre is characterised by a contemporary design and utilises a mixture of building materials, including different colour rendered walls, timber, and weatherboard claddings.

## 9.1.2

(cont)

The proposed building will be partially three storeys with pitched roof form. The proposed front setback to Highbury Road is 19.881m. A minimum 6m setback is provided to the eastern boundary and approximately 19.5m setback is provided to the western boundary.

The proposed overall height (at the apex of the roof) is 11.91 metres. The total building coverage is approximately 16.3% of the total site.

The building details are:

### Ground Floor Level:

- A secure entry foyer accessed directly from the pedestrian path;
- A front reception area, office, kitchen, laundry and internal / external storage;
- Lift and stair; and
- 3 children's rooms catering for 66 children each provided with access to amenities and outdoor play areas (decking/garden area).

### First Floor Level:

- Staff room with amenities;
- 3 children's rooms catering for 40 children each provided with access to amenities and outdoor play area (balconies area). It is noted that a condition of permit will require the number of children shown at first floor to be 44 as 110 children are proposed overall.

### Second Floor Level:

- Administrative uses.

### Vegetation

It is proposed to remove seven (7) trees from the subject site, including Trees 4-7 which are listed under the VPO3 Significant Tree Register (for tree locations please refer to the consultant Arborist Report's Tree plan). Trees 4-7 are listed in the 2006 City of Whitehorse Significant Tree Register referred to as Tree 1-*Eucalyptus leucoxylon*, Tree 2-*Cupressus sp.*, and exotic deciduous species.

Trees G1, 2, 3, G8, 9, 13, and 14 are proposed to be retained.

### Advertising Signs

It is noted that no signage is proposed under this application.

## **CONSULTATION**

### **Public Notice**

The application was advertised by mail to the adjacent and nearby property owners and occupiers and by erecting signs to the site's frontage. Following the advertising period 25 objections were received.

The issues raised are summarised as follows:

### Neighbourhood Character

- Inappropriate for a Neighbourhood Residential Zone.

### Vegetation

- Loss of landscape character and habitat for birds.
- Tree removal.

## **9.1.2**

(cont)

### Traffic and Car Parking

- Loss of on-street parking.
- Increased traffic and associated safety impacts.
- The entry point being insufficient in size and having an inappropriate location.
- The service road inappropriate as an exit point.
- Acoustic 2.1 metre high fence inappropriate.

### Amenity Impacts

- Overlooking/privacy.
- Increased noise/pollution emissions.
- The construction process and potential disruption.

### Non-Planning Matters

- Impacts to property values
- Lack of community consultation

### **Consultation Forum**

A Consultation Forum was held on 28 November 2017 and was chaired by Cr Bennett. Approximately 16 objectors attended the meeting, as well as Cr Carr, the applicant, their traffic consultant and two planning officers.

Whilst the issues raised in the objections were discussed and matters clarified, no consensus was reached.

### **Referrals**

#### **External**

##### VicRoads

No objection or conditions required.

#### **Internal**

##### Engineering and Environmental Services Department

- Transport Engineer

The proposed plans have been reviewed by Council's Transport Unit, who supports the proposal subject to standard conditions.

- Waste Engineer

The proposed development plans and Waste Management Plan have been reviewed by Council's Waste Management team, who support the proposal subject to an amended WMP which directs the waste truck out via the service lane rather than Tracey Drive.

- Assets Engineer

The proposed plans have been reviewed by Council's Asset team, who support the proposal subject to standard drainage and assets conditions.

##### Planning Arborist

The removal of the trees from the site was referred to Council's arborist. It is acknowledged that the trees were referred with a view to making an assessment of their health and structure, and their value to the site. This was an arboricultural assessment. The assessment of the trees in the context of the VPO is discussed in the assessment section of this report.

### 9.1.2

(cont)

The arboricultural assessment undertaken by Council's arborist determined that the removal of the vegetation proposed is warranted because the trees are either in severe decline, or are small and do not contribute to the broader landscape. Tree protection measures are to be included in any permit issued to ensure those trees being retained have appropriate protection.

#### Environmentally Sustainable Design (ESD) Advisor

The proposal has been reviewed by Council's ESD Advisor, who stated that the application does not meet Council's ESD standards because it is incomplete. It was recommended an amended Sustainability Design Assessment (SDA) be requested by a condition on any planning permit issued, in addition to a condition mandating all sustainability features indicated in the report be shown on the plans.

### **DISCUSSION**

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

##### *Proposed child care centre use*

There is broad support within both the SPPF and LPPF, such as at Clause 11 (Settlement), Clause 19 (Infrastructure) and Clause 21.07 (Economic Development) emphasizing the importance of planning for social and physical infrastructure in an efficient, equitable and timely manner, and that planning is to recognise social needs by providing land for a range of accessible facilities for the community.

Further, objectives contained within Clause 11.04-4 (Liveable Communities and Neighbourhoods), Clause 15.01-1 (Urban Environment), Clause 21.06-7 (Non-Residential Uses) and Clause 22.05 (Non-Residential Uses in Residential Areas) stress the importance of ensuring development, and particularly non-residential development, responds to its context and is designed in a way that enhances the neighbourhood character and streetscape of the area.

In terms of Clause 22.05 (Non-Residential Uses in Residential Areas Policy), key objectives of Clause 22.05 (Non-Residential Uses in Residential Areas) includes:

- *To make provision for services and facilities demanded by local communities in a way that does not detract from the amenity of the area;*
- *To avoid the concentration of non-residential uses where it would:*
  - *Have off-site effects which are detrimental to residential amenity.*
  - *Create a defacto commercial area.*
  - *Isolate residential properties between non-residential uses; and*
- *To ensure that the design, scale and appearance of non-residential premises reflects the residential character and streetscape of the area.*

The use of the site is partially supported by the policy as the site has an interface with a main road (Highbury Road – Road Zone, Category 1). Whilst the site also interfaces directly with the residential areas within and around Tracey Drive, the size of the land enables the Highbury Road frontage to create its own direct interface with this main road, and separate itself from the more sensitive residential elements within the neighbourhood residential areas. In this way, it can respond to the objectives of this policy and the key decision criteria.

This policy further requires consideration of the 'need' for the provision of a non-residential use in a residential area. In this regard, the site is within very close proximity to the Tally Ho Business Park, and reasonably proximate to other commercial uses towards Vermont and Glen Waverley. This facility would provide access to child care for office and retail workers, where there are currently limited child care options.

### 9.1.2

(cont)

The applicant has identified that the closest existing child care facility is 1km away within the Monash municipality, and it is further acknowledged that Council planning officers are considering an application for a child care facility currently within the Tally Ho Business Park. There is also a child care facility located at 347 Burwood Highway, Forest Hill (the Hewlett Packard site).

The surrounding residential areas, and existence of 3 local primary schools suggests families with children of child care age are part of the local demographic. Coupled with the proposed operator having more than 20 years' experience, and thereby understanding the market and demographic trends, further supports the market demand and subsequent need for this use.

The predominant criterion for assessment, other than the policy context, relates to the potential for any off-site amenity impacts on the surrounding residential context.

The purpose (as relevant) of the Neighbourhood Residential Zone states:

- *To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.*

It is considered that the use of the land for a child care centre on the subject site is considered appropriate given its surrounding context (explained in greater detail below under 'design and built form'. The use is compatible with residential uses (responding to the purpose contained within the NRZ) insofar as the purpose of a child care centre is to service the needs of the families residing within these areas. It is not uncommon for child care centres to be located within residentially zoned land, rather than commercially zoned land.

The following discussion will consider the merits of the proposal against the abovementioned criteria.

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

Policy objectives, under 'Design' of Clause 22.05 (Non-Residential Uses in Residential Areas) include:

- *Existing residential buildings are encouraged to be retained and converted to suit the use in preference to a purpose-built premises.*
- *The design, scale and appearance of the non-residential use are encouraged to harmonise with the housing styles and general character of the area.*
- *Front setbacks are encouraged to be consistent with abutting residences.*

Whilst the Neighbourhood Residential Zone states:

- *To manage and ensure that development respects the identified neighbourhood character, heritage, environmental or landscape characteristics.*

In considering the policy objectives, both within Clause 22.05 and the Neighbourhood Residential Zone, the context of the site and its immediate surrounds must be taken into account. The subject site includes three relatively non-sensitive interfaces, including to the west, north, and southern boundaries (these are discussed below).

#### Southern interface

To the south is a Road Zone, Category 1 (Highbury Road), a major road that separates the properties to the south. This consists of a steep embankment from Highbury Road which reduces the visual impact of any built form from a streetscape perspective. Furthermore, the proposed building is located approximately 19 metres at the closet point from the front boundary. There is not anticipated to be any visual amenity detriment, nor will the proposed building be incongruous with the preferred neighbourhood character from this interface.

## 9.1.2

(cont)

### Northern interface

To the north is land within the subject site, which consists of a tennis court, vegetation and a swimming pool. The proposed building is setback approximately 7.5 metres from the expected 'future subdivision' boundary line (which is indicatively shown on the plans) and offers substantial provision of upper canopy planting within this area.

### Western interface

To the west is an expansive open area which is partially vegetated along the property boundary and contains a dwelling approximately 85 metres from the common boundary. There are no individual private open space areas as typically seen within residential lots that would be impacted by the proposal in terms of amenity detriment.

### Eastern interface

In the context of adjoining residential properties the most sensitive interface is located to the east of the subject site, which contains a single storey dwelling with an area of private open space within the rear yard. In response, the development seeks a 6 metre setback for both ground and first floors (with the first floor height at 6.7 metres). The setback distance is increased for the second floor height at 8.76 metres with a setback distance of 8.82 metres.

The proposed landscape plan offers screen planting within this interface to soften the visual amenity impacts of the built form. To offer visual interest, and in response to the vegetative character of the area, the proposal includes a variation of wood materials at all levels, including Shirlap Timber, Timber Plank, and matrix cladding.

### Three-storey element

In terms of the three-storey built form element it is noted that the Neighbourhood Residential Zone does not specify a maximum building height for non-residential uses, which is specifically stated at Clause 32.09-9: "*maximum building height requirement for a dwelling or residential building*".

Therefore, the decision guidelines contained at Clause 32.09-12 become the relevant assessment criteria. This is qualified by stating (as relevant): "*In the local neighbourhood context*":

- *Whether the use or development is compatible with residential use.*
- *The scale and intensity of the use and development.*
- *The design, height, setback and appearance of the proposed buildings and works.*
- *Any proposed loading and refuse collection facilities.*

On balance, it is considered that the scale and intensity will offer an appropriate response to the subject land and its immediate context. The third storey element is minor in comparison to the ground and first floors and the views will be mostly obscured from the western and eastern boundaries due to its substantial recession of form.

### **Tree Removal**

The proposal to remove vegetation as part of this application must be considered thoroughly as is called for under the tree conservation policy of the Whitehorse Planning Scheme, but further to this, the existence of a VPO over some of the trees proposed for removal requires a greater degree of critical analysis.

Overall, were the site not covered by a VPO, the arboricultural assessment of the trees in question would justify their removal; partly because of their severe state of decline (*Eucalyptus leucoxylon*), but also because the 2 cypress trees are small and can be readily replaced for an improved landscape outcome over time. However, the VPO calls for consideration of the value of these trees to the site and the area, as well as consideration of the trees themselves.



### 9.1.2

(cont)

In this regard, the VPO requires, as its objective, "to protect vegetation of special significance, natural beauty, interest and importance". This relates directly back to the citation of the trees in question as contained within the Statements of Tree Significance. The relevant statements for the Yellow Gum and the Cypress' identify both as locally significant, and as having been recognised because *"These trees are large and dominate the frontage of the site and are visible from surrounding streets contributing to the overall landscape and amenity of the area"*.

Having regard to this, the trees do contribute to the streetscape and the front of the site, however the largest of these trees, the Yellow gum, is in severe decline and therefore the consideration with this tree is the value of keeping it versus the long term value of replacing it for long term amenity value and benefit. Should this tree continue to decline, it may reach a stage where it can be removed without a permit and the opportunity would be lost to achieve replacement trees. The balance therefore, from a merits assessment falls to allowing it to be removed and replaced.

Insofar as the cypress trees, similarly these trees contribute to a 'greening' of this interface with Highbury Rd. Their loss will create a gap in the vegetation along the frontage, however the trees are above the cutout of Highbury Rd, have a fence in front of them and can be readily replaced throughout the site. Further to this, additional trees can be provided that will over time, reduce the extent to which the tree loss impacts the broader character.

In reference to the removal of the VPO trees it is noted that the decision guidelines contained within the Schedule 3 include (as relevant):

- *The applicable Statement of Significance included in Incorporated Document No. 11 - City of Whitehorse - Statements of Tree Significance, 2006.*
- *The species of vegetation and its significance, age, health and growth characteristics.*
- *The location of the vegetation on the land and its contribution to the garden, neighbourhood and streetscape character.*
- *The availability of sufficient unencumbered land to provide for replacement planting.*
- *The role of the vegetation in providing a habitat and vegetation corridor for bird life and fauna.*

In response to the VPO trees being recommended for removal, Council's Arborist commented that:

#### **Tree 4**

*This tree is a Eucalyptus leucoxylon – Yellow Gum. It is in severe decline, and not worthy of retention.*

#### **Tree 5**

*This tree is a Cupressus macrocarpa - Monterey Cypress. It is good in health and fair in structure. Whilst it's acknowledged it is a VPO tree, it's quite small and in my opinion does not fit the general idea of what a VPO tree is for this species.*

*For a tree of this species to be considered a VPO tree it's generally considered it would have a diameter at breast height (DBH) of greater than 80cm (at minimum), and height of 15m to 20m. This tree has a DBH of 35cm, height of approximately 8m and canopy spread of approximately 6m. The removal of this tree is likely to have very little impact on the site or broader area due to its size.*

*Replanting could offset the loss of vegetation on site.*

## **9.1.2**

(cont)

### **Tree 6**

*This tree is a Cupressus macrocarpa - Monterey Cypress. It's good in health and fair to poor in structure. The tree contains co-dominant stems with included bark in the trunk and main stem attachment. This reduces the overall retention value of the tree.*

*As with tree 5 it's acknowledged that this is a VPO tree. However, is quite small and in my opinion does not fit the general idea of what a VPO tree is. As mentioned above, for a tree of this species to be considered for inclusion into a Statement of Tree Significance it would generally have a DBH of greater than 80cm (at minimum) and height of 15m to 20m. This tree has a DBH of 43cm, height of approximately 8m and canopy spread of approximately 6m.*

*The removal of this tree is likely to have very little impact on the site or broader area. Replanting could offset the loss of vegetation on site.*

### **Tree 7**

*This tree is a Cupressus macrocarpa - Monterey Cypress. It's good in health and fair in structure.*

*As with trees 5 and 6 it's acknowledged that this is a VPO tree. However, as with the other two trees, this tree is quite small and in my opinion does not fit the general idea of what a VPO tree is.*

*As mentioned above, for a tree of this species to be considered for inclusion into a Statement of Tree Significance it would generally have a DBH of greater than 80cm (at minimum) and height of 15m to 20m. This tree has a DBH of 37cm, height of approximately 8m and canopy spread of approximately 6m.*

*The removal of this tree is likely to have very little impact on the site or broader area. Replanting could offset the loss of vegetation on site.*

Additionally, it is noted that there is a large amount of unencumbered land which can provide for substantial replanting to assist in landscaping regeneration of the area.

A Concept Landscape Plan was submitted with the application demonstrating future planting opportunities within the subject site. The concept plan shows peripheral planting to all interfaces, including retention of four significant canopy trees (2, 9, 13, and 14) which aim to soften the built form of the building. Three canopy trees are proposed adjacent to the car parking area which reduces the appearance of hard paving and contributes to the preferred neighbourhood character perspective along the frontage, when viewed from Highbury Road.

### **Native Vegetation**

In managing Victoria's native vegetation, Clause 12.01-2 (at the time of lodgement for which the controls apply) seeks to achieve a net gain in the extent and quality of native vegetation. Where the removal of native vegetation cannot be avoided, as is the case in this application, Clause 12.01-2 requires impacts to be minimised through appropriate consideration in the planning process and expert input to project design or management; and the identification of appropriate offset options.

### 9.1.2

(cont)

Clause 52.17 of the Whitehorse Planning Scheme is a state wide provision based on the Victorian Native Vegetation Framework which seeks to achieve 'a reversal, across the entire landscape of the long-term decline in the extent and quality of native vegetation, leading to a Net Gain' (DNRE 2002). Net Gain is an overall outcome where native vegetation and habitat gains are greater than the losses, and where possible losses are avoided. This vision is reflected under Clause 12.01-2 Native Vegetation Management (at the time of lodgement for which the controls apply), which applies a three-step approach for applying Net Gain. This three step approach is:

- To avoid adverse impacts, particularly through vegetation clearance.
- If impacts cannot be avoided, to minimise impacts through appropriate consideration in planning processes and expert input to project design or management.
- Identify appropriate offset options.

Given that native vegetation is proposed to be removed, it is considered appropriate to require additional indigenous planting (offsets) of local provenance and the same Ecological Vegetation Class as the vegetation removed within the bio-conservation region as identified in Native Vegetation Management Framework (2002). This has been included as a condition of permit, should one be granted.

Conditions of the permit can secure the nature, location and ongoing maintenance of these offsets within the City of Whitehorse, or Port Phillip and Westernport Catchment Management Area.

In addition, it has been demonstrated that an installation of appropriate plants for future landscaping is established. Therefore, the removal of native vegetation is considered acceptable, subject to the necessary offset planting.

### Car Parking

Parking policy and requirements applicable to the development are specified in Clause 52.06 (Car Parking) of the planning scheme. In accordance with Clause 52.06-2, before a new use commences, the number of car parking spaces required under Clause 52.06-5 must be provided to the satisfaction of the Responsible Authority.

A childcare centre requires 0.22 car spaces per child, requiring 24 car spaces for the 110 children proposed. A total of 26 car parking spaces are provided which is a surplus of 2 spaces.

The child care centre provides adequate car parking in accordance with the requirements of Clause 52.06 (Car Parking), is located on an arterial road (Highbury Road) and traffic generation was not a concern to Council's Transport Engineers or VicRoads.

Clause 22.05-3 states that it is policy that:

- *Adequate provision is encouraged for on-site staff and visitor parking.*
- *Parking areas are encouraged to maximise usage and to minimise on-street parking.*
- *Parking is discouraged at the front of the site.*

Although Clause 22.05-3 advocates for parking located behind the façade of a building, or to the rear or side of a lot, it is considered acceptable that the parking is within the frontage in this instance based on the topography of the land adjacent to Highbury Road. There is a steep embankment (approximately 3 metres) extending from the footpath along Highbury Road up to the proposed car parking area which will obscure any potential views.

### 9.1.2

(cont)

It is acknowledged that car parking and traffic were a significant issue raised by objectors at the consultation forum. Particularly, there were concerns that vehicles dropping off and picking up children would not exit via Highbury Road, but would rather leave through the site by way of Tracey Drive. Tracey Drive, according to the objectors has a significant number of on-street parking issues that exist already, and when coupled with the narrow street, would be further congested if traffic exited in this direction. The applicant identified that there was intended to be a gate across the access point into Tracey Drive that would only be accessible by waste collection vehicles, not cars. However, it is noted that a condition of permit, should one be granted, will require the waste vehicle to exit the site via the service lane adjacent to Highbury Road and that Tracey Drive not be used.

The other significant issue raised was sight lines out of the service road into Highbury Road. Objectors provided anecdotal examples of some of the vehicle conflict points they have experienced, as evidence of their concerns. VicRoads have been provided the opportunity to raise concerns about the potential for conflict as a result of this proposal, however have not identified concerns or issues with the proposal.

#### **Bicycle Parking**

The bicycle parking requirements for the subject site are identified in Clause 52.34 of the Whitehorse Planning Scheme. The Planning Scheme does not specifically refer to parking requirements for child care centres and therefore no bicycle parking is required.

However, it is noted that the plans demonstrate the provision of 10 bicycle spaces adjacent to the eastern boundary.

#### **Amenity**

##### *Noise*

A further amenity consideration is that of noise. Many VCAT decisions have viewed noise emanating from child care centres as being reasonable within a residential area and particularly accepted as a necessary trade-off in providing community facilities. A recent decision of *Petzierides v Hobsons Bay CC (Red Dot) [2012] VCAT 686 (28 May 2012)* identifies that whilst the noise of children playing is reasonable, this does not mean that a centre can obviate the need to act responsibly and appropriately by not ensuring any noise impact is of an acceptable level.

In response, to prevent unreasonable noise impacts in relation to surrounding residential properties, an acoustic report was requested by Council as part of a request for further information which was subsequently submitted by an acoustic consultant.

The report concluded:

- *The location of the centre entry door at the west end of the building minimises adverse impacts to neighbours caused by the sounds of parents and children arriving at or departing from the centre.*
- *Judicial management is encouraged to locate older age-groups towards the west end of the facility where distance from noise sensitive residential properties on the east boundary is greatest.*
- *Locating the youngest and quietest age-group in the east facing child care room at first floor level, where exposure to the neighbouring residences is greatest, will further reduce the potential risk of complaint from neighbours.*

### 9.1.2

(cont)

- *For the proposed indoor/outdoor programme, where only one third to one half of the children will typically engage in outdoor activities during the day, the risk that adjacent residential properties will be adversely impacted by noise is considered minimal provided the east boundary fence and north-facing balcony balustrade is acoustically treated as follows:*
  - *A 2.7m (nominal) high noise fence is recommended along the east boundary shared with 745 Highbury Road.*
  - *Minor modifications to the construction of the north and east facing 1st floor balcony balustrade have been incorporated into the architectural design to provide additional necessary noise screening of this outdoor play area to neighbouring residential properties.*

The architectural plans have been amended throughout the application process to incorporate the acoustic east boundary fencing and acoustic balustrades at first floor.

#### *Overlooking*

It is noted that there is an outdoor play area at first floor adjacent to the eastern boundary which includes a barrier that is annotated to be 1.5 metres in height. Since there are potential overlooking issues onto the adjoining properties it is considered that a condition of permit, should one be granted, will be included to increase the barrier height to 1.7 metres above finished floor level, to be constructed of non-transparent material to avoid overlooking for all outdoor play areas and windows within 9 metres of adjoining properties' private open space areas.

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

- *Impact on property values*

This is not a relevant planning matter and therefore cannot be considered in the scope of this report.

- *Construction process and potential disruption of amenity*

A Construction Management Plan will be included as a condition of permit to ensure that the development of the child care centre will be constructed with minimal off-site amenity impacts.

- *Loss of landscape character and habitat for birds.*

It is considered that the proposed landscaping will contribute to the landscape character of the area and whilst some existing vegetation on-site is proposed to be removed, it is considered an acceptable outcome when balanced against the other objectives of the State and Local Planning Policy Framework.

- *Lack of community consultation*

The application was formally notified pursuant to Section 52 of the *Planning and Environment Act of 1987*. Furthermore, a planning forum consultation meeting was held with all objectors invited.

- *Acoustic fence is inappropriate.*

The provision of the acoustic fence has been recommended by the professional acoustic engineer to mitigate any potential noise impacts from the proposed use. If the adjoining property does not wish this to be constructed along the shared property boundary then this becomes a civil matter. If the applicant proposes this slightly inside the subject land then it is not considered that the acoustic fence will be visually inappropriate or incongruous.

- *Increased traffic and associated safety impacts.*

### 9.1.2

(cont)

Council's Transport Unit have stated no objection to the proposal and note that the traffic ingress from Highbury Road, and egress via the service lane to Highbury Road will not cause detrimental traffic or associated safety impacts.

- *The entry point being insufficient in size and having an inappropriate location.*

Council's Transport Unit have stated no objection to the proposal.

### CONCLUSION

The proposal for use and development part of the land for a childcare centre, the removal of vegetation under Clause 52.17 and the Vegetation Protection Overlay, and alteration of access to a road in a Road Zone, Category 1 is an acceptable response that satisfies the relevant provisions contained within the Whitehorse Planning Scheme, including the State and Local Planning Policies, and the Neighbourhood Residential Zone. Specifically, The proposed child care facility is consistent with the statutory and strategic requirements of the Whitehorse Planning Scheme. It is considered that the proposal is capable of providing a meaningful contribution to the supply of community infrastructure in the municipality, offering a complementary non-residential land use which will not prejudice the amenity of the locality.

A total of 25 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

### Attendance

Cr Liu having declared a conflict of interest in Item 9.1.3, left the Chamber at 7.27pm prior to discussion on this Item.



## Strategic Planning

### 9.1.3 Amendment C194 to the Whitehorse Planning Scheme (517 & 519-521 Station Street & 2-8 Oxford Street, Box Hill) - consideration of Panel Report

ATTACHMENT

#### SUMMARY

The Panel Report for Amendment C194 and planning permit application WH/2016/1196 has been received. This report discusses the recommendations of the independent planning Panel that has assessed the amendment and permit application. It is recommended that Amendment C194 and planning permit WH/2016/1196 be adopted and approved, generally in accordance with the Panel Report.

#### RECOMMENDATION

*That Council, being the Planning Authority, and having considered the Panel Report:*

1. *Note the key findings and recommendations given in the Panel Report at Attachment 1.*
2. *Adopt Amendment C194 with changes recommended by the Panel.*
3. *Request the Minister for Planning approve planning permit WH/2016/1196 with the conditions shown at Attachment 4, as recommended by the Panel, with the exception of condition 4 which seeks to limit the size of supermarkets and department stores.*
4. *Submit the adopted Amendment and draft planning permit to the Minister for Planning for approval under Section 31 of the Planning and Environment Act 1987.*
5. *Instruct the proponent to forward to the Minister for Planning the appropriate fee.*
6. *Advise all submitters to Amendment C194 of all resolutions in relation to the Panel Report.*

#### MOTION

Moved by Cr Barker

*That Council, being the Planning Authority, and having considered the Panel Report:*

1. *Note the key findings and recommendations given in the Panel Report at Attachment 1.*
2. *Abandon Amendment C194 for the following reasons:*
  - a. *The proposed amendment is inconsistent with the State Planning Policy Framework.*
  - b. *The assumptions made to justify the consistency with the State Planning Policy Framework are incorrect, as the site is widely used as an existing at grade car park.*
  - c. *The proposed amendment does not offer improved access to the surrounding area or services.*
  - d. *The proposed amendment is inconsistent with the preferred and emerging neighbourhood character of Cambridge Street.*
  - e. *The potential community benefit of the child care centre proposed as part of the proposed development will be irrelevant due to child care places already approved and under construction in the surrounding area.*

### **9.1.3**

(cont)

3. *Refuse to recommend to the Minister for Planning that planning permit WH/2016/1196 at Attachment 4 be granted for the following reasons:*
  - a. *The proposed development is inconsistent with the State Planning Policy Framework.*
  - b. *The proposed development fails to respond to the abutting heritage property (Wesley Uniting Church).*
  - c. *The proposed development does not provide convenient and easy to use universal access.*
  - d. *The proposed development is inconsistent with the preferred and emerging neighbourhood character of Cambridge Street.*
4. *Notify the applicant in writing of the determination and the reasons for the determination*
5. *Advise the Minister for Planning of its decision.*
6. *Advise all submitters to Amendment C194 of all resolutions in relation to the Panel Report.*

The motion lapsed for want of a seconder

#### **MOTION**

Moved by Cr Munroe, Seconded by Cr Massoud

*That Council, being the Planning Authority, and having considered the Panel Report:*

1. *Note the key findings and recommendations given in the Panel Report at Attachment 1.*
2. *Adopt Amendment C194 with changes recommended by the Panel.*
3. *Request the Minister for Planning approve planning permit WH/2016/1196 with the conditions shown at Attachment 4, as recommended by the Panel, with the exception of condition 4 which seeks to limit the size of supermarkets and department stores.*
4. *Submit the adopted Amendment and draft planning permit to the Minister for Planning for approval under Section 31 of the Planning and Environment Act 1987.*
5. *Instruct the proponent to forward to the Minister for Planning the appropriate fee.*
6. *Advise all submitters to Amendment C194 of all resolutions in relation to the Panel Report.*

#### **AMENDMENT**

Moved by Cr Barker, Seconded by Cr Cutts

*That Council, being the Planning Authority, and having considered the Panel Report:*

1. *Note the key findings and recommendations given in the Panel Report at Attachment 1.*
2. *Adopt Amendment C194 with changes recommended by the Panel.*
3. *Request the Minister for Planning approve planning permit WH/2016/1196 with the conditions shown at Attachment 4, as recommended by the Panel, with the following changes:*
  - a. *Deletion of condition 4 which seeks to limit the size of supermarkets and department stores.*



### **9.1.3**

(cont)

**b. Insertion of an additional condition 1 (oo):**

*Incorporation of planting into the buildings' external design and function (including vertical surfaces) to form green walls and containerised landscaping. This design treatment is to achieve increased ESD outcomes and improved visual interest, and be designed to articulate an harmonious design outcome that reflects the landscape values of the surrounding areas (and at maturation be clearly visible to surrounding areas) to the satisfaction of the Responsible Authority. This landscaping is to be designed having regard to the requirements contained in Conditions 14 and 15 as they relate to the provision of a Landscape Plan and Landscape Maintenance Plan.*

**c. Insertion of an additional condition 1 (pp)**

*Provision of communal laundry facilities within the community areas of the residential elements of the towers, including washing and drying spaces for use by residents of the apartments.*

**d. Insertion of additional wording to condition 14 (Landscaping and Public Realm):**

*For green walls and above ground containerised planting, include:*

- a) Plans and cross-sections of planting containers, and calculated soil volume per container.*
- b) Structural engineering report and weight loading allowing for mature plant growth and potential flooding of containers.*
- c) Irrigation frequency and delivery method.*
- d) Drainage of planting containers.*
- e) Substrate: suitability for species selection in relation to nutrients and irrigation requirements.*
- f) Mulch type, depth and weight.*
- g) Anchoring of all containers and containerised plants above ground level to resist high winds.*
- h) Assessment / specification of the microclimate and effect on plant health.*
- i) Maintenance procedures, including access for staff and equipment, and safety/anchoring measures required to access landscaping above ground level.*

*All of the above must be to the satisfaction of the Responsible Authority.*

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

**e. Insertion of additional wording to condition 15 (Landscaping Maintenance Plan):**

*Details of the ongoing maintenance procedures to ensure that the green walls and containerised plants remain healthy and well maintained to the satisfaction of the Responsible Authority. This must include:*

- i. Irrigation frequency and delivery method.*
- ii. Drainage.*
- iii. Maintenance frequency and procedures including how access will be achieved to the green wall and containers, including scaffolding and/or access and parking location of a scissor lift or cherry picker or other access method as required.*

**f. Insertion of additional wording to condition 32 (Art Strategy):**

- e) The art strategy may include the continuation of the green wall design theme.*

### 9.1.3

(cont)

4. ***Submit the adopted Amendment and draft planning permit to the Minister for Planning for approval under Section 31 of the Planning and Environment Act 1987.***
5. ***Instruct the proponent to forward to the Minister for Planning the appropriate fee.***
6. ***Advise all submitters to Amendment C194 of all resolutions in relation to the Panel Report.***

The Mayor then indicated that he would put the Amendment to the vote in parts

The Mayor put item 3a) of the Amendment to the vote which was CARRIED

The Mayor put item 3c) of the Amendment to the vote which was CARRIED  
UNANIMOUSLY

The Mayor put item 3b), 3d), 3e) and 3f) of the Amendment to the vote which was  
CARRIED

The Motion moved by Cr Munroe, seconded by Cr Massoud, as Amended was then  
put and CARRIED

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### BACKGROUND

On behalf of Golden Age Development Pty Ltd, Urbis (the proponent) submitted a combined planning scheme amendment and planning permit application under section 96A of the *Planning and Environment Act 1987* (the Act).

The proponent requested that Council consider an amendment to the Whitehorse Planning Scheme (the Scheme) to rezone land at 517 and 519-521 Station Street, Box Hill from the Public Use Zone – Schedule 6 (PUZ6) to the Mixed Use Zone (MUZ) and rezone land at 2-8 Oxford Street, Box Hill from the Residential Growth Zone – Schedule 2 (RGZ2) to the MUZ. The Amendment proposes introducing an Incorporated Document into the Scheme applying to the land at 517 and 519-521 Station Street, Box Hill.

The proponent also requested Council consider a planning permit application (WH/2016/1196) for buildings and works for the construction of a building of up to 18 storeys including rooftop plant plus up to 3 levels of basement car parking, comprising retail premises, office, restricted recreational facility (gymnasium), medical centre, accommodation, serviced apartments, child care facility, a reduction in the standard requirements for car parking facilities and alteration of access to a road in a Road Zone, Category 1.

At the Council Meeting on 20 February 2017, Council resolved to seek authorisation from the Minister for Planning to prepare and exhibit Amendment C194 to the Planning Scheme. Exhibition of the Amendment took place from 27 April until 29 May 2017 and Council received 53 submissions. At the meeting on 17 July 2017 Council resolved to request the appointment of an independent Planning Panel to consider the submissions received to the Amendment.

### 9.1.3

(cont)

## DISCUSSION

### Panel Hearing

The Panel held a Directions Hearing on 24 August 2017. The Panel Hearing was held between 2 October and 6 October 2017. Council had legal representation and called expert witnesses in heritage and planning. The Panel took unaccompanied site visits on various days during the Panel Hearing.

All submissions received during the exhibition period were referred to the Planning Panel. The Panel heard from thirteen submitters, including Council as the planning authority, Council as the landowner, the proponent, local residents, Vicinity Centres and the adjacent Wesley Uniting Church.

### Panel Report

The Panel Report (refer **Attachment 1**) was received by Council on 6 December 2017 and was released to the general public on 13 December 2017, in accordance with the Council policy of releasing Panel reports within 7 days of receipt. This was done by advising all submitters to Amendment C194 that the report had been received and was available for viewing in person or on Council's website, and by providing a full copy of the report to those who presented at the hearing in person.

The Panel has presented its findings under four key headings, each of which will be discussed in turn. As a result of considering the Amendment and draft planning permit, the Panel recommends:

1. *That Whitehorse Planning Scheme Amendment C194 be adopted as exhibited subject to the following:*
  - 1.1 *Change the Incorporated Document to:*
    - a) *Amend the legend in Figure 1 Building heights at the letter 'B' to refer to "2-3 Storey Street Wall Height"*
    - b) *Replace dot point 24 under the heading Building Form and design with the words "The development should not cast a shadow across the park at 530 Station Street between the hours of 11.00am to 2.00pm on September 22. Any shadow cast during these hours should not unreasonably reduce the amenity of the park".*
2. *That Planning Permit WH/2016/1196 be issued with the amendments shown in Appendix D [of the Panel report].*

### **1. Strategic Justification and planning context**

The Panel included a brief appraisal of the relevant policy framework, zone and overlay controls and other relevant planning strategies. The Panel concluded that the Amendment is supported by the relevant sections of the State and Local Planning Policy Framework, including *Plan Melbourne* and the Box Hill Transit City Activity Centre Structure Plan (Structure Plan).

### **9.1.3**

(cont)

The Panel concluded that the Amendment is also supported by the relevant Ministerial Directions and Practice Notes, including Ministerial Direction 11 (Strategic Assessment of Amendments), Ministerial Direction on the Form and Content of Planning Schemes and Planning Practice Notes 1, 46 and 59. Finally, the Panel concluded that the Amendment and planning permit are strategically justified, subject to addressing the issues raised in submissions.

#### ***Officer comments***

Council officers note the Panel's conclusions about the strategic justification and planning context of the Amendment.

### **2. Is the Mixed Use Zone appropriate?**

The Panel reviewed the appropriateness of rezoning the sites included in the Amendment to the Mixed Use Zone (MUZ).

The Panel accepts that the MUZ aligns with local planning policy and notes that the MUZ is appropriate because:

- The land is between the commercial core of the Box Hill MAC and a residential precinct
- The Structure Plan envisages mixed use development at high densities
- The Structure Plan had a preference for the MUZ

The Panel also agreed that as Council is intending to sell the Council owned land, it would be inappropriate to leave the land within the Public Use Zone. The Panel did not agree with the submission made by the Wesley Uniting Church, who asserted that the rezoning of the land will force the relocation of the church or redevelopment of the church site.

The Panel observed that the existence of the heritage buildings on the adjacent church land does not prevent appropriate redevelopment and that the MUZ would not diminish the heritage values on the church land. The Panel believes that the heritage values and issues associated with the church land would be taken into account in any redevelopment of its land and this would occur irrespective of the underlying zoning of the land.

The Panel believes that there are many successful developments throughout metropolitan Melbourne that incorporate heritage buildings in a MUZ and concluded that it is appropriate to rezone the sites to the MUZ.

#### ***Officer comments***

Council officers note the Panel's conclusions regarding the proposed rezoning to the MUZ, particularly given that the proposed zone has been historically supported by the Structure Plan and local planning policy.

Officers also reiterate that the proposed zoning does not force the redevelopment or sale of the church land.

### **3. Is the Incorporated Document appropriate?**

The Panel considered two issues regarding the Incorporated Document: whether it is appropriate to use an Incorporated Document through Clause 52.03 of the Planning Scheme (Site Specific and Exclusions) and whether the specific provisions of the Incorporated Document are appropriate.

### **9.1.3**

(cont)

The Panel noted that there were no submissions that opposed the use of the Incorporated Document or its implementation through Clause 52.03 of the Planning Scheme. The Panel also noted that all parties generally agree that an Incorporated Document is an appropriate method to introduce the built form controls for the land and that the only issue was therefore whether it should be introduced through Clause 52.03 or an IPO.

Evidence was received that preferred an IPO approach, however this evidence also acknowledged that the capability of an IPO to exempt Clause 32.04-9 (Mixed Use Zone) of the Planning Scheme was problematic. Clause 32.04-9 relates to buildings on lots that abut another residential zone, in this instance the site abuts the RGZ. Therefore the Panel concluded that the use of Clause 52.03 to introduce the Incorporated Document is appropriate, as it will ensure that third party notice and appeal rights are retained in the event that an alternative development proposal is sought. Further, it will ensure that there will be no uncertainty about the ability of the Incorporated Document to exempt Clause 32.04-9.

The Panel noted that they are generally satisfied with the form and content of the Incorporated Document, subject to minor modifications outlined below.

The Panel does not support the various changes proposed to the Incorporated Document by the Uniting Church Australia. The Panel believes that the various exhibited Design Objectives and Built Form Guidelines give sufficient guidance for the development on the Council owned land, and that it will provide an appropriate transition in built form and opportunity for a potential through block connection to the church land.

The Panel believes that the shadowing requirement should be amended to relate to the equinox, rather than the winter solstice. The Panel does not see any justification for the shadowing test to relate to the winter solstice, given that the open space potentially affected by any overshadowing (530 Station Street, Box Hill) is not specifically listed as a Key Public Open Space in the Structure Plan.

Council as planning authority suggested at the panel hearing that Figure 1 (Building Heights) in the Incorporated Document be amended so that the street wall height in the legend (B) says "2-3 storey street wall height". The Panel agrees with the suggestion and concludes that Figure 1 should be corrected.

#### ***Panel recommendation***

Based on the evidence received and consideration of the Amendment, the Panel recommends:

##### **1.1 Change the Incorporated Document to:**

- a) Amend the legend in Figure 1 Building heights at the letter 'B' to refer to "2-3 Storey Street Wall Height"
- b) Replace dot point 24 under the heading Building Form and design with the words "The development should not cast a shadow across the park at 530 Station Street between the hours of 11.00am to 2.00pm on September 22. Any shadow cast during these hours should not unreasonably reduce the amenity of the park".

#### ***Officer comments***

At the Panel Hearing, Council as planning authority acknowledged that on Figure 1 Building Heights, the street wall height in the legend had been inadvertently omitted and should be amended as above. Officers therefore support the change recommended by the Panel.

### 9.1.3

(cont)

Officers acknowledge the comments above regarding the overshadowing requirements for the park at 530 Station Street (Pioneer Park). Officers do not object to the replacement of this dot point with the wording recommended by the Panel, given that the park is not nominated as a Key Public Open Space in the Structure Plan.

The Incorporated Document will be updated as shown in **Attachment 2** prior to sending the Amendment to the Minister for Planning for approval.

#### 4. Permit issues

The Panel noted that the majority of the submissions to the Amendment related to the proposed development and the draft planning permit. These issues included:

##### The mix of proposed land uses

Some submitters objected to the range of proposed uses, including the need for the gymnasium and concern about the serviced apartments in Tower C turning into permanent apartments. Vicinity Centres, which operates the Box Hill Central Shopping Centre, submitted concerns that the proposed planning permit allows for the broad land use of 'retail premises' without any restriction, which could permit a supermarket or department store without requiring any further planning permit.

Vicinity believes that the proposed development had not been assessed as to whether it is an appropriate location for a large format supermarket or department store, given its proximity to Box Hill Central. Vicinity submitted that the planning permit should limit the floor space for a supermarket on the lower and ground floor to 1,200m<sup>2</sup> and that a department store of any size should be excluded.

During the Panel Hearing, Council as the Planning Authority, the proponent and Vicinity worked to arrive at a mutually agreeable permit condition, however Council as the Planning Authority was largely silent on the matter as the condition is potentially *ultra vires* (refer to officer comments below). The Panel accepts the concerns expressed by Vicinity and commends the parties for negotiating an agreed permit condition. The Panel agrees that the proposed land use mix is appropriate for the site and is consistent with local planning policy. The Panel also supported the permit restrictions regarding supermarkets and department stores put forward by Vicinity Centres.

##### The height of the proposed buildings

Some submitters objected to the height of the proposed buildings, whereas the urban design expert witness for the proponent submitted that Tower A should be increased in height by 2 storeys to decrease the visual bulk of the development. The Wesley Uniting Church stated that the proposed building heights were inconsistent with the Structure Plan, proposed Amendment C175 and the Incorporated Document, and that the heights would overwhelm the church land and the historic Church building. The Uniting Church of Australia did not object to the proposed height of the buildings.

Council submitted that the proposed heights were consistent with state and local planning policy, the Structure Plan, proposed Amendment C175 and the proposed Incorporated Document. The Panel agrees that the height of the proposed development is consistent with the above. The Panel noted that the development should consider the impact on adjoining properties, however this needs to be within the context of the MAC, including the preferred character of the area.

The Panel is satisfied that the proposed development responds to the surrounding area and the context of the site within a MAC. The Panel does not agree with the suggestion that the height of Tower A should be increased, and instead considers that a height of 18 storeys is appropriate given the high quality design and integration with the surrounding area.

### **9.1.3**

(cont)

The Panel agrees with Council, as the planning authority, that the proposal provides an acceptable transition in building height. The Panel acknowledges that there may be some shadowing of the park at 530 Station Street, Box Hill, however this park is not identified as a Key Public Open Space in the Structure Plan and concludes that the resultant shadowing is within acceptable limits.

#### The impact of the proposed development on land to the south

The Wesley Uniting Church raised several issues at the Panel Hearing, including the impact of the proposed development on the heritage significance of the church land and the impact of the proposed development on the existing vegetation along the northern boundary of the church land.

The Wesley Uniting Church also raised concerns regarding the noise from the Church impacting on future residents and noise from the proposed development affecting the operations of the Church, as well as potential overshadowing from the proposed development. The owner of the church land (the Uniting Church of Australia) did not object to the Amendment or the planning permit application.

The Panel agreed that the development will be more prominent than the adjacent Oxford Hall, however they do not believe that this is an unreasonable outcome within the context of the MAC. The Panel concluded that the siting and design of the proposed buildings respects the heritage significance of the adjoining church land and that the impacts of shadowing from the proposed development on the church land and buildings is acceptable given its location and context.

The Panel agreed with Council's Heritage expert that the construction of the proposed development has the potential to impact on the structural integrity of the adjacent Oxford Hall and state heritage listed Willis Pipe Organ and this should be assessed and monitored to ensure that these heritage assets are appropriately protected.

The Panel concluded that a Tree Protection and Management Plan should be prepared for the five trees along the northern boundary of the church, as per the arboricultural expert evidence presented by the Wesley Uniting Church. This should be completed to assess the impact of the proposed development on the trees and consider techniques for avoiding the roots during construction. If avoiding the roots is not reasonably practicable, then the Panel recommends that the trees should be replaced with mature screen planting.

#### The impact of the proposed development on land to the west

The Panel considered amenity considerations along the western boundary of the site, particularly overlooking of the existing properties. The Panel concluded that State and Local policy envisage more intensive development in the area and therefore potential amenity impacts and issues need to be carefully balanced with the overall policy objectives for the location.

The Panel assessed the western interface of the proposed development and believes that the proposal reasonably protects the amenity of the dwellings to the west of the site. The Panel concluded that the design and siting of the proposed development is acceptable. In particular, the proposed landscaped strip along the western boundary and the setbacks of the serviced apartment upper levels will ensure a reasonable separation between the proposed development and the existing building on the adjoining property.

### 9.1.3

(cont)

The proposed development also includes screening of the relevant windows to ensure appropriate privacy measures are achieved. Condition 1(m) of the planning permit appears to require all windows along the western elevation of the proposed development to have screening. The Panel does not believe that this is necessary as only some of the windows do not have a separation of 9m with the adjoining private open space of habitable windows. The Panel believes that the wording of this condition should be amended to reflect the need for screening to the relevant windows of the serviced apartments and encourages the proponent to consider innovative methods of screening to meet the requirement.

#### Pedestrian access to and through the site

The Panel assessed the pedestrian access to the site, including the proposed 7m wide pedestrian link between Tower A and Tower B, as well as the pedestrian access across Cambridge Street at the northern end of the proposed development.

The Panel agrees with various submitters that there are strong pedestrian connections through the site and commends the idea of providing potential further links to the north and south of the site. The Panel also agreed with Council, as the planning authority, and the proponent that the width of the lane between Tower A and Tower B was an acceptable width, and that it was not necessary to increase the width.

The Panel concluded that there is a need to improve the pedestrian connectivity between the lower ground floor space and Cambridge Street, but agrees with the proponent that it is not appropriate to specify how this must be achieved. Additionally, the panel concluded that the retail tenancies in the north east of the upper ground floor should have direct access from Cambridge Street and Station Street without the need for extensive ramps.

Finally, the Panel supports the potential for a pedestrian link from the proposed development to the south of the site, as this would help to integrate the parcels within the MUZ. The Panel acknowledged that further detailed design would be required, however it is already flagged in the Incorporated Document and therefore the Panel believes that the architectural plans of the proposed development should also acknowledge scope for the future pedestrian connection point to the church land.

#### The external appearance of the proposed buildings

The Panel generally supports the overall design and appearance of the proposed buildings in the development, however they concluded that there should be a greater differentiation in the external appearance of Tower A and Tower B. The Panel believes that this could be achieved through the use of architectural treatments, colour shades, materials and finishes, rather than contrasting treatments. The Panel noted that this could be accommodated in the proposed planning permit conditions.

#### The internal design of the proposed development

The Panel reviewed the internal design of the proposed development, including whether it is appropriate to assess the development against the provision of Clause 58 of the Planning Scheme (Better Apartment Design Standards). The Panel concluded that the internal design of the proposed development, including the dwellings, provides a good level of amenity for future residents.

At the Hearing, both Council as the planning authority, and the proponent submitted that it was inappropriate to consider the proposal against the provisions of Clause 58, as the application for the proposed development was lodged prior to the introduction of this Clause. The Panel agreed that it is inappropriate to assess the proposed development against Clause 58 as transitional provisions apply. Irrespective of this, Council, as the planning authority, did complete an assessment against the requirements of Clause 58 and concluded that the proposed development largely complied with the provisions.



### 9.1.3

(cont)

The Panel did suggest that several minor modifications to the proposed plans would further improve the amenity of the buildings. These include the balconies, communal space, screening, internal corridor design and the impact of wind, which can all be dealt with by conditions in the planning permit.

#### Traffic impacts

The Panel reviewed the submissions and evidence received at the Panel Hearing regarding traffic associated with the proposed development. There was a variety of submissions concerning traffic including local residents, VicRoads and Public Transport Victoria.

The Panel accepted the evidence of the proponent's traffic expert, who stated that the traffic generated by the proposed development will create acceptable impacts on the operation of the existing road network. The Panel was supportive of the various modifications to the adjacent intersections and consider them appropriate. These modifications include a revised layout for Station Street/Cambridge Street intersection and a revised layout for Station Street/Carrington Road to provide for the existing left turn lane on Carrington Road to operate as a shared left and right-turn lane.

There was significant discussion at the Panel Hearing about a future signalised pedestrian crossing on Station Street in the vicinity of the proposed development. Council, as planning authority, advised the Panel that Council will ultimately fund and construct the future crossing. The Panel concluded that there is no nexus between the proposed development and the future crossing as this is associated with the development of the Harrow Street multi deck carpark, to the east of Station Street. The Panel therefore concluded that it is inappropriate to require the proponent to construct the crossing or include conditions in the planning permit that requires the construction of a pedestrian crossing.

#### Car parking

The Panel reviewed the evidence and submissions relating to car parking. The Panel stated that there is state and local policy support for the promotion and use of public transport, cycling and walking within the MAC, however it is also necessary to provide an appropriate number of car spaces to provide for the expected demand of the proposed development.

The Panel concluded that the car parking demand expected to be generated by the proposed development will be adequately catered for by the proposed parking provision. The Panel also concluded that the bicycle parking, end of trip facilities and waste collection arrangements for the proposed development are satisfactory. The car park design, access arrangements and proposed loading arrangements were considered to be satisfactory, subject to the minor design changes recommended by the proponent's traffic expert.

VicRoads has requested the following condition be included in the planning permit:

*In order to improve safety and traffic flow along Station Street, Cambridge Street and Carrington Road, and to undertake improvement works as part of the approved Functional Layout Plan, on-street parking along Station Street may need to be removed.*

### 9.1.3

(cont)

The Panel appreciated that there is concern from a number of submitters regarding the potential loss of car parking in the area as a result of the proposed development. The Panel is satisfied with the permit conditions proposed by VicRoads. The Panel is also satisfied with the arrangements expressed by Council to manage the closure of the Cambridge Street car park and the subsequent construction of the Harrow Street multi deck car park prior to the closure of the former car park. The Panel supports the concerns expressed by Vicinity and concludes that a permit condition should be added to ensure that the proposed development does not commence until 163 car spaces have been constructed elsewhere, to Council's satisfaction.

#### Drafting

The Panel has noted that there are a number of minor drafting changes that should be addressed in the draft planning permit to improve the structure of the permit, clarify the meaning of some conditions, remove duplication of requirements and correct minor errors such as renumbering of conditions. The drafting changes do not modify the intent of the permit conditions.

#### **Panel recommendation**

Based on the submissions received to the Amendment, the evidence received at the Panel Hearing and a review of the draft planning permit, the Panel recommends:

2. That Planning Permit WH/2016/1196 be issued with the amendments shown in Appendix D *[of the Panel report]*.

#### **Officer comments**

Council's Statutory Planning officers have reviewed the amendments to WH/2016/1196 proposed by the Panel and are supportive of the drafting changes that seek to clarify meaning, remove duplication, and correct minor errors. They are satisfied that these changes do not alter the intent of the conditions and continue to make adequate provision for necessary works and actions to occur.

Council officers are supportive of the preparation of a Tree Protection and Management Plan for the five trees along the southern boundary of the site to the church land. Additionally, officers are also supportive of a potential pedestrian link from the proposed development to the south of the site as this would provide a further link to properties south of the site.

Council officers are concerned with Condition 4 which seeks to prohibit a supermarket of greater than 1200m<sup>2</sup> or a department store of any size. Council officers are concerned that this condition is *ultra vires*, that is, it prohibits a use which can otherwise be considered via a planning permit application under the provisions of the zone. Therefore, it is not considered appropriate that Council supports the inclusion of this condition.

Prior to the Panel Hearing the proponent undertook discussions and negotiations with Council officers and Vicinity regarding the exhibited draft permit conditions considered by Council at its meeting on the 4 July 2017. These negotiated conditions formed the basis of what was considered by the Panel, which has recommended further changes.

**Attachment 3** provides a comparison of the more substantive non-drafting changes to the planning permit conditions which were exhibited, with officer comment as to whether or not the changes should be supported. In summary, the changes are acceptable to Council's Statutory Planning officers, with the exception of condition 4 which seeks to limit the size of certain uses in the proposed development.

### 9.1.3

(cont)

Council's Transport Engineers have indicated that they are not supportive of the VicRoads condition that may result in the loss of on street parking on Station Street. It should however be noted that Station Street is under the jurisdiction of VicRoads, and therefore a Section 55 referral under the requirements of the Act. Conditions required by a referral authority under Section 55 must be included without changes.

#### **Other issues**

The Panel noted that Council made a submission to the Panel Hearing in two separate capacities: as the planning authority and as the landowner. Council also engaged separate legal advocates and expert witnesses to represent the two separate roles and to ensure that there was no conflict of interest with respect to the role of Council as the planning authority and Council as the landowner.

The General Managers of Corporate Services and City Development are co-sponsors for the development of the Cambridge Street car park. These General Managers have not participated in any meeting that has considered this report, including the Executive Management Team meeting or the briefing to Councillors. The General Managers also have not been involved in the preparation or approval of this report.

#### **Next steps**

Council officers have reviewed the changes proposed by the Panel to the Incorporated Document and the draft planning permit. As indicated above, Council officers agree with the changes to the Incorporated Document proposed by the Panel and believe that the changes are acceptable. The Incorporated Document will be updated to reflect the recommended changes prior to submitting the Amendment for approval.

Additionally, as discussed above, Council's Statutory Planning officers have reviewed the proposed changes to the draft planning permit. With the exception of the addition of Condition 4 relating to the limitations on supermarkets and department stores, Council officers are satisfied with the proposed changes as they do not change the intent of the permit conditions. **Attachment 4** includes a final version of the draft planning permit for adoption.

#### **CONSULTATION**

Exhibition of the Amendment occurred in the form prescribed by the *Planning and Environment Act 1987* and took place from Thursday 27 April 2017 until Monday 29 May 2017. A total of 53 submissions were received towards the Amendment.

#### **FINANCIAL IMPLICATIONS**

Council was represented at the Panel Hearing by legal counsel and called expert witnesses in planning and heritage to assist Council and the legal representation at the Panel Hearing. These costs associated with the Planning Panel can be funded from the current 2017/2018 budget.

The proponent is required to pay for all other costs associated with the independent Planning Panel hearing, including the room hire and planning panel fees. The proponent will also be required to pay a fee of \$462.20 to Council to seek a decision on the Amendment and the planning permit and a fee of \$462.20 to the Department of Environment, Land, Water and Planning to seek approval of the Amendment and the planning permit.

### 9.1.3

(cont)

#### POLICY IMPLICATIONS

The proposed Amendment and development will meet two strategic objectives in the Council Plan, including:

*Strategic Direction 2: Maintain and enhance our built environment to ensure a liveable and sustainable city.*

The Amendment and proposed planning permit application will maintain and enhance the built environment by providing a safer environment with activated street frontages and passive surveillance provided by the new built form and improved public realm that will replace the existing underutilised site. Additionally, the development, guided by the Incorporated Document, will enhance the built environment through articulation, materials and a mix of uses. The development proposed in the planning permit application will also increase the vibrancy and activity of this part of the MAC.

This direction is also proposed to be achieved by improving the links and usage of transport modes with regard to efficiency, sustainability and safety. Rezoning the land to the MUZ supports this as the sites are located at the intersection of Station Street and Cambridge Street, near to the Box Hill Transit Interchange and with pedestrian access along both Station Street and Cambridge Street. This allows for sustainable access to and from the sites by using public transport and active transport and will maintain the built environment in this area. The Amendment allows for the development of the sites which would utilise local transport modes to access the broader area.

*Strategic Direction 5: Support a healthy local economy*

This direction is proposed to be achieved by supporting the development of a sustainable, growing local economy and supporting the commercial and retail sectors. The proposed rezoning to MUZ will support this direction by allowing for the development of commercial and residential uses. This will support the local and broader economy and provide complementary uses to the current services and shops in the surrounding area, including the existing MAC. The MUZ also allows for future commercial and residential uses, which will also support the local economy through construction and commercial jobs.

The proposed development is providing a significant area of commercial floor space. This includes an office floor area of 1,973m<sup>2</sup>, a total retail area of 6,638m<sup>2</sup>, a 403m<sup>2</sup> medical centre, a 107 place child care centre, and an indoor recreation facility with 687m<sup>2</sup>. These non-residential spaces will create new employment opportunities, community benefit and commercial floor space when compared to the current use as an open car park.

#### CONCLUSION

Amendment C194 seeks to rezone land at 517 and 519-521 Station Street, Box Hill from the PUZ to the MUZ and rezone land at 2-8 Oxford Street, Box Hill from the RGZ to the MUZ. The Amendment also seeks to introduce an Incorporated Document into the Scheme and apply it to the land at 517 and 519-521 Station Street, Box Hill.

The proponent also requested Council consider a planning permit application for the land at 517 and 519-521 Station Street, Box Hill. The permit application seeks approval for the construction of 3 buildings (2 buildings up to 18 storeys and 1 building up to 6 storeys), comprising retail premises, office, gymnasium, medical centre, accommodation, serviced apartments and a child care facility, and including rooftop plant, plus up to 3 levels of basement car parking.





The Panel Report recommends that the Amendment C194 be adopted and planning permit WH/2016/1196 be approved, subject to minor changes to the Incorporated Document and the draft planning permit. The Panel comprehensively outlines the reasons for their recommendation, which have been summarised in this report.

### 9.1.3

(cont)

This report has assessed the Panel's recommendations and it is submitted that the minor changes are acceptable to officers, other than the condition prohibiting a supermarket over 1,200m<sup>2</sup> or a department store of any size. It is therefore recommended that Amendment C194 is adopted with changes, and planning permit WH/2016/1996 be adopted with conditions, and both submitted to the Minister for Planning for approval. As part of this recommendation, all submitters are to be advised accordingly.

#### ATTACHMENT

- 1 Amendment C194 Panel Report [⇒](#) 
- 2 Amendment C194 Incorporated Document for Adoption with Changes Shown [⇒](#) 
- 3 Amendment C194 Response to Panel Permit Condition Changes [⇒](#) 
- 4 Amendment C194 Draft Planning Permit for Adoption [⇒](#) 

#### Attendance

Cr Liu returned to the Chamber at 8.02pm

#### **9.1.4 Adoption of Planning Scheme Amendment C193: 289 - 291 Morack Road, Vermont South**

ATTACHMENT

##### **SUMMARY**

*At the 26 June 2017 Ordinary Council Meeting, Council resolved to seek authorisation from the Minister for Planning to prepare and exhibit Planning Scheme Amendment C193. The Amendment applies to 289 – 291 Morack Road Vermont South and seeks to:*

- Rezone the land currently designated as Commonwealth Land to General Residential Zone (Schedule 5) (GRZ5).
- Rezone a portion of the land currently designated as Urban Floodway Zone (UFZ) to GRZ5.
- Apply the Design and Development Overlay (Schedule 10) (DDO10) to all of the land.
- Apply the Environmental Audit Overlay (EAO) to all of the land.

*The Amendment was exhibited from Thursday 2 November 2017 to Monday 4 December 2017. A total of three (3) submissions were received, two (2) in support and one (1) objecting to the Amendment. The objecting submission was later withdrawn. It is recommended that Council adopt Amendment C193 with minor changes made post-exhibition and submit it to the Minister for Planning for approval.*

##### **COUNCIL RESOLUTION**

Moved by Cr Carr, Seconded by Cr Bennett

***That Council, being the planning authority, having exhibited the amendment and considered all the submissions:***

- 1. Note the changes made to Amendment C193 following exhibition.***
- 2. Adopt Planning Scheme Amendment C193 with minor changes.***
- 3. Submit the adopted Amendment, with the required fee, to the Minister for Planning for approval in accordance with Section 31 of the Planning and Environment Act 1987.***

**CARRIED UNANIMOUSLY**

##### **BACKGROUND**

###### **History of the site**

The Amendment applies to the land at 289 – 291 Morack Road Vermont South (the site). The site was purchased by the Commonwealth of Australia in June 1988 on behalf of Telecom (now known as Telstra) for the construction of a telecommunication tower. The site was sold by the Commonwealth and purchased by the immediate past owners in December 1993. A building permit was issued in November 1994 to convert the existing building to a dwelling.

The previous owners sought to rezone the site to a residential zone. As the site was sold by the Commonwealth of Australia, it was considered reasonable to rezone the site to reflect its current ownership status.

After extensive correspondence with the previous owners, a strategic assessment of the site was conducted in late 2014, which concluded the most appropriate zone for the site was residential. This was on the basis that the land had been used for residential purposes for some time, and it forms an interface between the Morack Public Golf Course, parkland and commercial uses fronting Burwood Highway.

(cont)

## The site and surrounds

The site has a total area of 11,582m<sup>2</sup> and is bounded by Morack Road to the west, Morack Public Golf Course to the north, the Dandenong Creek to the east and a storage facility and medical centre to the south. The site is shown in Figure 1.

Figure 1. The subject site



## DISCUSSION

## Authorisation

At the 26 June 2017 Ordinary Council Meeting, Council resolved to seek authorisation from the Minister for Planning to prepare and exhibit Planning Scheme Amendment C193 (the Amendment) which sought to:

- Rezone the site from Commonwealth Land to part General Residential Zone (Schedule 5) (GRZ5) and part Neighbourhood Residential Zone (Schedule 5) (NRZ5).
- Rezone part of the existing Urban Flood Zone (UFZ) to the GRZ5.
- Apply the Design and Development Overlay (Schedule 10) (DDO10) and an Environmental Audit Overlay (EAO) to all of the land.

On 8 September 2017 the Department of Environment, Land, Water and Planning (DELWP) authorised the Amendment subject to conditions. The authorisation conditions and how the Amendment was modified to address these are shown in Table 1.

#### 9.1.4 (cont)

Table 1. Conditions of Authorisation from DELWP and modification to the Amendment

<b>DELWP Condition in Authorisation Letter</b>	<b>Reason</b>	<b>Modification to the Amendment for exhibition</b>
<i>The application of two residential zones on the site to guide built form is considered to be inappropriate. The Amendment must be amended to apply the GRZ only and use relevant overlays to guide built form (beyond the provisions in ResCode).</i>	DELWP included this condition as it was considered inappropriate to have two residential zones applying to the site and the outcomes sought by applying the NRZ5 could be controlled by the application of a relevant overlay.	The Amendment has been updated to solely apply the GRZ5, rather than the GRZ5 and NRZ5.
<i>The Amendment documentation, notably the schedule to the Design and Development overlay, must be in conformity with The Form and Content of Planning Schemes direction including Annexure 1, Annexure 2 and Annexure 3.</i>	The Minister for Planning introduced a new <i>Form and Content of Planning Schemes</i> Direction including new templates for amendment documentation. This change became operational after the initial amendment documents had been prepared.	The Amendment documents have been updated to be consistent with the <i>Form and Content of Planning Schemes</i> Direction.
<i>The explanatory report should be amended as per attached copy [included with the authorisation].</i>	This request was to ensure the explanatory report addressed the two conditions above, in relation to the zoning and form and content of planning schemes requirements.	The explanatory report has been updated consistent with the copy provided by DELWP. Minor alterations to the formatting of the explanatory report also occurred.

DELWPs authorisation letter also made comment on the choice of overlay to control built form outcomes, stating *the Design and Development Overlay may not be the most appropriate tool to apply to the site and that the VPPs contain other tools (such as the Development Plan Overlay) that could be better utilised in achieving the built form outcomes the responsible authority seeks for the site.*

In response to this comment, the application of the DDO10 was considered more appropriate than applying a Development Plan Overlay (DPO) to ensure guidance is provided for applications into the future. The DDO10 will ensure the sensitivities of the adjacent land uses such as the Morack Golf Course to the north, the Dandenong Parklands to the east, the large scale development to the south and the existing residential area to the west are respected as part of any subsequent planning permit applications. The DPO also automatically removes notice requirements and third-party review rights from planning permit applications for proposals that conform to an approved plan. Removal of third party rights was not considered appropriate for the site due to the sensitivities of the surrounding land uses.



## 9.1.4

(cont)

### Exhibition

As a result of the authorisation conditions, the exhibited version differed from the version that was submitted for authorisation. The exhibited Amendment proposes to:

- Rezone the land currently designated as Commonwealth Land to GRZ5.
- Rezone a portion of the land currently designated as UFZ to GRZ5.
- Apply the DDO10 to all of the land.
- Apply the EAO to all of the land.

The Amendment was exhibited from 2 November to 4 December 2017. Three (3) submissions were received; two (2) in support and one (1) objection.

### Submissions

Table 2 provides an overview of the submissions received during the exhibition of the Amendment.

*Table 2. Summary of submission received*

Submitter	Response	Change to the Amendment
1 - Transport for Victoria	Supportive	N/A
2 - Environment Protection Authority	Supportive  Supports the application of the EAO.	N/A
3 – Owner or occupier who resides in proximity to the site	Objection <ul style="list-style-type: none"><li>• Objects to the rezoning of the UFZ land to GRZ5.</li><li>• If the flood overlay is removed this will expose new residents to flooding and environmental pollution.</li><li>• It is not fair to future landowners/residents to have property sold to them on a previously designated flood plain.</li></ul>	Discussions with the submitter occurred and it was apparent the submitter believed the entire portion of the UFZ land was being rezoned to GRZ5.  It was explained to the submitter that only a small portion of the UFZ land was being rezoned as a result of advice from Melbourne Water. The submitter felt their concerns had been addressed and subsequently withdrew their submission.  Therefore, no change to the Amendment is required.

As the only objecting submission was resolved and withdrawn, an independent planning panel to consider the submissions is not required.

#### 9.1.4

(cont)

#### Changes to the Amendment following exhibition

##### DDO10

Following the authorisation and prior to the exhibition of the Amendment, DELWP identified a minor issue with the drafting of DDO10 and its consistency with the *Form and Content of Planning Schemes* direction. DELWP stated it was not necessary to correct this before exhibition as the change is administrative and does not alter the intent of the provision.

Table 3 identifies the exhibited version of DDO10 and the minor change made.

*Table 3. Minor changes to the exhibited version of DDO10*

<b>DDO10 exhibited version</b>	<b>DDO10 post exhibition change</b>
Section 2.0 Buildings and Works  <i>Buildings and works must be developed in accordance with the following general requirements:</i>	Section 2.0 Buildings and Works  <i>The following buildings and works requirements apply to an application to construct a building or construct or carry out works:</i>
Section 5.0 Decision guidelines  <i>An application to vary the preferred setbacks must demonstrate how the development will achieve the requirements of this schedule, and any local planning policy requirements. Further consideration will be given as to whether the proposal:</i>  • ...	Section 5.0 Decision guidelines  <i>The following decision guidelines apply to an application for a permit under Clause 43.02, in addition to those specified in Clause 43.02 and elsewhere in the scheme which must be considered, as appropriate, by the responsible authority:</i>  • ...

The revised DDO10 to be adopted is provided at Attachment 1 and reflects the changes outlined in Table 3.

##### Mapping of the DDO and EAO

Following the authorisation and prior to the exhibition of the Amendment, DELWP also provided feedback on the proposed extent of the mapping of DDO10 and the EAO, suggesting these overlays need only apply to the residentially zoned land and not to the portion of land to be zoned UFZ. DELWP stated this change was not required to be made prior to exhibition and could be considered at the approval stage.

Officers agree the EAO need only apply to the land to be zoned GRZ5. The purpose of the EAO is *to ensure that potentially contaminated land is suitable for a use which could be significantly adversely affected by any contamination* such as residential use, child care centre, pre-school centre or primary school. Considering these sensitive uses are prohibited in the UFZ, applying the EAO is not necessary and does not make proper use of the Victoria Planning Provisions (VPP). Therefore the version of the Amendment to be submitted to DELWP for approval will propose to apply the EAO to the GRZ5 land only.

#### 9.1.4

(cont)

Officers do not agree with DELWPs proposal to reduce the extent of the DDO10 so it only applies to the land proposed to be zoned GRZ5. Although the uses and buildings and works allowable under the UFZ are limited the DDO10 contains important guidance for the land proposed to be zoned UFZ such as:

- A permit is required to construct any side or rear boundary fencing that exceeds 1.8 metres in height.
- Buildings should be set back from the northern and eastern boundaries by a minimum of 3 metres.
- Transparent fencing should be incorporated into development adjoining the Morack Golf Course and Dandenong Creek Environs, where appropriate, with the extent of visual permeability to be to the satisfaction of the responsible authority. Appropriate measures must be implemented to ensure that future development on the site is protected from activities associated with the Morack Golf Course.

Therefore it is proposed the DDO10 apply to the land to be zoned GRZ5 and UFZ, as was sought in the exhibited version of the amendment.

The zone and overlay mapping proposed to be applied as part of the Amendment can be seen at Attachment 2, including the revised extent of the EAO.

#### Summary

In summary, Table 4 shows the exhibited Amendment and the changes made to these documents.

*Table 4. Exhibited Amendment and Amendment to be adopted*

<b>Exhibited amendment</b>	<b>Amendment to be adopted and submitted to DELWP for approval</b>
Rezone the land currently designated as Commonwealth Land to GRZ5.	No change.  Rezone the land currently designated as Commonwealth Land to GRZ5.
Rezone a portion of the land currently designated as UFZ to GRZ5.	No change.  Rezone a portion of the land currently designated as UFZ to GRZ5.
Apply the DDO10 to all of the land.	Apply the DDO10 to all of the land.  The contents of the DDO10 schedule have been updated to ensure the wording is consistent with the <i>Form and Content of Planning Schemes</i> Direction.
Apply the EAO to all of the land.	Apply the EAO to the land proposed to be zoned GRZ5.

#### **Consideration of EPA guidelines**

In October 2017, the Environment Protection Authority (EPA) released guidelines on *Assessing planning proposals within the buffer of a landfill* (the guidelines). The guidelines provide information and advice on assessing planning permit applications and planning scheme amendments that would lead to development within the buffer of an operating or closed landfill.

#### 9.1.4

(cont)

The site is in proximity to the former Nunawading landfill at 636 – 650 Burwood Highway, Vermont South. Therefore the consideration of the guidelines as part of the Amendment process is relevant. Advice was sought from the EPA as to how the guidelines should be considered as the Amendment process had already commenced prior to their finalisation. As the Amendment is also proposing an EAO on the site, the guidelines state (as outlined below) that a landfill gas assessment can be carried out as part of the environmental audit (53X audit) required under the EAO rather than requiring a separate assessment of landfill gas (53V audit), these audits are defined in sections 53X and 53V of the *Environmental Protection Act 1970*.

Note 4 of the guidelines state *where the development also relates to potentially contaminated land and a section 53X audit/environmental site assessment requirement already applies, it may be possible to incorporate landfill gas assessment into this process. In these circumstances, a separate landfill gas risk assessment or section 53V audit would not be required.*

Advice from EPA was sought and confirmed this approach.

Council also sought a letter of advice from an Environmental Consultant which indicated it is unlikely there is an environmental risk posed to the site from the former Nunawading landfill. Further investigations to confirm this advice will be conducted as part of the assessment required under the EAO.

#### CONSULTATION

Exhibition of the Amendment occurred from Thursday 2 November to Monday 4 December 2017. Table 5 outlines the notification methods used to exhibit the Amendment.

*Table 5. Notification of the Amendment*

Date	Notification
26 October 2017 (mail)	Direct notification to nearby owners and occupiers (approximately 930 letters)
26 October 2017 (mail) and 31 October 2017 (email)	Direct notification to prescribed Ministers and relevant authorities
31 October 2017 (email)	Notification to relevant volunteer groups and committees of management
31 October 2017 (email)	Notification to Knox City Council
20 October 2017	Notice in the Whitehorse Leader
2 November 2017	Notice in the Victoria Government Gazette
Duration of Exhibition period	Documents available on Whitehorse City Council and at the Whitehorse Civic Centre, Box Hill Town Hall and Forest Hill Chase Shopping Centre Service Centres, and Vermont South Library.

The Amendment was also circulated internally to the Building and Planning, Arts and Recreation, and Property and Rates departments.

Three (3) submissions were received in response to the Amendment; two (2) in support and one (1) objection. Conversations with the objecting submitter occurred to clarify the intent of the Amendment and the objection was subsequently withdrawn.

#### **9.1.4**

(cont)

#### **FINANCIAL IMPLICATIONS**

The Amendment fees incurred so far have been covered by the proponent, any subsequent amendment fees will also be paid for by the proponent. Therefore there are no significant financial implications for Council.

As per Section 19 of the *Planning and Environment (Fees) Regulations 2016* (the regulations) a planning authority may wholly or in part waive or rebate the payment of a fee for carrying out any stage of the planning scheme amendment process.

Under the regulations, the Stage 2 fee for the Amendment is \$14,518.60 which considers:

- Up to and including 10 submissions which seek a change to an amendment, and where necessary referring the submissions to a panel.
- Providing assistance to a panel in accordance with section 159 of the Planning and Environment Act (1987).
- Making a submission to a panel appointed under Part 8 of the Act at a hearing referred to in section 24(b) of the Act.
- Considering the panel's report in accordance with section 27 of the Act.
- After considering submissions and the panel's report, abandoning the amendment.

Officers reduced this fee to \$1,000 for the following reasons:

- The fee is for considering up to and including 10 submissions which seek a change to the Amendment. There was only 1 submission that sought a change to the Amendment.
- The objecting submission was later withdrawn.
- The majority of the fee is for preparing and undertaking the panel process and considering a subsequent panel report, which is not required for this Amendment.

The regulations provide a number of reasons as to why the planning authority may determine it necessary to reduce the fee, in this instance the following is relevant:

- The request imposes on the planning authority no appreciable burden or a lesser burden than usual for supplying that service.

The Stage 3 fee for adopting the Amendment, submitting the Amendment for approval and giving notice of the approval was collected in full (\$462.20).

#### **POLICY IMPLICATIONS**

The Amendment will place the land in a zone which falls under the jurisdiction of the Whitehorse Planning Scheme. This will ensure any future buildings or works applications will be assessed against the most relevant policy.

The Amendment implements several objectives of the *Council Plan 2017 - 2021* including:

- Strategic Direction 2: Maintain and enhance our built environment to ensure a liveable and sustainable city – The rezoning implements this direction as it applies a zone that is within the jurisdiction of the Whitehorse Planning Scheme. This will support and promote greater housing diversity and housing stock in an established urban area consistent with the existing neighbourhood character. The proposed DDO10 will ensure future development respects and responds to the landscape and natural environment.
- Strategic Direction 5: Support a healthy local economy – The rezoning to GRZ5 will generate employment during construction of the site for residential uses.

### 9.1.4

(cont)

The Amendment implements *Clause 21.05-2 Environment Key Issues*, *Clause 21.06-3 Housing Locations*, *Clause 21.06-4 Housing Diversity* and *Clause 22.03-2 Residential Development Objectives* of the Local Planning Policy Framework (LPPF).

The Amendment also implements *Clause 11.02-1 Supply of Urban Land*, *Clause 11.04-2 Housing Choice and Affordability*, *Clause 16.01-1 Integrated Housing*, *Clause 16.01-2 Location of Residential Development*, *Clause 16.01-4 Housing Diversity* and *Clause 18.01-1 Land use and Transport Planning* of the State Planning Policy Framework (SPPF).

The Amendment implements the following Directions in *Plan Melbourne (2017 – 2050)*:

- Direction 2.1 – Manage the supply of new housing in the right locations to meet the population growth and create a sustainable city.
- Direction 2.2 – Deliver more housing closer to jobs and public transport.
- Direction 2.4 – Facilitate decision making processes for housing in the right locations.
- Direction 5.1 – Create a city of 20 minute neighbourhoods.




The Explanatory Report associated with the Amendment can be seen at Attachment 3 and provides further discussion about the consistency of the Amendment with the LPPF, SPPF and *Plan Melbourne (2017 – 2050)*.

### CONCLUSION

Planning Scheme Amendment C193 was exhibited from Thursday 2 November to Monday 4 December 2017. One (1) objecting submission was received in response to the Amendment which was subsequently resolved and withdrawn. Council is therefore not required to appoint an independent planning panel to consider the submissions.

It is therefore recommended Council adopt the Amendment with minor changes outlined in this report and submit it to the Minister for Planning for approval. If approved, the Amendment will come into effect once gazetted and all submitters will be notified.

### ATTACHMENT

- 1 Revised Design & Development Overlay Schedule 10 (DDO10) 
- 2 Maps of Proposed Zones & Overlays 
- 3 Explanatory Report 

## Engineering and Environmental

### 9.1.5 Tender Evaluation Report (Contract 30018) Box Hill Gardens Play Space & Community Gathering Space

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#### SUMMARY

*To consider tenders received for the Box Hill Gardens Play Space and Community Gathering Space construction and to recommend the acceptance of the tender received from Planned Constructions Pty Ltd, for the amount of \$745,437.*

#### MOTION

Moved by Cr Liu, Seconded by Cr Barker

***That Council accept the tender and sign the formal contract document for Contract 30018 for the Box Hill Gardens Play Space and Community Gathering Space received from Planned Constructions Pty Ltd (ABN 38 084 908 645), of 161 Stubbs Street, Kensington, Victoria, 3031, for the tendered amount of \$745,437 including GST; as part of the total expected project expenditure of \$1,068,951 including GST (\$971,774 excluding GST).***

#### AMENDMENT

Moved by Cr Carr, Seconded by Cr Bennett

***That Council accept the tender and sign the formal contract document for Contract 30018 for the Box Hill Gardens Play Space and Community Gathering Space, including the shelters for the Community Gathering Space requiring an additional \$47,553.80 in project funding, received from Planned Constructions Pty Ltd (ABN 38 084 908 645), of 161 Stubbs Street, Kensington, Victoria, 3031, for the tendered amount of \$792,990.80 including GST; as part of the total expected project expenditure of \$1,116,504.80 including GST (\$1,019,327.80 excluding GST).***

**CARRIED**

**The Motion moved by Cr Liu, seconded by Cr Barker as Amended was then put and  
CARRIED UNANIMOUSLY**

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#### BACKGROUND

The Box Hill Gardens "Once and Future Gardens" Masterplan was adopted by Council in February 2011. The Masterplan provides the vision for improvements in the Gardens to better meet Box Hill's contextual and demographic needs. The Gardens located at 717-731 Station Street, Box Hill are north of the Box Hill business district, and form part of the State Government designated Major Activity Centre.

The implementation of the Box Hill Gardens Masterplan has involved significant open space improvements in recent years. The more notable projects have included the construction of the multipurpose area and the circuit path, improvements to public lighting infrastructure and public open space improvements along the Nelson Road frontage.

The current priority of the Masterplan implementation is to construct a community gathering space and renew the existing Municipal Level (south-eastern) play space.

The works include the construction of hard and soft landscaping, the installation of furniture, a BBQ, multiuse retaining / seating walls and the installation of a range of play equipment and landscape treatments to integrate the two areas within the Gardens. Subject to the project tendered amount, consideration would be given to the construction of two overhead shelters as part of the Community Gathering Space.

### **9.1.5**

(cont)

#### **DISCUSSION**

Tenders were advertised in The Age newspaper on Saturday 7 October 2017 and were closed on Tuesday 31 October 2017. A total of five tenders were received.

The tenders were evaluated against the following criteria:

- The Tender Offer;
- Demonstrated experience on similar services;
- Quality of the Tenderers Work;
- Availability of the Tenderer to complete the works;
- Available resources; and
- Occupational Health & Safety and Equal Opportunity (Pass/Fail).

The tender submissions were evaluated using a weighted averages method. Equal opportunity and Occupational Health and Safety were assessed on a Pass / Fail basis. The results of the assessment are summarised in the attached Tender Evaluation Form. The tender received from Planned Constructions Pty Ltd is considered to be the most beneficial to Council for this Contract.

Planned Constructions Pty Ltd is experienced in these types of works, having completed similar projects for Glen Eira City Council, Wyndham City Council and for the City of Stonnington. Planned Constructions Pty Ltd have provided relevant information in their Tender Response and have provided proof of their ability and availability to complete the works associated within this Contract to a high standard.

The tender comprises of two components which include the Play Space renewal component, involving the supply and installation of play equipment, furniture, softfall and landscaping and, the Community Gathering Space component which involves the construction of retaining walls, seating, furniture, paving, landscaping, a barbeque and two shelters.

The shelters for the Gathering Space were listed as provisional items in the tender schedule, should there be scope in the tendered amount to have them installed as part of this project. The tendered amount exceeded the budget and in order to meet the allocated budget for the Community Gathering Space both shelters, being provisional items, have been removed from the Contract. Consideration will be given to the installation of the shelters in future capital works budget processes. The preliminaries (i.e. temporary fencing, set-out of works, service proving, utilities and temporary access road set up) have been adjusted accordingly between the Play Space and Community Gathering Space components of the tender. Funding for the BBQ in the Gathering Space will be provided from Capital Works Funding Account U409 – (BBQ Improvements).

The tender received from Planned Constructions Pty Ltd is considered to be the best value for money for this contract.

The preferred tenderer's business viability has been considered.

#### **CONSULTATION**

This project has been developed in consultation with the Parks Planning and Recreation Unit (Arts and Recreation Development), City Works, ParksWide, Health and Safety Team (Organisation Development), Community Development Department, and various external stakeholders.

Community consultation was undertaken for this project as part of the development of the Box Hill Gardens Master Plan, and again in the development of the design of the Play Space and Community Gathering Space. Workshops were convened at various local schools and kindergartens, and letters were circulated to stakeholders within the catchment area of the Gardens. Onsite and online consultation was also undertaken.



## 9.1.5

(cont)

All adjoining premises will be advised in writing of the proposed works and expected impacts of construction before works commence. A notice will be erected onsite prior to the works commencing, notifying users that the existing south eastern (municipal level) play space will be temporarily closed for approximately five months during construction, and as per previous community consultation, confirming Council's intention to replace the two existing play spaces in Box Hill Gardens with this new play space.

### FINANCIAL IMPLICATIONS

This project is included in the adopted 2017/2018 Council Capital Works Budget and is being funded from Account No. U404 – Play Space Renewal Program and Account No. U418 – Box Hill Gardens Community Gathering Space.

The financial implications for both accounts are as follows. The project preliminaries have been adjusted accordingly between the two components of the tender schedule. Funding for the BBQ has been provided from Capital Works Funding Account U409 – (BBQ Improvements):

	Budget	Expenditure
Capital Works Funding Account No.U404 Play Space Renewal Program	\$ 900,000	
<b>Total Budget</b>	<b>\$ 900,000</b>	
<b>(a) Preferred tenderer's lump sum offer (including GST) for the Play Space Renewal project component.</b>		\$ 571,816
Less GST		-\$ 51,983
Net cost to Council		\$ 519,833
Plus Contingencies		\$ 51,983
Plus Project Management Fee		\$ 51,983
<b>Sub Total Expenditure</b>		<b>\$ 623,799</b>
Commitments to date to Account U404		\$ 134,537
Tree planting and landscaping by ParksWide		\$ 26,000
<b>(b) Play Space Total Project Expenditure (excl GST)</b>		<b>\$ 784,336</b>
	<b>Budget</b>	<b>Expenditure</b>
Capital Works Funding Account No. U418 Box Hill Gardens Community Gathering Space	\$ 175,578	
Contribution from Capital Works Funding Account U409 (BBQ Improvements)	\$ 11,860	
<b>Total Budget</b>	<b>\$ 187,438</b>	
<b>(c) Preferred tenderer's lump sum offer (including GST) for the Community Gathering project component</b>		\$ 173,621
Less GST		-\$ 15,784
Net cost to Council		\$ 157,837
Plus Contingencies		\$ 13,817
Plus Project Management Fee		\$ 15,784
<b>(d) Gathering Space Total Expenditure (excl GST)</b>		<b>\$ 187,438</b>
<b>Total Tender Lump Sum (a+c) (incl GST)</b>		<b>\$ 745,437</b>
<b>Total Project Expenditure (b+d) (excl GST)</b>		<b>\$ 971,774</b>
<b>Total Project Expenditure (b+d) (incl GST)</b>		<b>\$1,068,951</b>

### **9.1.5**

(cont)

The preferred tenderers lump sum comprises of the Play Space renewal component of \$571,816 (incl GST) and the Community Gathering Space component of \$173,621 (incl GST) for a combined tendered amount of \$745,437 (incl GST). The total project expenditure inclusive of preliminary project costs, contingencies and project management fees is \$1,068,951 (incl GST).

## 9.2 CORPORATE REPORTS

### 9.2.1 Supplementary Valuation Quarterly Report- 1 October 2017 to 31 December 2017

FILE NUMBER: SF16/746#02

#### SUMMARY

*This report presents supplementary valuations undertaken and recommends adjustment of rate records. The supplementary valuations have been carried out on properties in accordance with Section 13DF of the Valuation of Land Act 1960.*

#### COUNCIL RESOLUTION

Moved by Cr Stennett, Seconded by Cr Bennett

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

- 1. Note and accept the supplementary valuations undertaken during the period commencing 1 October 2017 to 31 December 2017.***
- 2. Authorise the rate records to be adjusted to take account of the supplementary valuations returned.***

**CARRIED UNANIMOUSLY**

#### BACKGROUND

Item 1.11 of the Schedule of Powers contained within the Chief Executive Officer's Instrument of Delegation adopted by Council on 21 August 2017 states the following:

*"The delegate must not determine the issue, take the action or do the act or thing if the issue, action, act or thing is an issue, action, act or thing which involves:*

- The return of the general valuation and any supplementary valuations."*

This report relates to supplementary valuations undertaken by Council in accordance with the *Valuation of Land Act 1960* for the period from 1 October 2017 to 31 December 2017.

#### DISCUSSION

Supplementary valuations are conducted regularly throughout the financial year to maintain the equity and accuracy of Council's rating valuation base.

Supplementary valuations are primarily due to construction, subdivision and/or planning activities.

The supplementary valuations undertaken are summarized in Table #1 below.

Table # 1: Supplementary Valuations completed between: 1 October 2017 and 31 December 2017

Supplementary Valuation Reference	Number of Assessments	SITE VALUE	C.I.V.	N.A.V.
1 October 2017	295	\$ 205,725,500	\$ 314,213,000	\$ 17,501,500
1 November 2017	457	\$ 372,815,000	\$ 477,315,000	\$ 24,521,050
1 December 2017	362	\$ 100,209,000	\$ 219,300,000	\$ 11,256,000
30 December 2017	523	\$ 24,132,000	\$ 272,370,000	\$ 14,324,200
Supplementary Valuations Total	1,637	\$ 702,881,500	\$1,283,198,000	\$ 67,602,750

## 9.2.1

(cont)

### CONSULTATION

The legislative requirement for Council to complete supplementary valuations is contained within the *Valuation of Land Act 1960*. All supplementary valuations contained in this report have been undertaken in accordance with the *2016 Valuation Best Practice Specifications Guidelines*.

The October and November supplementary valuations in this report have been certified by the Valuer-General's office (VGV) as being suitable for use by Council, whilst the December supplementary valuations are awaiting VGV certification. Councils may use supplementary valuations prior to VGV certification.

### FINANCIAL IMPLICATIONS

The total change to the Capital Improved Value (CIV) caused by the supplementary valuations undertaken is an increase of \$508,839,000.

This change in CIV has generated an additional \$493,670 of supplementary rate income.

A summary of Council's valuation totals for all rateable properties and non-rateable properties are set out below in Table #2, Table #3 and Table #4.

Table #2: Valuation totals as at 1 October 2017

BREAKDOWN	Number of assessments	SITE VALUE	C.I.V.	N.A.V.
Rateable	72,484	\$47,395,132,200	\$64,882,466,500	\$ 3,352,882,300
Non Rateable	1,075	\$3,106,093,000	\$3,516,828,500	\$199,258,500
Municipal Total	73,559	\$50,501,225,200	\$68,399,295,000	\$3,552,140,800

Table#3 Change to valuation totals due to supplementary valuations between: 1 October 2017 to 31 December 2017

Supplementary Valuations	Number of assessments subject to Supplementary Valuation	Change to Site Value	Change to CIV	Change to NAV
	1,637	\$ 21,297,000	\$ 508,839,000	\$26,869,850

Table #4: Valuation totals as at 31 December 2017

NEW BREAKDOWN	Number of assessments	SITE VALUE	C.I.V.	N.A.V.
New Rateable	73,406	\$47,417,902,200	\$65,392,204,500	\$ 3,379,214,050
New Non Rateable	1,074	\$3,104,620,000	\$3,515,929,500	\$199,796,600
New Municipal Total	74,480	\$50,522,522,200	\$68,908,134,000	\$3,579,010,650

NB: Supplementary valuations on non-rateable properties are recorded on Council's rating system and their totals are included in the supplementary valuation reports. This is because non-rateable properties may incur a Fire Service Property Levy in accordance with the *Fire Services Property Levy Act 2012*.

### POLICY IMPLICATIONS

The Valuations have been undertaken in accordance with the legislative requirements of the *Valuation of Land Act 1960*.

## **9.2.2 Adoption of Instrument of Appointment and Authorisation under the Planning and Environment Act 1987**

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### **SUMMARY**

*The purpose of this report is to recommend approval of Instrument of Appointment and Authorisation under the Planning and Environment Act 1987, from the Council to positions in the organisation.*

### **COUNCIL RESOLUTION**

Moved by Cr Ellis, Seconded by Cr Cutts

***That Council approve the proposed appointment of authorised officers pursuant to the Planning and Environment Act 1987 as attached to this report.***

**CARRIED UNANIMOUSLY**

---

### **BACKGROUND**

The proposed Instrument of Appointment and Authorisation (pursuant to the *Planning and Environment Act 1987*) has been prepared following advice received from Council's solicitors Maddocks and is similar to that used by many Victorian municipalities.

The Instrument of Appointment and Authorisation allows Council officers to conduct their normal business in relation to enforcement of the *Planning and Environment Act 1987* and to act and commence proceedings in Council's name.

These appointments must be made by resolution of the Council; section 3(6) of the *Local Government Act 1989* defines 'resolution of the council' as including a power exercised under delegation (ie: by the Chief Executive Officer), however section 188 (2) (c) of the *Planning and Environment Act 1987* prohibits authorisations being made under delegation.

The Instruments of Appointment and Authorisation would come into force once the common seal is affixed to the Instrument.

### **CONSULTATION**

Relevant staff including General Manager City Development and Manager Planning and Building were consulted during the preparation of the proposed Instrument of Appointment and Authorisation.

### **FINANCIAL IMPLICATIONS**

There are no financial implications.

### **POLICY IMPLICATIONS**

There are no policy implications.

## 9.2.2

(cont)

Whitehorse City Council  
Instrument of Appointment and Authorisation  
under the Planning and Environment Act 1987

STAFF	
Surname	Given name
ABLETT	Meghan

### Instrument of Appointment and Authorisation (*Planning and Environment Act 1987*)

In this instrument "**officer**" means:

- a) Meghan Ablett

**By this instrument of appointment and authorisation Whitehorse City Council:**

- a) Under section 147(4) of the *Planning and Environment Act 1987* - appoints the officer(s) to be an authorised officer(s) for the purposes of the *Planning and Environment Act 1987* and the regulations made under that Act; and
- b) Under section 232 of the *Local Government Act 1989* authorises the officer(s) generally to institute proceedings for offences against the Acts and regulations described in this instrument.

**It is declared that** this instrument -

- a) Comes into force immediately upon its execution; and
- b) Remains in force until varied or revoked.

This instrument is authorised by a resolution of the **Whitehorse City Council** on **29 January 2018**

**THE COMMON SEAL OF THE**  
**WHITEHORSE CITY COUNCIL** was hereunto )  
affixed this **day of January 2018** )  
in the presence of: )  
)  
)  
)  
)  
)  
**Councillor** )  
)  
)  
)  
**Chief Executive Officer** )  
)

## 9.2.3 Delegated Decisions November 2017

### SUMMARY

*The following activity was undertaken by officers under delegated authority during November 2017.*

### COUNCIL RESOLUTION

Moved by Cr Massoud, Seconded by Cr Munroe

***That the report of decisions made by officers under Instruments of Delegation for the month of November 2017 be noted.***

### CARRIED UNANIMOUSLY

DELEGATION	FUNCTION	Number for November 2016	Number for November 2017
Planning and Environment Act 1987	Delegated Decisions	115	101
	Strategic Planning Decisions	Nil	Nil
Telecommunications Act 1997		Nil	0
Subdivision Act 1988		17	31
Gaming Control Act 1991		Nil	0
Building Act 1993	Dispensations & Applications to Building Control Commission	80	85
Liquor Control Reform Act 1998	Objections and Prosecutions	1	2
Food Act 1984	Food Act Orders	6	2
Public Health & Wellbeing Act 2008	Improvement / Prohibition Notices	1	Nil
Local Government Act 1989	Temporary Road Closures	16	7
Other Delegations	CEO Signed Contracts between \$150,000 - \$500,000	4	1
	Property Sales and Leases	7	9
	Documents to which Council seal affixed	1	1
	Vendor Payments	924	1159
	Parking Amendments	2	7
	Parking Infringements written off (not able to be collected)	240	252

### 9.2.3 (cont)

#### DELEGATED DECISIONS MADE ON PLANNING APPLICATIONS NOVEMBER 2017

*All decisions are the subject of conditions which may in some circumstances alter the use of development approved, or specific grounds of refusal is an application is not supported.*

Appl No.	Dec. Date	Decision	Street Address	Ward	Proposed Use or Development	Application Type
WH/2017/506	27-11-17	Application Lapsed	10 Gladys Street NUNAWADING VIC 3131	Springfield	Proposed dual occupancy	Multiple Dwellings
WH/2017/678	20-11-17	Application Lapsed	12 Roselea Street BOX HILL NORTH VIC 3129	Elgar	For the construction of a double storey dwelling to the rear of the existing dwelling	Multiple Dwellings
WH/2009/1/C	03-11-17	Delegate Approval - S72 Amendment	2 Joan Crescent BURWOOD EAST VIC 3151	Morack	Construction of a two-storey dwelling to the rear of an existing dwelling	Permit Amendment
WH/2010/455/A	10-11-17	Delegate Approval - S72 Amendment	247 Middleborough Road BOX HILL SOUTH VIC 3128	Riversdale	Use and development of land for restricted retail, trade supplies, landscape and gardening supplies, reduction in required car parking and alteration of access to a road in a road zone category 1	Permit Amendment
WH/2010/455/B	10-11-17	Delegate Approval - S72 Amendment	247 Middleborough Road BOX HILL SOUTH VIC 3128	Riversdale	Use and development of land for restricted retail, trade supplies, landscape and gardening supplies, reduction in required car parking and alteration of access to a road in a road zone category 1	Permit Amendment
WH/2012/465/A	21-11-17	Delegate Approval - S72 Amendment	1/6 Grace Court MITCHAM VIC 3132	Springfield	Develop the land for the construction of one (1) double storey dwelling to the rear of an existing dwelling and subdivide the land into two (2) lots plus common property	Permit Amendment



**9.2.3**  
(cont)

WH/2013/640/A	29-11-17	Delegate Approval - S72 Amendment	1/61 Ranfurly Court FOREST HILL VIC 3131	Morack	Construction of two single storey dwellings to the rear of the existing dwelling	Permit Amendment
WH/2015/767/B	17-11-17	Delegate Approval - S72 Amendment	26 Fuchsia Street BLACKBURN VIC 3130	Central	Development of land for buildings and works to extend the existing dwelling and the addition of a domestic swimming pool and associated pool house within a Heritage Overlay	Permit Amendment
WH/2016/411/A	21-11-17	Delegate Approval - S72 Amendment	12 Loraine Avenue BOX HILL NORTH VIC 3129	Elgar	Construction of four (4) double storey dwellings	Permit Amendment
WH/2016/870/A	08-11-17	Delegate Approval - S72 Amendment	60-68 Junction Road BLACKBURN NORTH VIC 3130	Central	Buildings and works for new parish office and sacristy and alterations and additions to the church	Permit Amendment
WH/2015/25/A	27-11-17	Delegate NOD Issued	22-24 Blackburn Road 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	Permit Amendment
WH/2016/1091	24-11-17	Delegate NOD Issued	42 View Street MONT ALBERT VIC 3127	Elgar	The construction of two double storey dwellings	Multiple Dwellings
WH/2016/1166	27-11-17	Delegate NOD Issued	35 Loraine Avenue BOX HILL NORTH VIC 3129	Elgar	Two double storey dwellings	Multiple Dwellings
WH/2016/1190	27-11-17	Delegate NOD Issued	11-13 Canterbury Road BLACKBURN VIC 3130	Central	Development of a five (5) part six (6) storey building with a semi basement comprising 16 dwellings, two (2) retail premises and a car parking reduction	Business

**9.2.3**  
(cont)

WH/2016/222	23-11-17	Delegate NOD Issued	105 Carrington Road BOX HILL VIC 3128	Elgar	Construction of a three storey building above basement comprising eleven dwellings and reduction in car parking	Multiple Dwellings
WH/2016/849	13-11-17	Delegate NOD Issued	7 Victor Crescent FOREST HILL VIC 3131	Morack	Construction of three double storey dwellings	Multiple Dwellings
WH/2016/980	08-11-17	Delegate NOD Issued	15 Victor Crescent FOREST HILL VIC 3131	Morack	Construction of three double storey attached dwellings	Multiple Dwellings
WH/2017/143	15-11-17	Delegate NOD Issued	61-63 Whitehorse Road BLACKBURN VIC 3130	Central	The construction of twelve (12) dwellings contained within an attached four storey building plus basement car parking, and alteration of access to a road in a Road Zone, Category 1	Multiple Dwellings
WH/2017/189	21-11-17	Delegate NOD Issued	5 Joseph Street BLACKBURN NORTH VIC 3130	Central	Construction of two double storey dwellings	Multiple Dwellings
WH/2017/202	29-11-17	Delegate NOD Issued	48 Victoria Street BOX HILL VIC 3128	Elgar	Construction of three double storey dwellings	Multiple Dwellings
WH/2017/264	03-11-17	Delegate NOD Issued	7 Pear Court BURWOOD EAST VIC 3151	Riversdale	Construction of two (2) double storey dwellings	Multiple Dwellings
WH/2017/326	08-11-17	Delegate NOD Issued	13 Deep Creek Road MITCHAM VIC 3132	Springfield	Construction of two double storey dwellings	Multiple Dwellings
WH/2017/339	13-11-17	Delegate NOD Issued	97 Lake Road BLACKBURN VIC 3130	Central	Buildings and works associated with the construction of a two storey dwelling and associated vegetation removal	Special Landscape Area
WH/2017/350	27-11-17	Delegate NOD Issued	25 Kerr Street BLACKBURN VIC 3130	Central	Construction of three double storey dwellings with one basement	Multiple Dwellings
WH/2017/371	30-11-17	Delegate NOD Issued	2 Grigg Avenue VERMONT VIC 3133	Springfield	Construction of two (2) double storey dwellings	Multiple Dwellings
WH/2017/385	16-11-17	Delegate NOD Issued	1 Cherry Orchard Rise BOX HILL NORTH VIC 3129	Elgar	Construction of two double storey dwellings.	Multiple Dwellings

**9.2.3**  
(cont)

WH/2017/394	03-11-17	Delegate NOD Issued	5 Arna Street BLACKBURN VIC 3130	Central	Construction of a single storey dwelling and removal of vegetation	Special Landscape Area
WH/2017/442	13-11-17	Delegate NOD Issued	9 Kauri Court MITCHAM VIC 3132	Springfield	Construction of two double storey dwellings	Multiple Dwellings
WH/2017/474	30-11-17	Delegate NOD Issued	179 Highbury Road BURWOOD VIC 3125	Riversdale	Construction of two double storey dwellings and alteration of access to a road in a Road Zone, Category 1	Multiple Dwellings
WH/2017/567	21-11-17	Delegate NOD Issued	33 Hedge End Road MITCHAM VIC 3132	Springfield	Construction of two double storey units on one allotment	Multiple Dwellings
WH/2017/568	13-11-17	Delegate NOD Issued	12 Ernest Street BLACKBURN VIC 3130	Central	Construction of 2 double storey dwellings	Multiple Dwellings
WH/2017/609	21-11-17	Delegate NOD Issued	22 Beddows Street BURWOOD VIC 3125	Riversdale	Three (3) Double Storey Dwellings	Multiple Dwellings
WH/2017/683	24-11-17	Delegate NOD Issued	428 Canterbury Road FOREST HILL VIC 3131	Morack	Construction of three (3) double storey dwellings & subdivision into 3 lots	Multiple Dwellings
WH/2016/46/A	10-11-17	Delegate Permit Issued	39 Boisdale Street SURREY HILLS VIC 3127	Riversdale	Development of two double storey dwellings	Permit Amendment
WH/2017/162	13-11-17	Delegate Permit Issued	5 Dalroy Crescent VERMONT SOUTH VIC 3133	Morack	Construction of two (2) double storey dwellings	Multiple Dwellings
WH/2017/178	30-11-17	Delegate Permit Issued	881 Station Street BOX HILL NORTH VIC 3129	Elgar	Construction of three double storey dwellings and alteration of access to a road in a Road Zone, Category 1	Multiple Dwellings
WH/2017/281	08-11-17	Delegate Permit Issued	11 Warnes Road\ MITCHAM VIC 3132	Springfield	Construction of two double storey dwellings	Multiple Dwellings
WH/2017/306	08-11-17	Delegate Permit Issued	36 Linlithgow Street MITCHAM VIC 3132	Springfield	Construction of two double storey dwellings	Multiple Dwellings
WH/2017/345	30-11-17	Delegate Permit Issued	8 Karen Street BOX HILL NORTH VIC 3129	Elgar	Construction of two double storey dwellings	Multiple Dwellings
WH/2017/368	13-11-17	Delegate Permit Issued	66 Joseph Street BLACKBURN NORTH VIC 3130	Central	Removal of two trees	Vegetation Protection Overlay

**9.2.3**  
(cont)

WH/2017/398	30-11-17	Delegate Permit Issued	19 Boronia Road VERMONT VIC 3133	Morack	Construction of one new dwelling to the rear of the existing dwelling and to subdivide the land into two lots.	Subdivision
WH/2017/412	09-11-17	Delegate Permit Issued	32 Grove Street VERMONT VIC 3133	Springfield	Removal of trees and construction of a single storey dwelling	Special Landscape Area
WH/2017/448	27-11-17	Delegate Permit Issued	158-160 Morack Road VERMONT SOUTH VIC 3133	Morack	Construction of four (4) double storey dwellings	Multiple Dwellings
WH/2017/458	22-11-17	Delegate Permit Issued	5/7-13 Laburnum Street BLACKBURN VIC 3130	Central	Alterations and additions to the existing dwelling	Single Dwelling < 300m2
WH/2017/468	27-11-17	Delegate Permit Issued	15 Summit Road BURWOOD VIC 3125	Riversdale	Construction of three (3) double storey dwellings	Multiple Dwellings
WH/2017/480	20-11-17	Delegate Permit Issued	153-155 Rooks Road VERMONT VIC 3133	Springfield	Change of use from Industrial to Education Facility and a reduction of the car parking requirements of Clause 52.06	Industrial
WH/2017/483	13-11-17	Delegate Permit Issued	38 Metropolitan Avenue NUNAWADING VIC 3131	Springfield	Buildings and works to increase mezzanine floor area and reduction of car parking	Industrial
WH/2017/509	29-11-17	Delegate Permit Issued	295A Springfield Road NUNAWADING VIC 3131	Springfield	Demolition of existing and rebuild single storey shop/showroom and garage	Business
WH/2017/524	03-11-17	Delegate Permit Issued	4 Frankcom Street BLACKBURN VIC 3130	Central	Two lot subdivision to re-align Title boundary between existing properties.	Subdivision
WH/2017/539	13-11-17	Delegate Permit Issued	14 Ashley Street BOX HILL NORTH VIC 3129	Elgar	Construction of two (2) double storey dwellings	Multiple Dwellings
WH/2017/558	30-11-17	Delegate Permit Issued	8 Cyril Street BOX HILL SOUTH VIC 3128	Riversdale	Construction of two (2) double storey dwellings	Multiple Dwellings
WH/2017/563	30-11-17	Delegate Permit Issued	39 Leonard Street BURWOOD VIC 3125	Riversdale	Construction of two double storey dwellings	Multiple Dwellings
WH/2017/573	03-11-17	Delegate Permit Issued	36 Gillard Street BURWOOD VIC 3125	Riversdale	Two (2) double storey dwellings	Multiple Dwellings

**9.2.3**  
(cont)

WH/2017/598	13-11-17	Delegate Permit Issued	29 Metropolitan Avenue NUNAWADING VIC 3131	Springfield	Construction of a building and associated reduction of car parking requirement and display of advertising signage	Industrial
WH/2017/606	27-11-17	Delegate Permit Issued	53 Pickford Street BURWOOD EAST VIC 3151	Morack	Construction of two (2) double storey dwellings	Multiple Dwellings
WH/2017/635	03-11-17	Delegate Permit Issued	23 Drummond Street BLACKBURN SOUTH VIC 3130	Central	Construction of a studio	Special Landscape Area
WH/2017/696	24-11-17	Delegate Permit Issued	19 Duffy Street BURWOOD VIC 3125	Riversdale	Change of use to dog grooming facility	Industrial
WH/2017/702	10-11-17	Delegate Permit Issued	68A South Parade BLACKBURN VIC 3130	Central	Shop fitout and exhaust roof vent installation resulting in a minor change in to the existing building envelope.	Business
WH/2017/711	29-11-17	Delegate Permit Issued	41-51 Burwood Highway BURWOOD VIC 3125	Riversdale	Use of the land for an Indoor recreation facility, the display of business identification signage and alteration of access to a road in a Road Zone, Category 1	Business
WH/2017/716	16-11-17	Delegate Permit Issued	20 Gillard Street BURWOOD VIC 3125	Riversdale	Three (3) lot subdivision	Subdivision
WH/2017/718	21-11-17	Delegate Permit Issued	462-468 Middleborough Road BLACKBURN VIC 3130	Central	Display of real estate advertising signs on construction hoarding	Advertising Sign
WH/2017/722	29-11-17	Delegate Permit Issued	24 Albert Street MITCHAM VIC 3132	Springfield	Three (3) lot subdivision	Subdivision
WH/2017/735	16-11-17	Delegate Permit Issued	9 Erasmus Street SURREY HILLS VIC 3127	Riversdale	2 lot subdivision	Subdivision
WH/2017/736	16-11-17	Delegate Permit Issued	390 Mont Albert Road MONT ALBERT VIC 3127	Elgar	2 lot subdivision	Subdivision
WH/2017/739	20-11-17	Delegate Permit Issued	15 Peel Street MITCHAM VIC 3132	Springfield	2 Lot subdivision	Subdivision

**9.2.3**  
(cont)

WH/2017/745	24-11-17	Delegate Permit Issued	449 Canterbury Road VERMONT VIC 3133	Springfield	Development of an additional two storey dwelling (retain the existing dwelling) and two lot subdivision	Multiple Dwellings
WH/2017/750	20-11-17	Delegate Permit Issued	209 Dorking Road BOX HILL NORTH VIC 3129	Elgar	2 lot subdivision	Subdivision
WH/2017/760	21-11-17	Delegate Permit Issued	5A Koroit Street NUNAWADING VIC 3131	Springfield	3 lot subdivision	Subdivision
WH/2017/763	22-11-17	Delegate Permit Issued	27 Newbigin Street BURWOOD VIC 3125	Riversdale	4 lot subdivision	Subdivision
WH/2017/764	24-11-17	Delegate Permit Issued	5 Barrina Street BLACKBURN SOUTH VIC 3130	Central	2 Lot Subdivision	Subdivision
WH/2017/767	23-11-17	Delegate Permit Issued	18 Karen Street BOX HILL NORTH VIC 3129	Elgar	Two lot subdivision	Subdivision
WH/2017/768	30-11-17	Delegate Permit Issued	133 Mount Pleasant Road FOREST HILL VIC 3131	Springfield	2 Lot Subdivision	Subdivision
WH/2017/778	30-11-17	Delegate Permit Issued	7 Halsey Street BOX HILL SOUTH VIC 3128	Riversdale	2 Lot Subdivision	Subdivision
WH/2017/808	30-11-17	Delegate Permit Issued	22-24 Blackburn Road BLACKBURN VIC 3130	Central	Major Promotion Signage	Advertising Sign
WH/2017/811	22-11-17	Delegate Permit Issued	131-173 Central Road NUNAWADING VIC 3131	Springfield	The display of signage publicising the sale of more than 20 lots with an advertisement area greater than 10sqm	Advertising Sign
WH/2017/813	13-11-17	Delegate Permit Issued	293 Springfield Road NUNAWADING VIC 3131	Springfield	Reduction of car parking	VicSmart - General Application
WH/2017/825	03-11-17	Delegate Permit Issued	11 Trawool Street BOX HILL NORTH VIC 3129	Elgar	Reduction in prescribed car parking for the use as a medical centre (Osteopathic clinic)	VicSmart - General Application
WH/2017/828	01-11-17	Delegate Permit Issued	6A Dawe Road MITCHAM VIC 3132	Springfield	Removal of one tree in a Significant Landscape Overlay 6	VicSmart - General Application
WH/2017/830	16-11-17	Delegate Permit Issued	5 Surrey Street BOX HILL SOUTH VIC 3128	Riversdale	Two lot subdivision	VicSmart - Subdivision

**9.2.3**  
(cont)

WH/2017/838	03-11-17	Delegate Permit Issued	1 Lightfoot Street MONT ALBERT VIC 3127	Elgar	Demolition of two outbuildings	VicSmart - General Application
WH/2017/844	03-11-17	Delegate Permit Issued	3 Beatty Street MONT ALBERT VIC 3127	Elgar	Construction of garage within a heritage overlay	VicSmart - General Application
WH/2017/848	10-11-17	Delegate Permit Issued	220 Burwood Highway BURWOOD EAST VIC 3151	Morack	Construction of a roof over the church 'community centre' light well	VicSmart - General Application
WH/2017/851	16-11-17	Delegate Permit Issued	49 Springvale Road NUNAWADING VIC 3131	Springfield	Two lot subdivision	VicSmart - Subdivision
WH/2017/876	13-11-17	Delegate Permit Issued	53 Alwyn Street MITCHAM VIC 3132	Springfield	Removal of one tree	VicSmart - General Application
WH/2017/881	16-11-17	Delegate Permit Issued	11 Cunningham Street BOX HILL VIC 3128	Elgar	2 lot subdivision	VicSmart - Subdivision
WH/2017/882	16-11-17	Delegate Permit Issued	103 Springvale Road NUNAWADING VIC 3131	Springfield	2 lot subdivision	VicSmart - Subdivision
WH/2017/883	22-11-17	Delegate Permit Issued	25 Eustace Street BLACKBURN VIC 3130	Central	Removal of a tree in SLO2	VicSmart - General Application
WH/2016/769	27-11-17	Delegate Refusal Issued	87 Nelson Road BOX HILL NORTH VIC 3129	Elgar	Construction of four (4) double storey dwellings	Multiple Dwellings
WH/2017/103	01-11-17	Delegate Refusal Issued	14-16 Simla Street MITCHAM VIC 3132	Springfield	Use and development of a warehouse (self storage), child care centre and offices, reduction in standard car parking requirement (Clause 52.06) and waiver of the loading and unloading of vehicles requirement (Clause 52.07), realignment of boundaries and removal of easement E-4 on PS 425700B	Industrial
WH/2017/171	22-11-17	Delegate Refusal Issued	715 Station Street BOX HILL VIC 3128	Elgar	Use and development of an 11 storey residential hotel	Multiple Dwellings
WH/2017/353	27-11-17	Delegate Refusal Issued	535 Station Street BOX HILL VIC 3128	Elgar	Electronic Promotional Sky Sign	Advertising Sign

**9.2.3**  
(cont)

WH/2017/38	15-11-17	Delegate Refusal Issued	7 Minna Street BLACKBURN VIC 3130	Central	Building and works for the construction of five (5) three storey townhouses	Multiple Dwellings
WH/2017/421	16-11-17	Delegate Refusal Issued	1 Holberry Street NUNAWADING VIC 3131	Springfield	Construction of two (2) double storey dwellings	Multiple Dwellings
WH/2017/423	28-11-17	Delegate Refusal Issued	9 St James Avenue MONT ALBERT VIC 3127	Elgar	Construction two single storey dwellings	Multiple Dwellings
WH/2017/605	23-11-17	Delegate Refusal Issued	2 Kett Street NUNAWADING VIC 3131	Springfield	Construction of two double storey dwellings	Multiple Dwellings
WH/2017/879	15-11-17	Delegate Refusal Issued	5 Erilyn Court VERMONT VIC 3133	Springfield	Remove 1 tree within SLO7	VicSmart - General Application
WH/1976/90127 3/A	23-11-17	No Permit Required	10 Florence Road SURREY HILLS VIC 3127	Riversdale	internal alterations to existing dwelling	Permit Amendment
WH/2017/893	30-11-17	No Permit Required	144 Rooks Road NUNAWADING VIC 3131	Springfield	Change of use for food preparation for off-site catering	Business
WH/2015/306/A	03-11-17	Withdrawn	9-21 Cook Road MITCHAM VIC 3132	Springfield	Develop and use of 21 warehouses and reduction in the standard car parking requirements	Permit Amendment
WH/2017/731	01-11-17	Withdrawn	31 Gerald Street BLACKBURN VIC 3130	Springfield	2 lot subdivision	Subdivision
WH/2017/787	14-11-17	Withdrawn	2/9 Tasman Avenue NUNAWADING VIC 3131	Springfield	Deck extension and new pergola	Single Dwelling < 300m2



### 9.2.3

(cont)

#### BUILDING DISPENSATIONS/APPLICATIONS NOVEMBER 2017

Address	Date	Ward	Result
2 O'Hara Street, BLACKBURN	24-11-17	Central	Amendment Approved R409
1 Junction Road, BLACKBURN NORTH	10-11-17	Central	Consent Granted R409
15 Joseph Street, BLACKBURN NORTH	23-11-17	Central	Consent Granted R409
15 Wilton Street, BLACKBURN NORTH	08-11-17	Central	Consent Granted R414
18 Aberdeen Road, BLACKBURN SOUTH	03-11-17	Central	Consent Granted R409,R410,R415,R417
2 Jessie Street, BLACKBURN NORTH	10-11-17	Central	Consent Granted R409, R414
2 O'Hara Street, BLACKBURN	03-11-17	Central	Consent Granted R414
21 Fithie Street, BLACKBURN NORTH	15-11-17	Central	Consent Granted R409
26 Patricia Road, BLACKBURN	14-11-17	Central	Consent Granted R416
30 Lantana Street, BLACKBURN NORTH	21-11-17	Central	Consent Granted R417
41 Slater Avenue, BLACKBURN NORTH	29-11-17	Central	Consent Granted R409, R414
6 Lobelia Court, BLACKBURN NORTH	01-11-17	Central	Consent Granted R414,R409
16 Katrina Street, BLACKBURN NORTH	23-11-17	Central	Consent Refused R409
3 Mansfield Street, BLACKBURN SOUTH	14-11-17	Central	Consent Refused R424
41 Slater Avenue, BLACKBURN NORTH	29-11-17	Central	Consent Refused R417
9 Douglas Street, BLACKBURN NORTH	10-11-17	Central	Consent Refused R424
1/10 Broomhill Avenue, BLACKBURN	30-11-17	Central	Expired R409
6 Belvedere Court, BLACKBURN NORTH	09-11-17	Central	Expired
1 Costello Street, MONT ALBERT NORTH	16-11-17	Elgar	Consent Granted R411
12 Jackson Avenue, MONT ALBERT NORTH	08-11-17	Elgar	Consent Granted R409
12 Jackson Avenue, MONT ALBERT NORTH	08-11-17	Elgar	Consent Granted R412
12 Serpentine Street, MONT ALBERT	30-11-17	Elgar	Consent Granted R409
17 Lincoln Avenue, MONT ALBERT NORTH	27-11-17	Elgar	Consent Granted R424
2/17 View Street, MONT ALBERT	16-11-17	Elgar	Consent Granted R411
35 Kingsley Crescent, MONT ALBERT	08-11-17	Elgar	Consent Granted R410, R415
553 Middleborough Road, BOX HILL NORTH	21-11-17	Elgar	Consent Granted R409
56 Dunloe Avenue, MONT ALBERT NORTH	08-11-17	Elgar	Consent Granted R424
6 St Johns Avenue, MONT ALBERT	16-11-17	Elgar	Consent Granted R424
6 Tyrrell Street, MONT ALBERT NORTH	16-11-17	Elgar	Consent Granted R414
68 Boondara Road, MONT ALBERT NORTH	29-11-17	Elgar	Consent Granted R427,R424
7-9 Carrington Road, BOX HILL	24-11-17	Elgar	Consent Granted R604
3 Blenheim Avenue, MONT ALBERT	29-11-17	Elgar	Consent Refused R415
14 Theodore Street, SURREY HILLS	30-11-17	Elgar	Expired R409
8 Albion Road, BOX HILL	09-11-17	Elgar	Expired R409
14 Penllyne Avenue, VERMONT	24-11-17	Morack	Amendment Refused R424
2 Brentford Square, FOREST HILL	28-11-17	Morack	Consent Granted R604
2 Tisane Avenue, FOREST HILL	30-11-17	Morack	Consent Granted R411
30 Sevenoaks Road, BURWOOD EAST	30-11-17	Morack	Consent Granted R419
5 Cheriton Court, BURWOOD EAST	29-11-17	Morack	Consent Granted R409
17 Talarno Avenue, VERMONT SOUTH	30-11-17	Morack	Expired R414
1/24 Highview Grove, BURWOOD EAST	30-11-17	Riversdale	Consent Granted R424
18 Gibson Street, BOX HILL SOUTH	09-11-17	Riversdale	Consent Granted R424
19 Hastings Avenue, BLACKBURN SOUTH	16-11-17	Riversdale	Consent Granted R424
1B Scottsdale Street, SURREY HILLS	13-11-17	Riversdale	Consent Granted R414
20 Campbell Parade, BOX HILL SOUTH	23-11-17	Riversdale	Consent Granted R414

### 9.2.3

(cont)

22 Dorothy Street, BURWOOD EAST	03-11-17	Riversdale	Consent Granted R414
24 Everton Grove, SURREY HILLS	29-11-17	Riversdale	Consent Granted R414
27 Narmara Street, BURWOOD EAST	13-11-17	Riversdale	Consent Granted R427
6 Monash Street, BOX HILL SOUTH	09-11-17	Riversdale	Consent Granted R420
904 Canterbury Road, BOX HILL SOUTH	22-11-17	Riversdale	Consent Granted
24 Everton Grove, SURREY HILLS	29-11-17	Riversdale	Consent Refused R417
27 Patterson Avenue, BURWOOD	10-11-17	Riversdale	Consent Refused R424
32 Grange Road, BLACKBURN SOUTH	08-11-17	Riversdale	Consent Refused R409
10 Wattlebird Court, BURWOOD	30-11-17	Riversdale	Expired R414
2 Sycamore Street, BOX HILL SOUTH	09-11-17	Riversdale	Expired R409
1/25 Luckie Street, NUNAWADING	08-11-17	Springfield	Consent Granted R409
14 Milton Street, NUNAWADING	16-11-17	Springfield	Consent Granted R411,R414
18 Bristow Drive, FOREST HILL	30-11-17	Springfield	Consent Granted R410,R415
24 Hedge End Road, NUNAWADING	27-11-17	Springfield	Consent Granted R414, R426
2A Price Street, MITCHAM	08-11-17	Springfield	Consent Granted R410,R415
31 Barkly Terrace, MITCHAM	16-11-17	Springfield	Consent Granted R414
4 Latham Court, FOREST HILL	30-11-17	Springfield	Consent Granted R414
68 Cochrane Street, MITCHAM	30-11-17	Springfield	Consent Granted R409, R414
7 Scott Street, MITCHAM	02-11-17	Springfield	Consent Granted R414, R417 R411
9 O'Shannessy Street, NUNAWADING	14-11-17	Springfield	Consent Granted R409
1 Alexander Street, MITCHAM	14-11-17	Springfield	Consent Refused R409
1 Carter Avenue, NUNAWADING	08-11-17	Springfield	Consent Refused R409
14 Milton Street, NUNAWADING	16-11-17	Springfield	Consent Refused R415
20 Taronga Court, NUNAWADING	29-11-17	Springfield	Consent Refused R409
38 Rosstrevor Crescent, MITCHAM	21-11-17	Springfield	Report Closed

#### DELEGATED DECISIONS MADE ON STRATEGIC PLANNING MATTERS – NOVEMBER 2017

Under the Planning and Environment Act 1987

#### REGISTER OF CONTRACTS SIGNED BY CEO DELEGATION NOVEMBER 2017

Contract	Service
Contract 30005	Houston Shopping Centre Streetscape Improvements

### 9.2.3

(cont)

#### REGISTER OF PROPERTY DOCUMENTS EXECUTED NOVEMBER 2017

Property Address	Document Type	Document Detail
<b>Leases</b>		
69 Katrina Street, Blackburn North - Katrina Pre School Association	Assignment of Lease	New tenant - Bestchance Child Family Care
Part 2-10 Deep Creek Road, Mitcham - Local History Room - Schwerkolt Cottage and Museum Complex	Lease	Whitehorse Historical Society Incorporated
21 Wattle Valley Road, Mitcham	Residential Tenancy Agreement	Tenant name withheld for privacy
<b>Licences</b>		
2-4 Bruce Street and adjoining discontinued road, Box Hill - MAB Bruce Street Pty Ltd	Licence Agreement	Licence to MAB Bruce Street Pty Ltd for site investigations
Blackburn Railway Station forecourt - part 1 South Parade, Blackburn - Metro Trains Melbourne	Licence Agreement	Agreement for Exeloo toilet facility
<b>Fires Services Property Levy (FSPL)</b>		
437 Belmore Road Mont Albert North		Land use changed from 'Residential' to 'Commercial'
86 Carrington Road, Box Hill		Land use changed from 'Public Benefit' to 'Commercial'
<b>Rateability Changes (Section 154 of Local Government Act)</b>		
2 Carrington Road, Box Hill	Property Now Rateable	Property sold by Council
86 Carrington Road, Box Hill	Property Now Rateable	Part of Greek Orthodox Church property leased to tenant for use as a Child Care Centre

### 9.2.3

(cont)

#### REGISTER OF DOCUMENTS AFFIXED WITH THE COUNCIL SEAL – NOVEMBER 2017

Instrument of Sub Delegation Chief Executive Officer to staff (Under CEO Delegation 08.17.17)

#### PARKING RESTRICTIONS APPROVED BY DELEGATION NOVEMBER 2017

**Address:** **Nicholson Street, Nunawading:** from Whitehorse Road service road to Tunstall Avenue – west side

**Previously:** 20 'Unrestricted' parking spaces

**Now:** 20 '2-Hour, 8am to 6pm, Monday to Friday' parking spaces

**Address:** **Uganda Street, Burwood:** from east boundary of 21 Uganda Street to west boundary of 21 Uganda Street – south side

**Previously:** 2 '1/2-Hour, 7.30am to 9pm, Monday to Saturday' parking spaces

**Now:** 2 'Works Zone, 7am to 5pm, Monday to Saturday' parking spaces

**Address:** **Spencer Street, Nunawading:** from east boundary of 2 Spencer Street to west boundary of 2 Spencer Street – south side

**Previously:** 2 'Unrestricted' parking spaces

**Now:** 2 '5-minute, 7am to 6pm, Monday to Friday' parking spaces

**Address:** **Short Street, Vermont:** from 15m north of the south boundary of 7 Short Street to 22m west of the east boundary of 7 Short Street – south side

**Previously:** 3 'Permit Zone, 8am to 6pm, Monday to Friday' parking spaces

**Now:** 3 'No Stopping' parking spaces

**Address:** **Fankhauser Drive, Vermont:** from Beacon Street to 15m west of Beacon Street – west side

**Previously:** 1 'Unrestricted' parking space

**Now:** 1 'No Stopping' parking space

**Address:** **Beacon Street, Vermont:** from Fankhauser Drive to 20m south of Fankhauser Drive – east side

**Previously:** 2 'Unrestricted' parking spaces

**Now:** 2 'No Stopping' parking spaces

**Address:** **Beacon Street, Vermont:** from Fankhauser Drive to 15m south of Fankhauser Drive – west side

**Previously:** 1 'Unrestricted' parking space

**Now:** 1 'No Stopping' parking space

### 9.2.3

(cont)

#### VENDOR PAYMENT SUMMARY – SUMS PAID DURING NOVEMBER 2017

Date	Total Issued	Payments (direct debit, cheques or electronic funds transfer)	Transaction Type EFT/CHQ/DD
02/11/2017	\$2,628.37	12	EFC
02/11/2017	\$53,670.65	46	CHQ
02/11/2017	\$198,250.62	26	EFT
02/11/2017	\$240,475.89	18	EFT
08/11/2017	\$23,816.56	1	EFT
09/11/2017	\$973.50	3	EFC
09/11/2017	\$32,621.39	34	CHQ
09/11/2017	\$485,351.95	33	EFT
14/11/2017	\$7,445.52	1	EFT
16/11/2017	\$5,682.14	17	EFC
16/11/2017	\$102,847.18	41	CHQ
16/11/2017	\$3,361,440.97	415	EFT
23/11/2017	\$2,417.45	9	EFC
23/11/2017	\$32,119.25	24	CHQ
23/11/2017	\$475,847.78	46	EFT
28/11/2017	\$1,918.95	1	EFC
30/11/2017	\$31,002.03	10	EFT
30/11/2017	\$7,181.68	12	EFC
30/11/2017	\$4,367,903.00	382	EFT
30/11/2017	\$46,317.64	37	CHQ
GROSS	\$9,479,912.52	1168	
Monthly Lease Payments	\$35,674.82		
Direct Debit Payments	\$91,584.27		
CANCELLED PAYMENTS	-\$10,914.20	-9	
NETT	\$9,596,257.41	1159	

## 10 REPORTS FROM DELEGATES, SPECIAL COMMITTEE RECOMMENDATIONS AND ASSEMBLY OF COUNCILLORS RECORDS

### 10.1 Reports by Delegates

- 10.1 Cr Liu reported on her attendance, along with Cr Cutts at the first meeting of the Whitehorse Business Group for 2018, held on 23 January 2018.

#### COUNCIL RESOLUTION

Moved by Cr Liu, Seconded by Cr Ellis

*That the reports from delegates be received and noted.*

CARRIED UNANIMOUSLY

### 10.2 Recommendation from the Special Committee of Council Meeting

No Meeting held

### 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
11-12-17 6.30-7.00pm	<b>Councillor Briefing Session</b> <ul style="list-style-type: none"> <li>6.1 &amp; 6.2 Notices of Motion</li> <li>Urgent Business – Francom Street Blackburn</li> <li>Item9.1.1826-834 Whitehorse Road, Box Hill (Lots 3 &amp; 4 Ps 434842DS)</li> </ul>	Cr Davenport (Mayor & Chair) Cr Barker Cr Bennett Cr Carr Cr Cutts Cr Ellis Cr Liu Cr Massoud Cr Munroe Cr Stennett (arrived at 6.36pm)	N Duff J Green P Warner T Wilkinson P Smith A De Fazio S Freud J Russell	Nil	Nil
22-01-18 5.30-6.15pm	<b>North East Link Authority</b>	Cr Davenport (Mayor & Chair) Cr Barker Cr Bennett Cr Carr Cr Cutts Cr Liu Cr Massoud Cr Munroe	N Duff J Green P Warner T Wilkinson (AGMC) S Cann A De Fazio S Freud J Nikas L McGuinness K Sinclair	Nil	Nil

**10.3**  
(cont)

<p><b>22-01-18</b> 7.00-9.00pm</p>	<p><b>Councillor Briefing Session</b></p> <ul style="list-style-type: none"> <li>• Finance Report as at 30 November 2017</li> <li>• Draft Council Agenda 29 January 2018</li> <li>• Budget Update</li> <li>• Australia Day Proceedings</li> <li>• Confidential Matter</li> </ul>	<p>Cr Davenport (Mayor &amp; Chair) Cr Barker Cr Bennett Cr Carr Cr Cutts Cr Liu Cr Massoud Cr Munroe Cr Stennett</p>	<p>N Duff J Green P Warner T Wilkinson (AGMCS) S Cann A De Fazio S Freud K Marriott J Hansen A Egan</p>	<ul style="list-style-type: none"> <li>• Cr Liu Declared an Indirect Conflict of Interest in Item 9.1.3 Amendment C194 to the Whitehorse Planning Scheme (517 &amp; 519-521 Station Street &amp; 2-8 Oxford Street, Box Hill).</li> <li>• To meet Probity requirements Mr J Green &amp; S Cann were required to remove themselves from the meeting when Item Amendment C194 to the Whitehorse Planning Scheme (517 &amp; 519-521 Station Street &amp; 2-8 Oxford Street, Box Hill) was discussed</li> </ul>	<ul style="list-style-type: none"> <li>• Cr Liu, declared an Indirect Conflict of Interest in Item 9.1.3 Amendment C194 to the Whitehorse Planning Scheme (517 &amp; 519-521 Station Street &amp; 2-8 Oxford Street, Box Hill) left the meeting at 8.05pm, returning at 8.30pm</li> <li>• Mr J Green &amp; Mr S Cann , Item 9.1.3 Amendment C194 to the Whitehorse Planning Scheme (517 &amp; 519-521 Station Street &amp; 2-8 Oxford Street, Box Hill) left the meeting at 8.05pm, returning at 8.30pm.</li> </ul>
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**COUNCIL RESOLUTION**

Moved by Cr Massoud, Seconded by Cr Cutts

*That the record of Assembly of Councillors be received and noted.*

**CARRIED UNANIMOUSLY**

## **11      REPORTS ON CONFERENCES/SEMINARS ATTENDANCE**

- 11.1 Mayor Cr Davenport reported on his attendance at the Victorian Local Governance Association Mayors and Deputy Mayors Connect Weekend Workshop 2018 held 19 – 21 January 2018.

### **COUNCIL RESOLUTION**

Moved by Cr Ellis, Seconded by Cr Munroe

***That the record of reports on conferences/seminars attendance be received and noted.***

**CARRIED UNANIMOUSLY**

## **12      CLOSE MEETING**

Meeting closed at 8.35pm

**Confirmed this 19<sup>th</sup> day of February 2018**

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**CHAIRPERSON**