



# City of Whitehorse

## AGENDA

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### Council Meeting

To be held in the  
**Council Chamber**  
**Nunawading Civic Centre**

379 Whitehorse Road Nunawading

on

**Wednesday 27 January 2021**

at 7:00pm

**Members:** Cr Munroe (Mayor), Cr Barker, Cr Carr (Deputy Mayor), Cr Cutts,  
Cr Davenport, Cr Lane, Cr Liu, Cr McNeill, Cr Massoud, Cr Skilbeck,  
Cr Stennett

**Mr Simon McMillan**  
Chief Executive Officer

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## AGENDA

### 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

### 3 DISCLOSURE OF CONFLICT OF INTERESTS

### 4 CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

Minutes of the Council and Confidential Council Meeting 14 December 2020.

#### RECOMMENDATION

***That the minutes of the Council and Confidential Meeting 14 December 2020 having been circulated now be confirmed.***

### 5 RESPONSES TO QUESTIONS

### 6 NOTICES OF MOTION

### 7 PETITIONS

### 8 URGENT BUSINESS

## **9 COUNCIL REPORTS**

### **9.1 CITY DEVELOPMENT**

#### **Statutory Planning**

#### **9.1.1 1 Daniel Street, Burwood (LOT 196 LP 54112 48B) The use and development of the land for a residential building (student accommodation), the removal of protected vegetation and buildings and works within 4 metres of protected vegetation**

FILE NUMBER: WH/2019/1307  
ATTACHMENT

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#### **SUMMARY**

*This application was advertised, and a total of thirteen (13) objections were received. The objections raised issues with traffic and parking, neighbourhood character and amenity impacts. A Consultation Forum was held on 8 October 2020 chaired by planning officers (as this was during the caretaker period), 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/2019/1307 for 1 Daniel Street, BURWOOD (LOT 196 LP 54112 48B) 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 the land for a residential building (student accommodation), the removal of protected vegetation and buildings and works within 4 metres of protected vegetation 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 1 Daniel Street, BURWOOD (LOT 196 LP 54112 48B) for the use and development of the land for a residential building (student accommodation), the removal of protected vegetation and buildings and works within 4 metres of protected vegetation, subject to the following conditions:**
  - 1. Before the development starts, or vegetation is removed, amended plans must be submitted to and approved by the Responsible Authority in a digital format. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale, with dimensions, and be generally in accordance with the plans submitted with the application but modified to show:**
    - a) The southern retaining wall to include integrated seating opportunities.**
    - b) The rear alfresco to include an integrated outdoor barbeque or like cooking facilities.**
    - c) The locations of Tree Protection Zones described in condition 4 with all nominated trees clearly identified and numbered on the ground floor plan, and the requirements of conditions 4 and 5 to be annotated on the development plans.**
    - d) Development plans to reflect all sustainability features that are required as part of a submitted and approved Sustainable Design Assessment (SDA), together with any requirement outlined in Condition 6. The plans are to be generally in accordance with the plans submitted indicating:**

**9.1.1**  
(cont)

- i. Rainwater tank(s) sized to a total minimum of 8,000 litres, utilised for retention purposes throughout the development, in lieu of raingardens.*
- ii. An annotation indicating the rainwater tank sizes and that the rainwater tanks are allocated for reuse/retention purposes and exclude any volume allocated for detention.*
- iii. An annotation that rainwater tanks are connected to all toilet flushing, laundry systems and irrigation areas.*
- iv. All operable windows, doors and vents on elevation drawings.*
- v. Double glazing annotated to all living/recreational and bedroom area windows on elevation drawings.*
- vi. Where measures cannot be visually shown, include a notes table or 'ESD Schedule' providing details of the ESD features and requirements. This is required to include dwelling star ratings, energy and water efficiency ratings for heating/cooling systems and plumbing fittings and fixtures, as well as, any waste recovery and use of sustainable materials commitments*

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

- 2. Before the development starts, or vegetation is removed, an amended landscape plan must be submitted to and approved by the Responsible Authority in a digital format. When approved, the landscape plan will be endorsed and will then form part of the permit. The landscape plan must be drawn to scale, with dimensions, and be generally in accordance with the landscape plan submitted with the application but modified to show:*
  - a) Plans to accord with Condition 1 of this permit.*
  - b) The canopy tree to the south-eastern section of the site and within proximity to the retaining wall to be nominated as a medium sized tree with a minimum established height of 12 metres.*
  - c) The addition of a medium sized canopy tree with a minimum established height of 12 metres located to the south-western section of the site before the retaining wall.*
  - d) All other canopy trees (not including those at the site frontage) to be capable of establishment within a confined area with a minimum established height of 8 metres.*
  - e) The locations of Tree Protection Zones described in condition 4 with all nominated trees clearly identified and numbered on the landscape plan, and the requirements of conditions 4 and 5 to be annotated on the landscape plans.*

*The provisions, recommendations and requirements of the landscape plan must be implemented and complied with to the satisfaction of the Responsible Authority.*

*Before the dwellings are occupied, all landscaping as shown on the endorsed plans, including trees, shrubs and lawn, must be planted to the satisfaction of the Responsible Authority. At all times, the landscaping must be maintained to the satisfaction of the Responsible Authority.*

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

### **9.1.1**

(cont)

- 4. Prior to commencement of any building or demolition works on the land, Tree Protection Zones (TPZs) must be established on the subject site (and nature strip if required) and maintained during, and until completion of, all buildings and works including landscaping, around the following trees in accordance with the distances and measures specified below, to the satisfaction of the Responsible Authority:**
  - a) Tree Protection Zone distances:**
    - i. Tree 1 – 4.5 metre radius from the centre of the tree base.**
    - ii. Tree 9 – 3.1 metre radius from the centre of the tree base.**
    - iii. Tree 10 – 2.3 metre radius from the centre of the tree base.**
  - b) Tree Protection Zone measures are to be established in accordance with Australian Standard 4970-2009 and are to include the following:**
    - i. Erection of solid chain mesh or similar type fencing at a minimum height of 1.8 metres in height held in place with concrete feet.**
    - ii. Signage placed around the outer edge of perimeter the fencing identifying the area as a TPZ. The signage should be visible from within the development, with the lettering complying with AS 1319.**
    - iii. Mulch across the surface of the TPZ to a depth of 100mm and undertake supplementary provide watering/irrigation within the TPZ, prior and during any works performed.**
    - iv. No excavation, constructions works or activities, grade changes, surface treatments or storage of materials of any kind are permitted within the TPZ unless otherwise approved within this permit or further approved in writing by the Responsible Authority.**
    - v. All supports and bracing should be outside the TPZ and any excavation for supports or bracing should avoid damaging roots where possible.**
    - vi. No trenching is allowed within the TPZ for the installation of utility services unless tree sensitive installation methods such as boring have been approved by the Responsible Authority.**
    - vii. Where construction is approved within the TPZ, fencing and mulching should be placed at the outer point of the construction area.**
    - viii. Where there are approved works within the TPZ, it may only be reduced to the required amount by an authorized person only during approved construction within the TPZ, and must be restored in accordance with the above requirements at all other times.**
- 5. During construction of any buildings, or during other works, the following tree protection requirements are to be adhered to, to the satisfaction of the Responsible Authority:**
  - a) For Tree Groups 9 and 10 no roots greater than 40mm in diameter are to be cut or damaged during any part of the construction process.**
  - b) 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 greater than 10% of the TPZs of Tree Groups 9 and 10.**
  - c) The builder / site manager must ensure the TPZ Fencing Conditions and the Tree Protection Conditions for Tree Groups 9 and 10 are being adhered to throughout the entire building process, including site demolition, levelling, and landscape works.**

### **9.1.1**

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**6. Before the development commences, an amended Sustainable Design Assessment to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Sustainable Design Assessment will be endorsed and will form part of this permit. The amended Sustainable Design Assessment must be generally in accordance with the Sustainable Design Assessment prepared by Frater and dated 26/02/2020, but modified to include or show:**

- a) An assessment addressing stormwater quality performance, in addition to ensuring that the Responsible Authority's collective integrated water management expectations and requirements pursuant to Clauses 34 and 44 of the State Environment Protection Policy (Waters), are satisfied which includes rainwater tank(s) totaling a minimum 8,000 litre capacity for retention purposes throughout the development in lieu of raingardens.**
- b) Rainwater tanks connected to all toilet flushing, laundry systems and irrigation areas.**
- c) A complete, published BESS Report, with an acceptable overall score of at least 50% and also which meets the 'pass' marks in the categories of Water, Energy Stormwater and Indoor Environment Quality (IEQ) or that is otherwise to the satisfaction of the Responsible Authority.**
- d) A Preliminary National Construction Code (NCC) 2016 Building Code of Australia (BCA) Section J or JV3 Energy Efficiency assessment indicating a 10% improvement in energy efficiency performance with respect to the development's reference/base case or a NCC 2019 BCA Energy Efficiency assessment exceeding respective requirements. The preliminary assessment is required to include indicative commitments towards thermal performance (i.e. R-values), artificial lighting and glazing (utilisation of BCA Glazing Calculator indicating U- and SHGC- values).**
- e) The incorporation of shading fixtures to north, east and west facing glazing or a solar photovoltaic system to reduce peak energy demand.**
- f) Heating and cooling systems include a minimum 4 star energy efficiency rating or COP $\geq$ 3.5 if no star rating is available.**
- g) Hot water systems include a minimum 5 star energy efficiency rating**
- h) LED light fittings used to provide artificial lighting and designed to exceed NCC 2019 BCA requirements.**
- i) Water efficient fixtures and fittings include a minimum 4 star WELS toilets, 5 star WELS taps and 3 star WELS showerheads ( $\leq$  7.5 L/min).**
- j) A minimum of 8 secure bicycle parking spaces which entails visitor bicycle parking.**
- k) Double glazing used to all living/recreational areas and bedrooms.**
- l) Commit to divert at least 70% of construction and demolition waste from landfill.**
- m) Use of low Volatile Organic Compound (VOC) and formaldehyde products, including sustainably sourced timber.**

**When approved, the provisions, recommendations and requirements of the approved Sustainability Management Plan must be implemented and complied with, all to the satisfaction of the Responsible Authority**

### **9.1.1**

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7. *Before the use commences, a Student Housing Management Plan must be submitted to and approved by the Responsible Authority. When approved, the Student Housing Management Plan will be endorsed and will then form part of the permit. The Student Housing Management Plan must address, but is not necessarily limited to:*

- a) The contact details of a suitably responsible contact person who must be available 24 hours per day, seven days per week and whose contact details are to be displayed in a manner that is visible to any person entering the site.*
- b) The means by which car spaces are to be allocated and a register that documents allocation of these spaces.*
- c) Rules regarding acceptable behaviour of residents and visitors which must be adhered to.*
- d) Rules regarding the control of noise.*
- e) A procedure for dealing with complaints from persons not resident on the site.*
- f) A procedure for moving in and out of the building.*
- g) Areas where washed clothes may or may not be dried.*
- h) Maintenance of buildings and grounds, including all landscaped areas and outdoor cooking facilities.*
- i) Permanent display of the approved Management Plan in a common area accessible to residents of the student housing facility.*
- j) Provision of information to student residents regarding public transport and other non-car based transport modes.*

*When approved, the provisions, recommendations and requirements of the approved Student Housing Management Plan must be implemented and complied with, all to the satisfaction of the Responsible Authority*

8. *Before the use starts, the owner (or another person in anticipation of becoming the owner) must enter into an agreement under Section 173 of the Planning and Environment Act 1987 with the Responsible Authority to provide for the following:*

- a) Should the land cease to be used for student housing, a new planning permit or variation to the Section 173 Agreement may be required for an alternative use. Any dispensations for on-site car parking given to the student housing use will not be transferable to any proposed alternative use of the land. Any subsequent use will be assessed in accordance with the planning scheme car parking requirements.*
- b) Car spaces must be associated with the use of student housing and must not be subdivided, sold or used separately from the student housing.*
- c) The number of students residing on site who own cars must not exceed the number of on-site car spaces provided by the development.*
- d) A Management Plan must be approved by the responsible authority in accordance with Condition 7 and form part of the agreement prior to the use of the student housing commencing.*

*The owner, or other person in anticipation of becoming the owner, must meet all of the expenses of the preparation and registration of the agreement, including the Responsible Authority's costs and expenses (including legal expenses) incidental to the preparation, registration and enforcement of the agreement.*

9. *When approved, the provisions, recommendations and requirements of the approved Waste Management Plan must be implemented and complied with, all to the satisfaction of the Responsible Authority.*

### **9.1.1**

(cont)

- 10. The development must be provided with external lighting capable of illuminating access to each garage and car parking space. Lighting must be located, directed and shielded and of limited intensity that no nuisance or loss of amenity is caused to any person within and beyond the site.**
- 11. The Applicant/Owner must be responsible to meet all costs associated with reinstatement and/or alterations to Council or other Public Authority assets deemed necessary by such Authorities as a result of the development. The Applicant/Owner shall be responsible to obtain an "Asset Protection Permit" from Council at least 7 days prior to the commencement of any works on the land and obtain prior specific written approval for any works involving the alteration of Council or other Public Authority assets.**
- 12. Before the approved building is occupied, the obscure glazing to the windows shown on the endorsed plans must be provided through frosted glass or similarly treated glass. Adhesive film or similar removable material must not be used. All glazing must at all times be maintained to the satisfaction of the Responsible Authority.**
- 13. Before the approved building is occupied, permeable paving to the accessways must be provided in accordance with the endorsed plans and capable of stormwater filtration. Permeable paving must at all times be maintained to the satisfaction of the Responsible Authority.**
- 14. The existing street tree must not be removed or damaged except with the written consent of the Responsible Authority.**
- 15. The subject land must be drained to the satisfaction of the Responsible Authority.**
- 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.**
- 17. Stormwater that could adversely affect any adjacent land shall not be discharged from the subject site onto the surface of the adjacent land.**
- 18. 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.**
- 19. 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.**
- 20. 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.**
- 21. This permit will expire if one of the following circumstances applies:**
  - a) The development is not commenced within two (2) years from the date of issue of this permit, or**
  - b) The development is not completed within four (4) years from the date of this permit, or**
  - c) The use does not start within one (1) year of the completion of the development, or**

### **9.1.1**

(cont)

**d) The use is discontinued for a period of two (2) years.**

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

**Permit Note:**

- A. The design and construction of the stormwater drainage system up to the point of discharge from an allotment is to be approved by the appointed Building Surveyor.**
- B. All proposed changes to the vehicle crossing are to be constructed in accordance with Whitehorse Council's – Vehicle Crossing General Specifications and standard drawings**
- C. 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.**
- D. Floor levels need to be amended if vehicle access to the garage cannot be achieved. The architect and/or designer must ensure that vehicle access is to conform to the Australian Standards for Off-Street Parking (AS/NZS 2890.1:2004).**
- E. Redundant vehicle crossing(s) must be removed at the same time as the construction of any vehicle crossings(s), prior to the completion of development works and where access to a property has been altered by changes to the property.**
- F. Planning Permit is required for any works (including any excavation) near significant trees, Please contact Council Planning Department on 9262 6303 for information.**
- C. Has made this decision having particular regard to the requirements of Sections 58, 59, 60 and 61 of the Planning and Environment Act 1987.**



## 9.1.1 (cont)

MELWAYS REFERENCE 61 A5

Applicant:	Archsign Pty Ltd
Zoning:	Clause 32.08 General Residential Zone – Schedule 1
Overlays:	Clause 42.03 Significant Landscape Overlay – Schedule 9
Relevant Clauses:	<ul style="list-style-type: none"> <li>• Clause 12.05-2S Landscapes</li> <li>• Clause 15.01-1S Urban Design</li> <li>• Clause 15.01-2S Building Design</li> <li>• Clause 15.01-4S Healthy Neighbourhoods</li> <li>• Clause 15.02-1S Energy and Resource Efficiency</li> <li>• Clause 15.03-2S Aboriginal Cultural Heritage</li> <li>• Clause 16.01-1S Integrate Housing</li> <li>• Clause 16.01-3S Housing Diversity</li> <li>• Clause 18.02-1S Sustainable Personal Transport</li> <li>• Clause 18.02-2S Public Transport</li> <li>• Clause 18.02-4S Car Parking</li> <li>• Clause 21.05 Environment</li> <li>• Clause 21.06 Housing</li> <li>• Clause 22.03 Residential Development</li> <li>• Clause 22.04 Tree Conservation</li> <li>• Clause 22.10 Environmentally Sustainable Development</li> <li>• Clause 22.14 Student Accommodation Policy</li> <li>• Clause 52.06 Car Parking</li> <li>• Clause 55 Two or More Dwellings on a Lot or Residential Buildings</li> <li>• Clause 65 Decision Guidelines</li> </ul>
Ward:	Wattle

	Subject site	13 Objector Properties	North
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### **9.1.1**

(cont)

## **BACKGROUND**

### **History**

There are no previous planning applications for the subject site.

### **Section 57A amendment**

Subsequent to the advertising period and prior to the Consultation Forum, a Section 57A amendment was lodged on 31 August 2020 to address issues raised by planning officers. The changes made demonstrate a scaling back in built form and intensity, and are listed below:

- Reduction in the total number of student accommodation units from 14 to 10.
- Reduction in ground and first floor built form to provide additional communal open space at the rear, and achieve a consistent built form character outcome.
- Relocation of site services such as waste and bicycle parking to improve access and streetscape presentation.
- Additional front setback landscaping.

The amended plans did not require re-advertising as they are not considered to cause further material detriment to any person as the amended proposal represents a scaling back in the intensity of the use and development with less rooms proposed, and a reduction in the built form at the ground and first floor levels.

However, the amended plans were recirculated to all objecting parties via email, three weeks prior to the consultation forum being held, providing an opportunity to view the additional material.

### **The Site and Surrounds**

The site is located on the southern side of Daniel Street in Burwood. The site has a frontage of 15.24 metres to Daniel Street, and a maximum depth of 38.02 metres, and a total site area of 589sqm.

The site maintains a relatively flat topography, with a north-south orientation and currently contains a single storey, brick rendered dwelling. The subject site includes a number of trees and smaller shrubs around its periphery. There is a 3.05 metre drainage and sewerage easement at the rear of the site, with a 224mm Yarra Valley sewerage pipe.

The site abuts Presbyterian Ladies College (PLC) to the rear, and is approximately 100 metres from Deakin University to the east, and as such is within a 'preferred location' as per the Clause 22.14 Student Accommodation policy. The site is also within proximity to both Gardiners Creek Reserve and Wattle Park, 160 metres to the east and 520 metres to the north respectively. Other amenities include the Burwood Village activity centre which affords a number of retail, entertainment and food and drink premises.

The site is located within proximity to a number of key arterials including Elgar Road to the east, Riversdale Road to the north and Burwood Highway to the south as well as Tram Routes 70 along Riversdale Road and 75 along Burwood Highway.

The surrounding properties are typically residential, comprising a mix of single and double storey dwellings. There are number of established and recent multi-dwelling developments evident in the area. The subject land is located within the General Residential Zone (GRZ), and it is evident that the wider area is evolving to accommodate additional housing intensification.

### **Cultural Heritage Sensitivity Area**

The subject site is located within an area of cultural heritage sensitivity. The applicant has submitted an Aboriginal Heritage Due Diligence Report prepared by Heritage Insight Pty Ltd concluding that a Cultural Heritage Management Plan (CHMP) is not required, as the property is likely to have undergone significant ground disturbance as a result of historic subdivision.

### **9.1.1**

(cont)

Planning officers have reviewed the report and agree with the conclusion, and as such a CHMP is not required.

#### **Planning Controls**

##### General Residential Zone – Schedule 4

In accordance with Clause 32.08-2 and Clause 32.08-6 of the General Residential Zone, a Planning Permit is required to use the land for a residential building and to construct a residential building.

##### Significant Landscape Overlay – Schedule 9

In accordance with Clause 42.03 of the Significant Landscape Overlay – Schedule 9, a Planning Permit is required to destroy, remove or lop a tree.

This does not apply to (inter alia):

- A tree that has both:
  - A height less than 5 metres; and
  - A single trunk circumference of less than 1.0 metre at a height of 1 metre above ground level.
- A tree that is less than 3 metres from the wall of an existing Dwelling or an existing Dependent Person's Unit when measured at ground level from outside of the trunk.
- A tree that is an Environmental Weed species (as per the specified list).

In addition, a planning permit is also required to construct a building or construct or carry out works for:

- A front fence that is within 4 metres of any trees that require a permit to be removed.
- To construct a building or carry out works within 4 metres from the base of any tree protected under the provisions of Schedule 9.

#### **PROPOSAL**

The application proposes the use and development of the land for a residential building (student accommodation), the removal of protected trees and buildings and works within 4 metres of protected trees. Detail of the proposal are nominated as follows:

##### Use and development

It is proposed to construct a double storey residential building for the purposes of student accommodation (total of ten units).

At ground floor, the building will comprise of four (4) student accommodation units (varying in size and layout) a bathroom, bicycle and bin storage, rear communal open space and a double garage. At first floor, the building will comprise six (6) student accommodation units (varying in size and layout) accessed via a stairwell.

Each unit would have a minimum area of 23sqm, with the provision of a single bed, lounge, cooking facilities and bathroom. Each unit will be accessed via a central corridor.

Pedestrian access is from the building frontage to Daniel Street, with a secondary side access within the services area to the western boundary. Vehicle access will be provided from the existing concrete crossover into Daniel Street.

Landscaping is proposed to front, side and rear site boundaries with the provision of seven (7) proposed canopy trees. A 0.9 to 1.2 metre high horizontal batten fence is proposed across the frontage, integrated with a 1.5 metre high services cupboard and mailbox structure.

## 9.1.1

(cont)

### Tree removal and buildings and works

It is proposed to remove all trees and tree groups from the site. Trees on neighbouring properties and on the nature strip are to be retained. Trees requiring a planning permit pursuant to the Significant Landscape Overlay – Schedule 9 are trees 2, 3, 4, 7 and 11, which are described further in Table 1 below:

**Table 1 – proposed tree removal (information as described by applicant's arborist)**

Tree #	Species	Common name	Height	Spread	Value
2	Pittosporum eugenoides	Tarata	6m	5m	Low
3	Lagerstroemia indica	Crepe myrtle	6m	3m	Low
4	Cordyline australis	Cabbage tree	6m	2m	Low
7	Acacia baileyana	Cootamundra wattle	7m	2m	Low
11	Eucalyptus botryoides	Southern mahogany	14m	10m	Low

In addition to the removal of trees, the application also includes buildings and works within 4 metres of Tree 1 on the nature strip, and with proximity to neighbouring tree groups 9 and 10. The nature of the buildings and works includes the construction of the residential building, the construction of a front fence, the provision of hard paving and the provision of site cut and fill. These are further described in Table 2 below:

**Table 2 – Trees in proximity to development.**

Tree #	Species	Common name	Location	Encroachment
1	Banksia marginate	Silver Banksia	Street tree	< 10%
9	Pittosporum tenuifolium	Kohuhu	Neighbours tree	< 10%

In assessing buildings and works within 4 metres of a protected tree, both Council's arborist and Parkside have indicated that the proposed buildings and works near the trees is acceptable as encroachment into the TPZ is less than 10%.

## CONSULTATION

### Public Notice

The application was advertised by mail to the adjacent and nearby property owners and occupiers and by erecting notices to the Daniel Street frontage. Following the advertising period thirteen (13) objections were received.

The issues raised are summarised as follows:

#### Neighbourhood Character

- Concerns were raised that the design response did not respect the existing character of the Garden Suburban 1 area, particularly with regards to bulk and massing, height and detailed design.

#### Amenity Impacts

- Concerns were raised in relation to overlooking into private open space and the use of louvre screens in lieu of obscured glazing.
- Concerns were raised in relation to overshadowing and loss of sunlight into abutting secluded private open space.

### **9.1.1**

(cont)

#### Traffic and Car Parking

- Concerns were raised that the number of car parking spaces on the site would not be satisfactory for the use and development and together with the peak drop off and pick up times with PLC, would result in traffic and parking impacts to the wider road network.
- Concerns were raised that the access and egress from the site would be detrimental to pedestrians.

#### Waste

- Concerns were raised that the use would increase the proliferation of waste and impact the street network and surrounds.

#### Oversupply of accommodation

- Concerns were raised that there is an oversupply of student accommodation which will impact the residential character of the area.

All objections have been given due consideration, with responses prepared under the assessment section of this report.

### **Consultation Forum**

A Consultation Forum was held by Planning Officers on 8 October 2020. Approximately nine (9) objectors attended the meeting.

All issues were explored in detail, however no resolution was reached between the parties and all objections still stand

### **Referrals**

#### **External**

No external referrals are required under the provisions of the Whitehorse Planning Scheme.

#### **Internal**

##### Asset

Report and consent to be required. This will need to be satisfied through the building permit with civil and drainage plans, and is not a matter to be considered through the planning application.

##### Transport

Supported by Transport team.

##### Waste

Supported by Waste team.

##### Parkswide

Supported by Parkswide team, subject to permit conditions for tree protection.

##### Arborist

Supported by Arborist, subject to permit conditions around tree protection measures being included in any permit issued.

##### ESD

Supported by ESD department, subject to permit conditions.

### 9.1.1

(cont)

#### DISCUSSION

The proposed development has been fully assessed against and is considered to satisfy the relevant objectives of the Planning Policy Framework, Local Planning Policy Framework; the purpose and objectives of the General Residential Zone and Significant Landscape Overlay; and the objectives of Two or More Dwellings on a lot.

#### Policy Framework

Broadly, the proposed use and development will provide a diversity in housing typology, catering to the anticipated demand for purpose built student accommodation units. The building includes a range of services and facilities onsite, to ensure the amenity for all students, with a built form outcome consistent with the relevant policy framework for residential development and neighbourhood character, thus satisfying the Planning and Local Planning Policy Frameworks.

The proposed use and development is consistent with the relevant local policy for student accommodation at Clause 22.14 with the site located in the *preferred location*, being approximately 100 metres from Deakin University, and purpose built for improved student amenity, with all rooms designed in excess of the minimum standards.

Whilst the rooms do not have individual balconies, the building proposes a substantial communal open space (152sqm with a minimum dimension of 7.09 metres) area to the rear of the ground floor, providing opportunities for social interaction and recreation. The building has been designed to respond to the built form character of the Garden Suburban 1 area, presenting as a single dwelling along Daniel Street.

The site proposes substantial canopy planting around the development, to complement the design of the building and landscaping character of the wider area, but will also serve to improve comfort and amenity within the communal open space. The site maintains adequate parking spaces, with opportunities for alternative and sustainable transport due to its proximity to bus and tram routes that service the University.

The building has been designed to improve student amenity with clear points of entry and clear sight lines through the corridors, to avoid any safety conflict. Furthermore, the building has been designed and sited to also avoid external amenity impacts, particularly from overlooking and overshadowing to sensitive interfaces.

Should a permit be granted, conditions to ensure that the building and use are subject to on-going management to avoid impacts to the abutting and surrounding residential environs are recommended and will be discussed in more detail later in this report.

#### Neighbourhood Character and Landscaping

The objectives of Clause 55.02-1 seek to ensure that *the design respects the existing neighbourhood character or contributes to a preferred neighbourhood character*. The proposal is located within the Garden Suburban 1 area which is deemed an area of natural change pursuant to Clause 22.03.

The Garden Suburban 1 preferred character statements indicate that:

- *Buildings will be occasionally built to the side boundary, but appear to have side setbacks with space for planting.*
- *The formal character of the area will be enhanced by garden settings with tall trees, lawns, garden beds and shrubs.*
- *A sense of spaciousness will be established and enhanced with consistent front and side setbacks.*

In reviewing the site and the surrounding context, the proposal respects both the existing and preferred built form and landscape character of the Garden Suburban 1 area.

### **9.1.1**

(cont)

The proposed buildings massing and built form responds to the topography of the site and its adjoining context, with substantial front, side and rear setbacks at the ground and first floor, to maintain a presentation of spaciousness, and to allow landscaping opportunities to occur. The building proposes a consistent built form profile to the abutting dwelling to the west, with a consistent first floor massing and setback to the rear, to limit visual bulk and massing to the sensitive interfaces.

The front setback has been designed to limit hard paving where practical, with areas available for vehicle turning, but maintaining a substantial front garden setting with the provision of several canopy trees and understorey shrubbery to enhance the landscape setting of the streetscape. The rear setback is open and spacious, maintaining the rear spine of open space pattern along Daniel Street and provides opportunities for excellent communal open space for future occupants. Permit conditions would require improvements to the open space to allow for additional seating and amenities.

The provision of substantial planting across the site seeks to both soften the building's form, and enhance the existing landscape setting of the wider area, with seven (7) canopy trees proposed to the front, side and rear boundaries within well-proportioned setback areas to ensure establishment to maturity. Permit conditions will require that trees to the side setback are capable of growth within confined spaces (i.e. fastigiated varieties or like species).

The building presents as a standalone double storey dwelling, with a contemporary form and consistent materiality to more recent development in the area to maintain a low profile in the streetscape.

Overall, it is considered that the proposed building respects elements of the existing and emerging character of the area, but also aligns itself with the preferred character statement of the Garden Suburban 1 area.

#### **Tree Removal and Protection**

Tree removal and buildings and works have been considered by Council's Arborist and Parkswide department.

Council's arborist has determined trees proposed for removal are all of low retention value due to either species, health or structure, with no further objections, subject to permit conditions to ensure protection of neighbouring trees.

In addition, Council's Parkswide department has determined the works within proximity to the street tree are acceptable with no further objections, subject to permit conditions to ensure protection of the street tree.

Landscaping and planting opportunities are in accordance with the policy provisions of Clause 22.04 for regeneration and replacement, to ensure that all new trees have the opportunity to establish to maturity and improve upon the established landscaping setting of the area.

#### **Amenity Impacts and ResCode**

It has been determined that the proposal satisfies all standards and objectives of ResCode pursuant to Clause 55. However, specific assessment against the relevant external amenity standards of Clause 55.04 have been addressed below, determining that the proposal will not result in unreasonable offsite impacts to adjoining and surrounding developments.

##### Side and rear setbacks

The building has been designed to meet the minimum side and rear setbacks under Standard B17 – *Side and Rear Setbacks* to limit visual bulk and massing and ensure the proposal respects the existing character of the Garden Suburban 1 area. The objectives and standards of Clause 55.04-1 have been met.

### 9.1.1

(cont)

#### Walls on boundary

There are no walls proposed on the boundary, with minimum setbacks of 1.21 metres to the eastern boundary and 1.6 metres to the western boundary, providing opportunities for both landscaping and pedestrian access. The objectives and standards of Clause 55.04-2 have been met.

#### Daylight to existing windows

The building has been designed to maintain clearances to existing windows under Standard B19 – *Daylight to Existing Windows* to allow for daylight access. The objectives of standards of Clause 55.04-3 have been met.

#### Overshadowing

There are no overshadowing impacts (as demonstrated in the shadow diagrams) that would result in excessive or additional overshadowing to immediately adjoining existing secluded private open space areas in accordance with Standard B21 - *Overshadowing*. The objectives and standards of Clause 55.04-5 have been met.

#### Overlooking

The first floor windows of the building are treated to limit overlooking and include highlight windows, obscured windows or windows with an externally fixed screen. These all satisfy the minimum standards for overlooking under Standard B22 - *Overlooking*. The privacy screens have been designed with horizontal slats with a maximum transparency of 25% to limit overlooking. The objectives and standards of Clause 55.04-5 have been met.

#### Noise impacts

There are no noise sources such as mechanical plants that are located within proximity to bedrooms of immediate adjacent existing dwellings. A student management plan would be required through conditions to manage offsite impacts such as noise to ensure consistency with the policy objectives outlined under Clause 22.14 which seek to ensure that student accommodation is subject to on-going management and used in a manner to limit offsite amenity impacts. The objectives and standards of Clause 55.04-6 have been met.

### **Car and Bicycle Parking**

Pursuant to Clause 52.05-6, where a use of land is not specified in Table 1, car parking spaces must be provided to the satisfaction of the Council. A residential building is not specified within Table 1.

It is policy under Clause 22.14 to encourage the provision of car parking in accordance with the needs of students. Council will consider the circumstances of each proposal on its merits. Generally, for a development designed as a residential building and within 500 metres of a tertiary education (such as this application), a car parking rate of **at least** 0.25 spaces per bed would be required. At least 2.5 spaces would be required, rounding up to 3 in total.

The application proposes two (2) car parking spaces within a double garage and although the proposal does not accord with the policy preference for student accommodation, there is general policy support to reduce reliance on private vehicle parking in this location which is offered good access to public transport alternatives and the University itself which is within comfortable walking distance from the subject site.

The proposed condition for a Section 173 Agreement under Condition 8 further stipulates that *the number of students residing on site who own cars must not exceed the number of on-site car spaces provided by the development* to further limit opportunities for parking on the site, encouraging students to seek alternative options. This outcome is consistent with the policy direction under clause 22.14-3 which requires landowners to enter into this type of Agreement.



### 9.1.1

(cont)

The objective of Clause 18.02-1S seeks *to promote the use of sustainable personal transport* with strategies that seek to encourage the use of walking and cycling, and provide appropriate facilities for bicycle parking and storage.

In addition, it is policy under Clause 22.14 to ensure the provision of adequate areas for visitor and secure resident bicycle storage, at a rate of one long term resident bicycle space per 3 beds. A total of 3 spaces would be required, with 6 parking spaces being provided, with two visitor spaces.

As such, whilst the proposal does not meet the parking rate as suggested in the policy, the proximity of the site to the University and excess provision of bicycle parking provides excellent opportunity for the uptake of alternative transport, and reduces reliance on private vehicle transportation.

As such, the current parking rate for the use and development is acceptable.

#### **Response to Objector Concerns**

##### Neighbourhood Character

- Concerns were raised that the design response did not respect the existing character of the Garden Suburban 1 area, particularly with regards to bulk and massing, height and detailed design.

*Response: Neighbourhood character has been considered within this report and it has been determined that the proposed building is consistent with the existing and preferred character of the Garden Suburban 1 area with respect to built form, height, massing, setbacks and landscaping.*

##### Amenity Impacts

- Concerns were raised in relation to overlooking into private open space and the use of louvre screens in lieu of obscured glazing.
- Concerns were raised in relation to overshadowing and loss of sunlight into abutting secluded private open space.

*Response: Overlooking and overshadowing have been considered within this report, demonstrating compliance with the minimum standards and meeting the intent of the objectives to limit amenity impacts from overlooking and overshadowing.*

##### Traffic and Car Parking

- Concerns were raised that the number of car parking spaces on the site would not be satisfactory for the use and development and together with the peak drop off and pick up times with PLC, would result in traffic and parking impacts to the wider road network.
- Concerns were raised that the access and egress from the site would be detrimental to pedestrians.

*Response: Traffic and car parking have been considered within this report, demonstrating that whilst the number of car parking spaces is below the preferences outlined within the policy, that the site is within a preferred location for student housing with alternative transport options available to any residents.*

##### Waste

- Concerns were raised that the use would increase the proliferation of waste and impact the street network and surrounds.

*Response: A waste referral response has been received with no objections. The applicant has submitted a waste management plan demonstrating an adequate outcome that seeks to broadly minimise waste, and limit spread of litter from the boundaries of the site.*

### **9.1.1**

(cont)

#### Oversupply of accommodation

- Concerns were raised that there is an oversupply of student accommodation which will impact the residential character of the area.

*Response: The site is situated in a preferred location under Clause 22.14, within 250 metres of Deakin University. The policy suggests that there is a demand for good student housing, and this proposal is representative of that need. Further to this, it is reasonable to expect that a land owner, prior to proposing use and development of this nature, has done the appropriate research to determine the market need, especially given the specific building requirements for student housing, which are not easily retrofitted for another use.*

### **CONCLUSION**

The proposal for the use and development of the land for a residential building (student accommodation), the removal of protected vegetation and buildings and works within 4 metres of protected vegetation is an acceptable response that satisfies the relevant provisions contained within the Whitehorse Planning Scheme.

The proposal is consistent with the Planning Policy Framework and Local Planning Policy Framework applicable to the site, particularly with regards to built environment, housing diversity and demand for student accommodation.

The proposed building has been sensitively designed to respect and achieve an outcome that maintains consistency with the existing and preferred future character of the Garden Suburban 1 area, thus maintaining consistency with the purpose of the General Residential Zone. The building has been assessed against the provisions of ResCode with all objectives being met, avoiding amenity impacts to adjoining or nearby properties.

The site is well located within close proximity to Deakin University to take advantage of sustainable personal transport and to minimise potential traffic and parking impacts to the street and surrounding road network. The provision of two car parking spaces on the site is considered acceptable, and consistent with the Local Planning Policy Framework.

A total of thirteen (13) 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 Additional Information - Amended Plans

**9.1.2 353-383 Burwood Highway, Forest Hill (LOT 2 PS 407904L)  
Construction of two six (6) storey commercial (office and retail)  
buildings, removal of native vegetation (under Clause 52.17)  
and alteration of access to a Road Zone Category 1**

FILE NUMBER: WH/2019/806  
ATTACHMENT

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**SUMMARY**

*This application was advertised, and a total of 10 objections were received. The objections raised issues with neighbourhood character, overdevelopment, amenity issues including overlooking, noise and wind impacts, car parking provision, traffic congestion, construction impacts, loss of trees and extent of new landscaping. A Consultation Forum was held on 27 February 2020 chaired by (former) Councillor Bill Bennett where 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, recommendations of referral authorities 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/2019/806 for 353-383 Burwood Highway, FOREST HILL (LOT 2 PS 407904L) 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 two six (6) storey commercial (office and retail) buildings, removal of native vegetation (under Clause 52.17) and alteration of access to 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 353-383 Burwood Highway, FOREST HILL (LOT 2 PS 407904L) for the construction of two six (6) storey commercial (office and retail) buildings, removal of native vegetation (under Clause 52.17) and alteration of access to a Road Zone Category 1, subject to the following conditions:**
  - 1. Before the development starts, or any trees or vegetation removed, amended plans and documents must be submitted to in a digital format 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 identified as Revision F prepared by Elenberg Fraser, dated 31 October 2019, but modified to show:**
    - a) The locations of the Tree Protection Zones described in Tree Management Plan required by Condition 5.**
    - b) A 20 metre building exclusion zone extending from the northern boundary (into the subject site) between Springvale Road and western property boundary for the protection of trees and landscaping.**
    - c) Indicative future internal access corridor and associated sign in accordance with Condition 19.**
    - d) The location of all service trenches to serve the buildings (for example: gas, water, electricity, stormwater, sewerage, telecommunications), including the extent of trenching required in easements over adjoining lots (if any) and the locations of protected trees within 4 metres of these trenches (if any). The service trenches must be located and hand dug or bored to ensure that protected trees are not damaged, to the satisfaction of the Responsible Authority.**

## 9.1.2

(cont.)

- e) *Development plans to reflect all sustainability features indicated in the Endorsed Sustainability Management Plan (SMP) and those specified under 'permit notes' to this permit. Where features cannot be visually shown, include a notes table providing details of the requirements (i.e. energy and water efficiency ratings for heating and cooling systems, plumbing fixtures etc.). The plans are to be generally in accordance with the plans submitted indicating unless otherwise provided to the satisfaction of the Responsible Authority.*
- f) *Roof plan illustrating all plant and equipment with screening ensuring views from all street frontages and residential properties to the north are obscured.*
- g) *A detailed materials and finishes schedule including methods to reduce any glare or reflectivity of the external surface to the northern elevation.*
- h) *Amended Landscape Plan to include:*
  - i. *Raised garden beds in internal areas (central plaza) include some small trees to enhance amenity and reduce a wind tunneling effect and be reduced in size to cater for tables and seating associated with the café and food and drink premises.*
  - ii. *Terraces to western façade with privacy screen.*
  - iii. *Additional shrubs and ground-level planting along the eastern interfaces.*
  - iv. *Reduce pot sizes for canopy trees to reduce root stress. 1.5m in height for trees should be sufficient.*
  - v. *Reduce planting density for *Cassinia aculeata**
  - vi. *Swap *Melaleuca alternifolia* for a local species for the north interface revegetation planting, a mix of *Acacias* may be a better reflection of the original vegetation structure. *Acacia implexa*, *Acacia mearnsii* and *Acacia pycnantha* could be used here.*
  - vii. *A diversity of tube-stock understorey planting under the existing trees. This shall require some specialists maintenance work during the establishment period.*
  - viii. *Specify that *Corymbia citriodora* 'Scentuous' and *Banksia marginata* will be the trees that will be used in the Central Plaza.*
  - ix. *Limit up-lighting to the Central Plaza and Zone 1 if there is the goal to support native animals in Zones 3, 4 and 5.*
  - x. *Avoid *Poa poiformis* near outdoor seating spaces due to high pollen load.*
  - xi. *Water shed from the carparks into the garden beds and create some rain gardens.*
  - xii. *Location of the bird bath where it can be viewed from the Central Plaza. Maintenance regime should be included in final landscape plan.*
  - xiii. *Callout symbols to all proposed plants in the landscape plan and total numbers for each species in the planting schedule.*
- i) *A landscape maintenance plan in accordance with Condition 3*
- j) *A Tree Protection Plan (drawing) and Tree Management Plan (report) in accordance with Condition 5.*
- k) *Amended Sustainability Management Plan (SMP) in accordance with Condition 7.*
- l) *A Construction Management Plan (CMP) in accordance with Condition 9.*
- m) *Car Parking Management Plan (CPMP) in accordance with Conditions 22 and 23*

### **9.1.2** (cont.)

*All of the above must be to the satisfaction of the Responsible Authority. Once approved, these plans and documents form part of this permit.*

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

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

3. *Prior to the commencement of the development, a Landscaping Maintenance Plan, prepared by a suitably qualified professional, must be submitted to and approved by the Responsible Authority. The landscaping maintenance plan must include, but is not limited to:*
  - a) *Irrigation system for all trees and landscaping, including details of frequency and water delivery method.*
  - b) *Details of the ongoing maintenance procedures to ensure that the garden areas remain healthy and well maintained to the satisfaction of the Responsible Authority. This must include:*
    - i. *Irrigation frequency and delivery method.*
    - ii. *Drainage.*
    - iii. *Pruning and mulching.*

*Once approved, this plan forms part of this permit.*

4. *Prior to the occupation of the approved buildings, landscaping and tree planting must be undertaken in accordance with the endorsed landscape plan that forms part of this permit, to the satisfaction of the Responsible Authority.*
5. *A Tree Management Plan (TMP) written in accordance with AS4970-2009 must be submitted to Council prior to the commencement of all buildings and works. The report must detail how all trees shown to be retained on the plans will be protected pre, during and post-construction. The TMP must be to the satisfaction of the Responsible Authority (RA) and written by a qualified arborist with a minimum Diploma Qualification in Horticulture (Arboriculture).*
6. *Unless otherwise agreed in writing by the Responsible Authority all protection measures identified in the Tree Management and Protection Plan must be implemented and maintained in effective condition until completion of works, and development works undertaken on the land must be undertaken in accordance with the Tree Management and Protection Plan, to the satisfaction of the Responsible Authority.*

#### **Sustainability Management Plan (SMP)**

7. *Prior to the commencement of any buildings, 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 and amended to include, unless otherwise provided to the satisfaction of the Responsible Authority:*
  - i. *A STORM Assessment or equivalent addressing stormwater quality performance, in addition to ensuring that the Responsible Authority's collective integrated water management expectations and requirements pursuant to Clauses 34 and 44 of the State Environment Protection Policy (Waters), are satisfied.*
  - ii. *A Green Star Design & As Built Design v 1.2 or 1.3 Scorecard Assessment which meets or exceeds an overall score of 60 points, and demonstrates compliance with Council's ESD Policy objectives to the satisfaction of the Responsible Authority.*

## **9.1.2**

(cont.)

- iii. A Preliminary National Construction Code (NCC) 2019 Building Code of Australia (BCA) Section J or JV3 Energy Efficiency Assessment indicating a 10% improvement in energy efficiency performance with respect to the development's reference/base case. The assessment is required to include indicative commitments towards thermal performance (i.e. R-values), artificial lighting and glazing (indicating U- and SHGC- values).*
- iv. Daylight modelling assessment to the satisfaction of the Responsible Authority.*
- v. Double glazing for all external windows.*
- vi. Control car park ventilation with CO sensors.*
- vii. Control car park lighting, where reasonably safe to do so, with motion sensors or timers.*
- viii. Control all common, external, service and lift area lighting with sensors or timers.*
- ix. Control common, service and lift area ventilation with sensors or timers.*
- x. Provide energy efficient heating, cooling and hot water systems indicating the associated COP and EER values or energy efficiency star ratings.*
- xi. Include a minimum 190 kW renewable energy photovoltaic system.*
- xii. Provide water efficient fixtures and appliances indicating the associated WELS ratings.*
- xiii. Divert at least 80% of construction and demolition waste from landfill.*

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

- 8. The requirements of the SMP must be implemented by the building manager, owners and occupiers of the site when constructing and fitting out the building, and for the duration of the building operation in accordance with this permit, to the satisfaction of the Responsible Authority.*

### **Construction Management Plan**

- 9. Prior to the commencement of buildings or works on the land (including vegetation removal), a detailed Construction Management Plan (CMP), prepared by a suitably qualified and experienced professional, detailing how the developer will manage the environmental and construction issues associated with the development, must be submitted to and approved by Council.*

*The CMP 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 CMP will form part of this planning permit.*

## **9.1.2**

(cont.)

*This CMP may be staged and is to consider the following, amongst other matters deemed relevant by the Responsible Authority:*

- a) Public safety, amenity and site security;*
- b) Operating hours;*
- c) Noise and vibration controls, with particular reference to the potential impact of noise and vibration to the building occupied by the Emergency Services Telecommunications Authority (ESTA). To properly assess the potential impact of noise and vibration to the building occupied by ESTA, an acoustic report by a suitably qualified person must accompany the Demolition and Construction Management Plan;*
- d) Air and dust management;*
- e) Stormwater and sediment control;*
- f) Waste and material reuse;*
- g) Construction traffic management;*
- h) Set out any measures required for the staging of the development, including interim or temporary site management car parking provision, and temporary treatment of public realm spaces;*

*When approved the CMP 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 CMP.*

### **Asset Engineering**

- 10. 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 approval of the civil plan.*
- 11. 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.*
- 12. Stormwater that could adversely affect any adjacent land shall not be discharged from the subject site onto the surface of the adjacent land.*
- 13. 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.*
- 14. The Applicant/Owner is responsible for paying 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 for obtaining 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.*

## **9.1.2**

(cont.)

- 15. 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.**

### **Waste Management Plan**

- 16. Waste collections for this development are to be completed internally by Private waste collection contractor.**
- 17. Council issued bins will not be required for this development.**
- 18. Waste collection vehicles are to enter and leave the developed site in a forward direction.**
- 19. MGB usage is to be shared by the occupiers of the development.**
- 20. Councils Traffic Engineering Dept. are required to assess the suitability of the proposed waste vehicle access to and from the development as well as the vehicle movements within the development.**
- 21. The approved WMP will be the model for adoption in this development and the design & as-built aspects needs to account for what is approved in the WMP. Any revision of the WMP or changes to the approved waste system of the development requires Council approval.**

### **Car Parking Management Plan (CPMP)**

- 22. Prior to the commencement of any buildings or works, a Car Parking Management Plan (CPMP), detailing how the car and bicycle parking areas, accessways and waste collection bays will be allocated and managed, must be submitted to and approved by the Responsible Authority.**
- 23. The CPMP 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 to the individual tenancies.**
  - b) Pedestrian access and movement within the car parking areas, including strategies to minimise the potential for conflict between pedestrians and vehicles. This may include line marking such as hatched shared areas, direction signs and/or physical barriers.**
  - c) Allocation of bicycle spaces to tenancies and visitors.**
  - d) Directional signs to car and bicycle parking spaces and facilities.**
  - e) Location of bicycle parking signs in accordance with Clause 52.34-5.**
  - f) Line marking of parking spaces.**
  - g) How parking will be secured and details of how access to car spaces, disabled car spaces and bicycle spaces will be achieved by visitors and delivery vehicles as required (via an intercom).**
  - h) Details of how access to the waste collection areas will be achieved by waste collection vehicles and how these areas will be secured.**
  - i) Advise where delivery vehicles and moving vans serving the dwellings will park. These vehicles must be able to park for a reasonable period of time in convenient locations.**
  - j) How the car park will be managed to ensure that all vehicles exit the site in a forwards direction.**



### **9.1.2** (cont.)

*Once submitted to and approved by the Responsible Authority, the CPMP will form part of the documents endorsed as part of this planning permit. The recommendations of the CPMP must be implemented to the satisfaction of the Responsible Authority.*

#### **Department of Transport Conditions**

- 24. Prior to the commencement of the buildings and works, amended plans must be submitted to and approved by the Head, Transport for Victoria. When approved by the Head, Transport for Victoria, the plans must be endorsed by the Responsible Authority and will then form part of the permit. The plans must be drawn to scale with dimensions. The plans must generally be in accordance with the plans date stamped 31/10/19 and annotated Project Number 19030 Revision G but modified to show:**
  - a) Indicative future internal access corridor from Springvale Road near the north of the site, consistent with the Tally Ho Major Activity Centre Urban Design Framework.**
  - b) Installation of a standard left-turn only sign (left arrow with word 'only' below – refer to DoT website) and associated pavement marking facing exiting traffic at the Springvale Road access.**
- 25. Prior to the occupation of the development, the installation of the 'left turn only' sign and associated pavement marking must be completed to the satisfaction of and at no cost to the Head, Transport for Victoria.**
- 26. Within 6 months of the development operating to full capacity, a post-development Transport Impact Assessment report must be submitted to and approved by the Head, Transport for Victoria and the Responsible Authority. The Transport Impact Assessment must:**
  - a) Identify any operational issues at the Burwood Highway / Woodvale Court intersection post-development.**
  - b) Recommend appropriate phasing modifications to the traffic signals that are required to address the identified operational issues.**
- 27. Unless otherwise agreed in writing by the Head, Transport for Victoria, within 12 months of the development operating at full capacity, the mitigation measures outlined in the post-development Transport Impact Assessment report must be implemented to the satisfaction of and at no cost to the Head, Transport for Victoria.**
- 28. The demolition and construction of the development must not disrupt bus operations along Springvale Road without the prior written consent of the Head, Transport for Victoria.**
- 29. Any request for written consent to disrupt bus operations on Springvale Road during the demolition and construction of the development must be submitted to the Head, Transport for Victoria not later than 8 weeks prior to the planned disruption and must detail measures that will occur to mitigate the impact of the planned disruption.**

#### **Department of Environment, Land, Water and Planning Conditions**

- 30. Before works start, the permit holder must advise all persons undertaking the vegetation removal or works on site of all relevant permit conditions and associated statutory requirements or approvals.**
- 31. The total area of native vegetation proposed to be removed totals 0.578 hectares, comprised of:**
  - a) 1 patch of native vegetation with a total area of 0.471 hectares [containing 3 large trees],**
  - b) 1 large scattered tree,**
  - c) 2 small scattered trees.**

## **9.1.2**

(cont.)

- 32. To offset the permitted clearing in accordance with Guidelines for the removal, destruction or lopping of native vegetation (DELWP 2017), the permit holder must secure a general offset of 0.191 general habitat units:
  - a) Located within the Port Phillip and Westernport Catchment Management boundary or Whitehorse municipal area.**
  - b) With a minimum strategic biodiversity score of at least 0.152**  
**The offsets secured must also protect 4 large trees.****
- 33. Before any native vegetation is removed evidence that the required offset by this permit has been secured must be provided to the satisfaction of the Responsible Authority. This evidence must be one or both of the following:
  - a) An established first-party offset site including a security agreement signed by both parties, and a management plan detailing the 10-year management actions and ongoing management of the site, and/or**
  - b) Credit extract(s) allocated to the permit from the Native Vegetation Credit Register.****
- 34. A copy of the offset evidence will be endorsed by the responsible authority and form part of this permit. Within 30 days of endorsement of the offset evidence, a copy of the endorsed offset evidence must be provided to Planning Approvals at the Department of Environment, Land, Water and Planning Port Phillip regional office.**
- 35. Where the offset includes a first-party offset(s), the permit holder must provide an annual offset site report to the responsible authority by the anniversary date of the execution of the offset security agreement, for a period of 10 consecutive years. After the tenth year, the landowner must provide a report at the reasonable request of statutory authority.**
- 36. Within 6 months of the conclusion of the permitted clearing of native vegetation under this permit, the offset requirements can be reconciled with the written agreement of the responsible authority and the Department of Environment, Land, Water and Planning.**
- 37. A suitably qualified wildlife handler or zoologist is to be present when felling trees/removing native vegetation, to ensure affected wildlife is not harmed. If displaced wildlife that cannot be relocated on-site to an appropriate location away from the construction footprint, or injured wildlife is captured, please contact DELWP on 136 186 for further advice.**

### **Section 173 Agreement**

- 38. Prior to the commencement of any buildings and works, the owner of the land shall enter into an Agreement with the Responsible Authority under Section 173 of the Planning and Environment Act 1987 which covenant that no buildings shall be constructed in areas designated as 'building exclusion zone' on the Endorsed Plans.**

**This Agreement is to be prepared to the satisfaction of the Responsible Authority at the owner's expense and will be recorded on the folio of the register relating to the site. The owner must pay all costs and expenses of, and incidental to, the preparation, checking, lodgment and enforcement of this Agreement.**

### **Permit Expiry**

- 39. This permit will expire if one of the following circumstances applies:
  - a) The development is not commenced within three (3) years from the date of issue of this permit;**
  - b) The development is not completed within five (5) years from the date of this permit;****

### 9.1.2

(cont.)

***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:**

**Asset Engineering:**

- a) ***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.***
- b) ***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 approval of the civil plan.***
- c) ***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 drawing.***
- d) ***Report and consent – Any proposed building over the easement is to be approved by the Responsible Authority prior to the approval of the building permit. If Report and Consent contradicts with the Planning Permit, amendment of the Planning Permit might be required.***
- e) ***The Applicant/Owner is to accurately survey and identify 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.***
- f) ***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.***
- g) ***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 site and not in public land.***
- h) ***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 an S173 Agreement with Council that requires the property owner to maintain the fire hydrant".***
- i) ***Floor levels need to be amended if vehicle access to the garage cannot be achieved.***
- j) ***The architect and/or designer must ensure that vehicle access is to conform to the Australian Standards for Off-Street Parking (AS/NZS 2890.1:2004).***
- k) ***Planning Permit is required for works near significant trees. Please contact the Council Planning Department on 9262 6303 for information.***

## 9.1.2

(cont.)

### **Department of Environment, Land, Water and Planning Notes**

***l) Within the area of native vegetation to be retained and any tree protection zone associated with the permitted use and/or development, the following is prohibited:***

- Any vehicle or pedestrian access, trenching or soil excavation,***
- Storage or dumping of any soils, materials, equipment, vehicles, machinery or waste products,***
- Entry or exit pits for underground services, and***
- Any other actions or activities that may result in adverse impacts to retained native vegetation.***

***All reasonable precautions must be taken to ensure that any soil and equipment is free from noxious weed seeds and other vegetative material that can grow prior to transporting any soil and equipment from the site.***

### **Sustainability Features to be shown on plans as required by Condition 1 C**

- m) Water-sensitive urban design measures, as reflected in a STORM Assessment or equivalent which reciprocally addresses the Responsible Authority's integrated water management expectations and requirements, as well as, appropriate access indicated to maintain and service such systems.***
- n) An annotation indicating the capacity of the rainwater tanks and that such capacities are allocated exclusively for reuse/retention purposes and excludes any volume allocated for detention.***
- o) An annotation indicating the amount of toilet services and irrigation areas that the rainwater tanks shall facilitate.***
- p) All visible design measures as committed to in the Green Star Design and As Built v1.2 or 1.3 Scorecard.***
- q) All operable windows, doors, terrace openings and vents in elevation drawings.***
- r) Shadows as per actual sun angles on all elevation drawings, demonstrating exterior shading for all east, north and west windows greater than 1.5 square metres. Shading is required to be demonstrated between 11am to 3pm on 1 February to such glazing to the satisfaction of the Responsible Authority. Otherwise, incorporate a sufficiently sized solar photovoltaic system to address peak energy demand.***
- s) Preliminary glazing specifications for glazing, including solar heat gain coefficient (SHGC), visual light transmittance (VLT) and U-value. Ensure that such values are consistent with Daylight Modelling and Preliminary Section J or JV3 Energy Efficiency Modelling inputs.***
- t) Any exterior building services equipment, including any heating, cooling, ventilation, hot water systems and renewable energy.***
- u) The location of alternative transport facilities (cycling, motorcycle, electric vehicle or car-share, where necessary) including common/employee showers, change room facilities and lockers provided for employees.***
- v) An annotation of the timber species intended for use as decking or outdoor timber, noting that unsustainably harvested imported timbers (such as Merbau, Oregon, Western Red Cedar, Meranti, Luan, Teak etc.) must not be used.***
- w) Where measures cannot be visually shown, include a notes table or 'ESD Schedule' providing details of the requirements (i.e. energy and water efficiency ratings for heating/cooling systems and plumbing fittings and fixtures, etc.).***

### **9.1.2**

(cont.)

#### ***Waste Management Conditions***

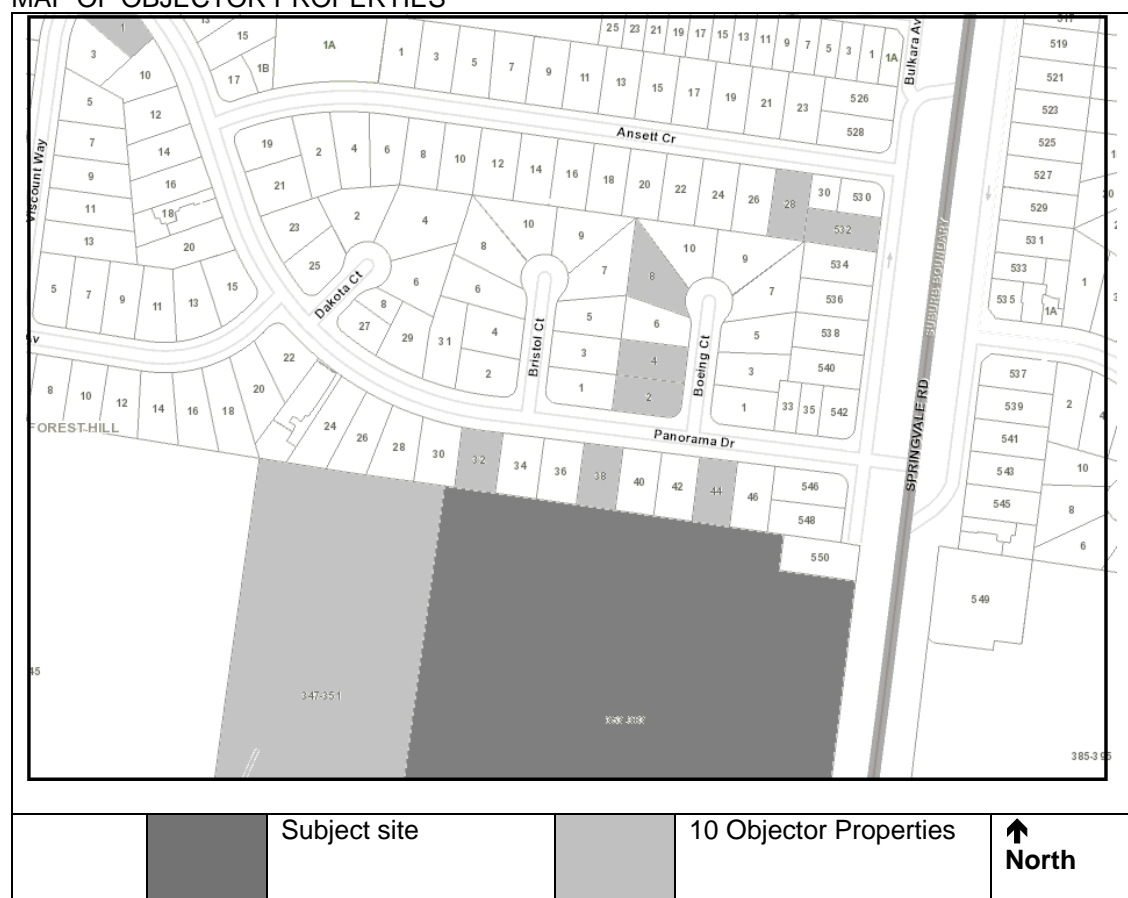
- x) Every rateable tenement is liable to pay for municipal charges irrespective of the level of collection services provided by Council.***
- y) All aspects of the waste management system including the transfer on bins for collection is to be the responsibility of the occupiers, caretaker, manager and/or the body corporate – not the collection contractor***
- C. Has made this decision having particular regard to the requirements of Sections 58, 59, 60 and 61 of the Planning and Environment Act 1987.***

## 9.1.2 (cont.)

### MELWAYS REFERENCE 61 A3

Applicant:	Xin Hai City (Forest Hill) Pty Ltd
Zoning:	Commercial 1 Zone (C1Z)
Overlays:	Design and Development Overlay Schedule 9 (DDO9)
Relevant Clauses:	
Clause 11	Settlement
Clause 12	Environment and Landscape Values
Clause 15	Built Environment and Heritage
Clause 21.05	Environment
Clause 21.07	Economic Development
Clause 22.04	Tree Conservation
Clause 22.06	Activity Centres
Clause 22.08	Tally Ho Activity Centre
Clause 22.10	Environmentally Sustainable Development
Clause 34.01	Commercial 1 Zone
Clause 43.02	Design and Development Overlay, Schedule 9
Clause 52.06	Car Parking
Clause 52.02	Easements, Restrictions and Reserves
Clause 52.17	Native Vegetation
Clause 65	Decision Guidelines
Ward:	Morack

### MAP OF OBJECTOR PROPERTIES



## **9.1.2**

(cont.)

### **BACKGROUND**

#### **History**

Planning permit WH/2004/15070 was issued 26 October 2005 to erect and display three internally illuminated business identification signs.

Planning Permit WH/2006/441 was issued 15 August 2006 for the use and development of a four-storey office building with a basement car park (three levels of office and 2 levels of parking) and display of internally illuminated signage.

Planning Permit WH/2019/855 was issued for the construction of a stair egress and signage to the terrace of the existing building.

Planning Permit WH/2019/802 was issued for the installation of two internally illuminated high-wall building signs.

The site has been the subject of recent enforcement action, with the land owner partially constructing a fence around the site perimeter without the necessary planning approvals. This matter is still subject to prosecution proceedings.

#### **The Site and Surrounds**

The subject site is located at 353-383 Burwood Highway and is described as Lot 2 on Plan of Subdivision 407904L.

The subject site is located at the north-west intersection of Burwood Highway and Springvale Road. It is rectangular in shape, with a frontage of approximately 200 metres to Burwood Highway with a frontage of 240 metres to Springvale Road. The site has an area of approximately 5.6 hectares.

The site is improved by an existing multi-storey office building (with glazed facades) in the south-west portion of the land, a sealed car park and a gravel car park in the north-west portion of the land, and a separate gravel car park in the south-east portion of the land. The land is bisected by an east-west aligned accessway, connecting Springvale Road through to the land parcel to the west and then through to Woodvale Court.

The northern and north-eastern portion of the site comprises a stand of remnant native vegetation comprising a healthy mixed eucalypt canopy of Messmate Stringybark, Longleaved Box (Bundy), Mealy Stringybark, Narrow leaved Peppermint and Red Stringybark. The ground layer in this area is regularly mowed/slashed though was dominated by native grasses including Weeping Grass, Wallaby Grass and Knotty Spear-grass. Other larger native graminoids including Thatch Saw-sedge, Black-anther Flax-lily and Wattle Mat-rush are present at the base of some of the canopy trees. An ecological assessment of this vegetation also identified the existence of weed species along the northern boundary fence, including Gorse, Sweet Pittosporum, English Ivy, Wandering Tradescantia and Mirror Bush.

The subject site is affected by the following easements:

- E-2 is a Sewerage Easement in favour of Yarra Valley Water. The easement runs along the southern boundary of the site.
- E-4 is a Sewerage Easement in favour of Yarra Valley Water. The easement runs along the northern boundary of the site.
- Instrument AJ425703 includes a carriageway easement (shown as E-2) on the caveat. The easement generally runs in an east-west direction through the site, and the existing internal road follows the line of the easement. The application doesn't seek to alter the location or function of the easement, and the proposed building will utilise the carriage for ongoing access.

### 9.1.2

(cont.)

A Section 173 Agreement has been previously entered into with Whitehorse Council and Hewlett Packard (previous owner). The Agreement is registered on the title as Instrument AC 195407M. At paragraph 3.3.2 of the Agreement covenants that *'the owner will construct a new unsignalised intersection from the land on to Springvale Road, generally in the location indicated in Schedule 1'*. This requirement has been fulfilled and the intersection is currently in operation. The site is located within the Tally Ho Major Activity Centre. The Activity Centre is both a regional hub for high tech commerce and a centre for the local community. The overall density of built form in the activity area is low. A central zone of commercial buildings (up to 6 storeys in height) set in a parkland environment, is surrounded by a zone of mainly residential buildings (mostly between 1 and 2 storeys in height). Within the immediate context, the following is noted:

#### North

- To the north, the site is bordered by residential properties that have a frontage to Panorama Drive (a street running east-west). These properties are generally occupied by single-storey dwellings, and significant vegetation provides a buffer at this interface.

#### East

- To the east, is Springvale Road, a north-south arterial road. In the vicinity of the site, Springvale Road operates as a divided carriageway providing for 3 lanes of through traffic in each direction. On the eastern side of Springvale Road is a small shopping precinct which includes Burvale Hotel, Dan Murphy's and small food and drinks premises.

#### South

- To the south, is Burwood Highway, an east-west arterial road, which provides a connection to Melbourne's CBD. In the vicinity of the subject site, Burwood Highway is a divided carriageway providing 3 traffic lanes in each direction. A dedicated tram fairway is provided in the central median of Burwood Highway. On the southern side of Burwood Highway is the Tally Ho Business Park which contains a number of low-scale commercial buildings.
- Recent eight-storey approval was issued to 380 Burwood Highway (WH/2017/646). The approval allows for retail spaces including food and drink premises, an education centre, offices and apartments.

#### West

- To the west, is an existing business park, comprising a mix of built forms including a 1-2 storey medical facility.

Woodvale Court is a private road, extending north from Burwood Highway, providing access to 347-351 Burwood Highway and the Peter James Centre. The site's accessway is a private road aligned east-west connecting Springvale Road through to Woodvale Court. The site accessway has a width of approximately 6.5 metres.

The site is well serviced by public transport with a number of services located within convenient walking distance of the site. Tram route 75 operates along Burwood Highway, and bus route 7.

### Planning Controls

#### Commercial 1 Zone

Under Clause 34.01-1, the use of the land for office and retail premises is as-of-right in the zone (no permit required).

Under Clause 34.01-4 a permit is required to construct a building or construct or carry out works.



## 9.1.2

(cont.)

### Design and Development Overlay, Schedule 9 (DDO9)

The subject site and surrounding sites to the east, west and south are affected by the Design and Development Overlay. The site is located within Schedule 9 to the Overlay, which relates to the Tally Ho Activity Centre.

Under Clause 43.02-2 a permit is required to construct a building or construct or carry out works.

Specifically for this subject site, it is designated as being subject to:

- A preferred building height of 14 metres; and
- A preferred building setback of 10 metres from all boundaries for building walls up to 8 metres in height.

### Native Vegetation

Under Clause 52.17 a permit is required to remove, destroy or lop native vegetation, including dead native vegetation.

### Land Adjacent to a Road Zone, Category 1

Under Clause 52.29, a permit is required to intensify (alter) the use of the existing vehicle crossovers.

### Bicycle Facilities

Under Clause 52.34-1 a new use must not commence, or the floor area of an existing use must not be increased until the required bicycle facilities are provided on the land. A permit may be granted to vary, reduce or waive any requirement of the Clause.

## **PROPOSAL**

The application proposes the construction of a multi-level office complex, with some ground floor retailing and basement car parking, in the north-west portion of the site. The building will be constructed where the existing northern sealed car park and gravel car park are situated, with a setback of 23.53 metres to the north boundary.

The key features of the proposal include:

- Built form

The office complex comprises two buildings separated by an internal atrium. Each building has dimensions of 34.2 by 99.4 metres over six levels (above the basement levels).

The building will have an overall height of 26.6 metres above ground level. Each building has a simple form framed by glazing with feature solar fin shading panels and flat roof form.

The breakdown of the floor area includes:

  - 34,872 square metres of office net floor area,
  - 734 square metres of food and drink premises net floor area at ground level,
  - 728 square metres of retail net floor area at ground level, and
  - 789 square metres of end of trip facilities (showers, change facilities etc).
- Car Parking
  - The application provides a total of 1250 parking spaces which includes 1006 within the basement car parking (3 levels) and 244 at-grade car parks,
  - 24 motorcycle parking spaces,
  - 288 on-site bicycle parking spaces, and
  - Provision of changes rooms, storerooms and service room within the basement levels.

## 9.1.2

(cont.)

- Vehicular Access

Vehicular access is provided to the site via the existing accessway that runs through the site connecting Springvale Road and Woodvale Court. The internal road network is proposed to be re-aligned and the existing curve in the road removed.

- Tree Removal

Based on the current design response, the removal of a total of 80 trees, including 30 eucalypt trees above 10 metres and 21 eucalypt trees less than 10 metres in height will be required. Trees 49 (13m high *Eucalyptus obliqua*) and 344 (15m high *Eucalyptus goniocalyx*) are the only high values trees proposed to be removed as they are located within the proposed building footprint. Of the rest, 21 low retention value trees and 39 medium value trees are proposed to be removed as they are also located within the proposed building footprint. The removal of another 20 low and medium retention value trees is proposed as they are mostly at the edge of the basement and ramp.

A Development Impact Report was submitted with the application and the information contained within this report, assesses the trees as exhibiting low to medium retention value, and the proposal will have a low level of construction impact (less than 10% encroachment into TPZs) on the 72 trees to be retained.

The application is informed by:

- Development Plans, prepared by Elenberg Fraser, dated Revision H, dated 30 August 2019,
- Arborist Report, prepared by Axiom Tree Management P/L, dated 18 June 2020,
- Concept landscape Plan prepared by Tract, dated 30 April 2020,
- Landscape Plan, prepared by Zenith Concepts, November 2019,
- Sustainable Management Plan Report, prepared by ADP Consulting Engineering, dated 1 November 2019,
- Waste Management Plan, prepared by Irwin Consult, dated 31 October 2019, and
- Traffic Report, prepared by Traffix Group, dated October 2019.

## CONSULTATION

### Public Notice

The application was advertised by mail to the adjacent and nearby property owners and occupiers and by erecting notices to each street frontage. Following the advertising period, 10 objections were received.

The issues raised are summarised as follows:

#### Neighbourhood Character

- Excessive building height and visual bulk
- Inconsistent with neighbourhood character
- Inadequate setbacks
- Excessive building footprint
- Reflective external surfaces

#### Environmental Impacts

- Loss of vegetation and wildlife in the area
- Reduction of natural screen to residential area
- Against the character of the area
- Does not provide enough landscaping, tree replacement, greenery, open spaces etc.

## **9.1.2**

(cont.)

### Traffic and Car Parking

- Increased traffic and congestion

### Amenity Impacts

- Impact on privacy of the residential properties
- Construction Impacts
- Safety and crime

### Infrastructure

- Limitations of residential infrastructure resulting from an increased in commercial traffic.

## **Consultation Forum**

A Consultation Forum was held on Thursday 27 February 2020. 10 objectors attended the meeting, which was chaired by (then) Ward Councillor Bill Bennett, and also attended by 3 planning officers. There were no resolutions reached.

Objectors raised general issues relating to excessive building height and visual bulk, neighbourhood character, the inadequacy of setbacks from the northern residential properties, use of reflective materials, increased traffic congestion in the local area, impact on privacy and extent of vegetation removal. Despite a robust conversation with the applicant, no resolution of issues was explored. Subsequently, no consensus was reached between the parties.

## **Referrals**

### **External**

- Department of Environment, Land, Water and Planning  
The Department of Environment, Land, Water and Planning supports the extent of native vegetation removal subject to an offset being secured.
- Department of Transport  
The Department of Transport supports the proposal subject to conditions.

### **Internal**

#### Waste Management Officer

The waste management plan was accepted by Council's Waste Management Officer subject to standard conditions and permit notes.

#### Transport Engineer

The application has been reviewed by Council's Transport Engineer. Having assessed the development, the proposal is supported subject to increased parking provisions and design modifications.

#### Assets Engineer

Council's Assets Team is supportive of the proposal subject to conditions.

#### Planning Arborist

The application has been reviewed by the Council's Arborist. The Development Impact Report, prepared by Axiom Tree Management P/L is satisfactory, and a Tree Management Plan is recommended to be required via conditions of any permit issued.

## 9.1.2

(cont.)

### ParksWide

The application has been reviewed by Council's ParksWide Team. They have identified that there are no street trees affected by the proposal.

### Landscape Architect

The application has been reviewed by Council's landscape architect. The landscape plan is satisfactory subject to modifications.

### Environmental Sustainable Development

The application has been reviewed by Council's Environmentally Sustainable Development officer. A review of the Sustainability Management Plan (SMP) Report and Development Plans finds that this application is yet to meet Council's Environmentally Sustainable Design (ESD) standards for a development of this size and potential environmental impact.

To address the shortcomings, a number of matters can be addressed via conditions of any permit issued.

### Assets Engineer

The application has been reviewed by Council's Asset Engineer. The application is supported subject to standard conditions and notes being placed on the permit. In addition to conditions and notes, the Asset Engineer suggested to seek VicRoad's approval for any vehicle crossing or modifications of access to Burwood Highway and Springvale Road; and to refer the application to the Transport Engineering Team. As noted above, the referral to VicRoads and Council's Transport Engineering Team have been completed.

## **DISCUSSION**

The subject site is located within the Tally Ho Activity Centre, a higher-order activity centre, although one which currently primarily serves an employment function with a limited range of other land uses. Within the Planning Policy framework, including Plan Melbourne and Local Planning Policies, key themes emerge in relation to the strategic directions for the Tally Ho Major Activity Centre.

Clause 22.06 identifies activity centres in the City of Whitehorse, and the important contribution to local service provision, vibrant local economies what these centres provide for. It is policy:

- *Tally Ho continues as an activity centre with a focus on creating a high quality built and natural environment for innovation, knowledge and technology-based businesses while broadening its range of land uses.*

Clause 22.08 applies to land within the Tally Ho Activity Centre. The policy requires future land use and development to have regard to the vision and principles of the strategies in the Tally Ho Major Activity Centre Urban Design Framework 2007. The objectives of the policy include encouraging economic growth, increasing the mix in existing and new developments, discouraging the use of private motor vehicles and enhancing the quality and extent of landscaping.

Accordingly, the proposal responds to the following themes in the Tally Ho Activity Centre as follows:

- Supporting urban consolidation and economic diversity by providing opportunities for further business development and employment within the activity centre,
- Promoting economic growth and synergies between uses to service commercial and community needs,
- Delivering significant new infrastructure and improved use of a site with good access to infrastructure, services, facilities and public transport, and

### **9.1.2** (cont.)

- Improving the quality of the built environment and creating a safe, functional place with a sense of connection and identity.

As discussed separately in this report, the redevelopment of this site has strong policy support, at both State and Local level, as it is considered one of the prime development sites in the municipality due to its locational advantages and land area. In particular, Clause 22.08, Design and Development Overlay Schedule 9 and recent strategic review of current zoning pushes the site to be developed for office and mixed use development. However, it is acknowledged that the site is inherited with some significant physical constraints, including the northern residential abutments and extent of native vegetation. Therefore the key consideration of this assessment is to identify if the proposal balances these competing objectives of the planning scheme and offers net community benefits.

#### **Commercial 1 Zone**

The objectives of the Commercial 1 Zone have an emphasis on the creation of vibrant centres for retail, office, business and community uses. State Government zone reforms in 2013 automatically rezoned the Business 1 and 2 Zones to the Commercial 1 Zone, broadening the suite of uses that now no longer need a planning permit. This change has opened up Tally Ho to significant pressure to accommodate uses that could potentially undermine the policy intent of the centre as an employment hub.

In July 2019, a review of the Tally Ho Activity Centre was undertaken by Council to determine whether the current Commercial 1 Zone is the most appropriate zone, or whether a more suitable planning tool could be implemented to ensure the vision of the centre is achieved. The review concluded that there is a strong case for retaining an employment focus for the area and in fact recommended rezoning the Commercial 1 Zone to Commercial 3 to provide greater emphasis on employment opportunities, and give Council the ability to consider through a permit process, other complimentary uses on the site.

The land uses proposed within this proposal are 'as-of-right' in the zone and achieve the purpose of the current and proposed zone.

The development will contribute to the Tally Ho Activity Centre area and will increase the availability of quality office space with associated retail land uses and will support Whitehorse's expanding local economy.

The proposed use and development achieve a high-level of consistency with the purpose of the zone and the strategic directions for the area.

#### **Design and Development Overlay, Schedule 9 (DDO9)**

The Tally Ho Activity Centre Urban Design and Landscape Guidelines were introduced as a reference document via amendment C110 (October 2015). The Guidelines outline the desired built form and landscape outcomes for new development on sites within the Tally Ho Activity Centre and are also reflected within DDO9.

The design objectives within DDO9 are summarised as:

- Reinforce an image of innovation and knowledge through the establishment of contemporary buildings nestled within a native Australian landscape,
- To create a high quality built environment, a good sense of place, active street frontages and interest at the pedestrian level,
- The creation of a 'campus-style development' with a generous landscape setting,
- Ensure sensitive design at the Activity Centre's interface with adjoining residential zones,
- Retention and regeneration of existing native vegetation and habitat and new landscaping that is high quality that enhances new development,
- Incorporation of best practice ESD principles, and
- Improve accessibility and safety for all transport modes.

## 9.1.2

(cont.)

DDO9 sets out requirements for building heights, built form, site design and configuration, landscape and streetscape design and precinct requirements.

Tally Ho is recognised as a key eastern suburb hub for knowledge workers. *Knowledge workers are workers whose main capital is knowledge. Examples include programmers, physicians, pharmacists, architects, engineers, scientists, design thinkers, public accountants, lawyers, and academics, and any other white-collar workers, whose line of work requires one to "think for a living".* In order to strengthen business development, innovation and continued broadening of employment opportunities, the Tally Ho MAC must continue to maintain and attract higher-order employment opportunities. The development achieves the objective of encouraging economic development that facilitates growth within the Tally Ho Precinct. The development comprises a range of land uses that are compatible with the zone such as office and retail. These uses will provide employment opportunities and act as a catalyst in attracting other business to the Activity Centre.

The creation of a 'campus-style development' is achieved via the following treatments:

- The built form includes glazing at both the ground and upper levels,
- The glazing ensures a degree of transparency both into and out of the building as well as activation and passive surveillance,
- The façade materiality will not present as a blank wall to the street (noting the significant setback from the street), and
- The landscape areas will ensure the activation of the street edges.

The nominated building heights seek to create a transition in height from the middle of the site to provide a lower scale around the boundary of the Activity Centre. The building height of 26.6 metres exceeds the preferred building height of 14 metres; however, its position from the northern boundary creates a respectful transition. In particular, the 23.5-metre setback from the residential interface is significantly greater than the preferred 10 metres, and is further setback from the road reserves. Generous landscaping areas are provided around the building, and when coupled with the existing trees will reduce any potential visual bulk resulting from the additional height.

The proposed built form has been designed to respect the amenity of the neighbouring residential properties to the north of the site. DDO9 calls for a 10-metre built form setback from the north boundary. The proposed building provides a setback of 23.5 metres from the northern boundary. This is an improved outcome that will ensure the impact of the built form on the residential lots is reduced. This setback allows the retention of the existing band of vegetation along the northern boundary to retain a visual buffer and ensures impacts of noise, light spill and visual bulk are reduced.

The proposal respects the residential interface by complying with the ResCode building envelope Standard. Although this Standard doesn't apply given the site's commercial zoning, the ability to meet (and exceed) this standard indicates the amenity of the neighbouring residential properties is respected, when tested against a commonly used and understood method for measuring amenity impacts.

Despite exceeding the preferred height limits outlined within DDO9, the proposal achieves the objectives by providing a built form outcome within the existing landscape character of the site. The increased building height is offset by the provision of a generous 23.5 metres setback from the closest boundary interface.

### Landscaping and Trees

Key considerations pertaining to landscaping include contemporary landscape design to reflect the innovative character of the activity centre, use of indigenous and native vegetation throughout the centre, a hierarchy of canopy plantings, retention of existing indigenous and native vegetation where possible, maintain existing significant exotic species and where possible avoid large screening shrubs to improve passive surveillance.

## 9.1.2

(cont.)

Design objectives within the DDO9 include:

- To ensure that proposed landscaping is high quality, and complements and enhances existing and new development,
- To use landscape as a common thread to connect various parts of the Tally Ho Activity Centre, and
- To encourage the retention and regeneration of existing native vegetation and habitat.

A total of 158 trees close to, or within, the footprint of the proposed development were assessed within the arborist report, prepared by Axiom, Tree Management P/L, dated June 2020. A breakdown of the trees include:

- 123 trees are native to Victoria
- 13 trees are Australian natives
- 22 trees are exotic

The most common species include *Eucalyptus goniocalyx* – Long-leaved Box, *Eucalyptus macrorhyncha* – Red Stringybark, *Melaleuca armillaris* – Giant Honey Myrtle and *Eucalyptus polyanthemos* – Red Box.

Of the assessed trees, Trees 22, 49, 67 and 344 have been assigned a 'high' retention value, seventy-five trees have been assigned a 'medium' retention value, and seventy-nine trees have been assigned a 'low' retention value.

In order to facilitate the development, the application seeks removal of sections of existing vegetation. The following table sets out the tree retention and removal within the development. The table below (Table 1) also sets out those trees that incur less than 10% encroachment, greater than 10% encroachment and those trees nominated for removal.

\*the reference to encroachment is the percentage of the root system encroached upon.

**Table 1**

Tree Impacts	Tree Numbers	Count
Retain <10% Less than or equal to 10% encroachment	1, 9, 15-21, 24, 30, 32, 33, 55, 56, 58-67, 108, 112, 228, 263, 266, 329-334, 347, 351-373, 375, 380-382, 384 and 387	72
Retain >10% Greater than 10% encroachment	6, 7, 22, 23, 376 and 377	6
Remove	2-5, 8, 10-14, 31, 34-54, 57, 99-107, 109-111, 145-147, 219-227, 229, 264, 265, 335-346, 348-350, 374, 378, 379, 383, 385 and 386	80

While the above table shows that trees 6, 7, 22, 23, 376 and 377 will be encroached by the development for more than 10%, the table below identifies the exact percentage (%) encroachments:

Tree number	Species	Encroachment (%)
6	<i>Eucalyptus goniocalyx</i>	11
7	<i>Eucalyptus polyanthemos</i>	27
22	<i>Eucalyptus radiata</i>	24
23	<i>Eucalyptus obliqua</i>	20
376	<i>Acacia melanoxylon</i>	13
377	<i>Melaleuca armillaris</i>	12

### 9.1.2

(cont.)

Australian Standard - AS 4970-2009 states that an encroachment of more than 10% into the Tree Protection Zone (TPZ) is a major encroachment and certain conditions should apply. These conditions generally include, root mapping, design revisions, low impact construction methods and work supervisions. Council's consulting Arborist has inspected the trees that are subject to major encroachment and recommended that the applicant provide a Tree Management Plan before the commencement of the development. It is expected that the above conditions will be fulfilled in the Tree Management Plan to ensure the longevity of the trees to be retained.

Of the existing trees, a total of 81 trees are to be retained and a total of 80 are to be removed as they are within or adjacent to the proposed building footprint. However, a significant buffer of trees along the northern boundary will be retained ensuring the development maintains a landscaped context and screening towards the sensitive residential interface.

It is recommended that a Tree Management Plan be addressed via a condition of the permit. The Tree Management Plan will address matters of construction impact, tree protection fencing and measures to address successful ongoing retention and viability post-construction of trees nominated for retention.

New trees are proposed to be strategically placed around the new development, including 31 trees within the northern setback area, to assist with screening the new built form. In addition to the new trees, a total of 1780 shrubs, ground covers and 2,835 grasses will be incorporated into the new landscape setting.

The landscape plan prepared by TRACT consultants was referred to Council's Landscape Architect who has provided the following comments and conditions:

- The entry forecourt area and the internal open space provides for views through to the central plaza and beyond (to the northern landscape buffer zone).
- Seating nooks around the raised planter beds (incorporating soft planting and small trees) around the entry forecourt.
- In internal space (central plaza), includes raised planted beds with soft planting, seating nooks and break out spaces with seating benches, and defined area for cafes and retail spaces. It is preferable that the raised garden beds include some small trees to enhance amenity and reduce a wind tunnelling effect and be reduced in size to cater for tables and seating associated with the café and food and drink premises. This can be addressed through permit conditions.
- The northern interface includes a number of new trees with a 2 metres wide sand path to meander between the existing trees. This area would benefit from the increased shrub planting and ground covers within this area to complement existing and new trees (consistent with that shown within the TRACT concept plan).
- The western interface provides for low-level native planting and some medium to large trees. As per the TRACT concept plan, it is recommended small terrace areas be provided (with privacy screens). This requirement will form part of the permit conditions.
- The eastern interface includes car parking with raised planters to a separate footpath. It is recommended increased shrub, and ground-level planting occurs along with the eastern interface. This requirement also will form part of the permit conditions.

Council Landscape Architect's recommendations contained in the above comments will form part of the permit condition requiring an amended landscape plan.



### 9.1.2

(cont.)

In addition to the above, the landscape plan has been assessed based on the requirements specified in the Tally Ho Urban Design and Landscape Guidelines and considered acceptable on the following basis:

- The landscape design reflects the innovative character of the Tally Ho Activity Centre.
- The planting schedule comprises a mix of indigenous, native and exotic plants.
- A hierarchy of canopy planting is maintained.
- Retaining native vegetation where possible. In particular, the increased setback from the northern boundary from 10m to 23.5 metres has doubled the retention of native vegetation located along the northern boundary.
- Minimising hard surfaces around the buildings.

A condition of the permit will require a landscape maintenance plan to ensure for ongoing maintenance and longevity of the new landscaping regime.

#### **Clause 52.17 – Native vegetation**

Given the size of the lot, the application is subject to the provisions of Clause 52.17 (Native Vegetation), and a permit is triggered for the removal of native vegetation. The purpose of the Clause is to ensure there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation. This is achieved by applying the following three-step approach in accordance with the *Guidelines for the removal, destruction or lopping of native vegetation* (Department of Environment, Land, Water and Planning, 2017) (the Guidelines).

The three-step approach includes:

1. Avoid the removal, destruction or lopping of native vegetation.
2. Minimise impacts from the removal, destruction or lopping of native vegetation that cannot be avoided.
3. Provide an offset to compensate for the biodiversity impact if a permit is granted to remove, destroy or lop native vegetation.

The Native Vegetation Assessment, prepared by Brett Lane & Associates, details the vegetation that is to be removed and the impacts of the proposed removal. The total area of native vegetation proposed to be removed totals 0.578 hectares within location Category 1. This is comprised of:

- 1 patch of native vegetation with a total area of 0.471 hectares containing 3 large trees.
- 1 large scattered tree
- 2 small scattered trees.

The application was referred to the Department of Environment, Land, Water and Planning (DELWP). DELWP is satisfied that the applicant has taken adequate steps to avoid and minimise the proposed native vegetation removal and that the required offsets can be secured. The Native Vegetation Report supplied with the application adequately describes the native vegetation to be removed and the offset requirements.

If the development had only incorporated the minimum setback requirement of 10 metres from the northern boundary, there would have been a loss of at least another 8 large trees and resulting in a major encroachment into a number of trees. Refer to image below, the blue line in the Figure below refers to 10m setback.

### 9.1.2 (cont.)



Conversely, as the vegetation on the site is protected under Clause 52.17, there is no local planning control in place, such as SLO, to control the removal or to force the applicant to seek alternative building footprints. Moreover, the Tally Ho Urban Design and Landscape Guidelines, DDO9, Tally Ho Urban Design Framework etc. have conceptually encouraged buildings to achieve a minimum 20 metre setback from the northern residential abutments.

#### **Balancing Competing Objectives**

As discussed above, the proposal has sought to achieve a reasonable balance between the various competing provisions and policies that apply to the site. Specifically the loss of 80 native trees and variation to building height as prescribed in DDO9 and the site's economic significance.

In an overall sense, there is no dispute that the site is located in a viable economic centre with strong competitive advantages. There was an estimate of 3750 employment opportunities within the Tally Ho Activity Centre in 2016 with relatively strong employment growth in the Information and Telecommunications, Scientific and Technical Services. According to the Tally Ho Major Activity Centre Review, this area is estimated to accommodate uses which generated \$2.4 billion in economic output and \$1.2 billion in value added to the economy. This level of output equates to approximately 6% of the output across the City of Whitehorse, signaling that the economic activity occurring in this area is of material significance to the municipal economy.

The proposed two, six-storey office buildings comprising 34872 square metres of net floor area will generate, based on *The Building Code of Australia minimum space* requirements, 3487 office employees. Therefore the proposed development is significant to the local community and to achieve the strategic development aim of the Tally Ho Activity Centre.

According to DDO9, the required setback from the northern boundary is 10 metres. If the development incorporated the minimum setback requirement of 10 metres from the northern boundary, subject to changes to the building height, there would have been a loss of at least another 8 large trees and resulting in major encroachment into a number of others. However, according to the current design response, as shown on the plans, there are 80 trees to be removed, in addition to the 6 trees that have major encroachments. The Tally Ho Urban Design Framework and Tally Ho Urban Design and Landscape Guidelines provide the conceptual outline for the location of future buildings. Therefore there is an expectation that overall development impacts on vegetation have been previously considered.

However, as discussed elsewhere in this report, the permit holder must provide an offset to compensate for the biodiversity impact in accordance with the conditions required by DELWP. In addition, the landscape plan proposes 83 canopy trees including 70 trees with a minimum height of 8 metres to the north and north-eastern corner of the site. In order to secure the landscape buffer of those trees along the north boundary that are being retained, a building exclusion zone is required to be applied through permit conditions.

## 9.1.2

(cont.)

Although the building height is increased from the preferred 14 metres to 26.6 metres, the side setback has increased from 10 metres to 23.5 metres (more than double the minimum requirement) to ensure that residential amenity of the northern abuttal is not compromised. The existing and proposed canopy trees between the proposed building and residential area will reduce the visual bulk and other perceived visual impacts of the buildings to the occupants of the residential land.

The loss of that number of trees is not an outcome that would ordinarily be considered acceptable given the emphasis otherwise placed on tree retention within the planning scheme. In this context however, the zoning of the land, the strategic significance of the site as a prime office precinct, and competing planning scheme objectives for securing employment opportunities, results in the need for a degree of compromise and pragmatism in contemplating an appropriately balanced outcome for this site. In this case, generous building setbacks and opportunities for increased tree planting and other landscape outcomes, coupled with the native vegetation offsets, achieve an acceptable outcome.

### Car Parking

The car parking requirements for the proposed use and development are outlined under Clause 52.06 of the Whitehorse Planning Scheme. The subject site falls within the Principal Public Transport Network (PPTN) Area Map, and therefore the Column B rates apply under Clause 52.06-5.

The application has been referred to the Council's Transport team for assessment. The following is a summary of the traffic assessment and the resulting requirement for some modifications (to be addressed via conditions of the permit).

There appears to be a contradiction in the proposed 'Office' floor area for the proposed land uses within the Traffix Group Report. Page 12 of the report states that 'The plans prepared by Elenberg Fraser suggest an office floor area of 34,946 square metres' while page 14 of the Traffix Group report uses a land floor area of 34,872 for the proposed office use. For the purposes of this assessment, the larger floor area has been adopted

Usage	Area	Rate	Required Car Parking Spaces
Shop	1,462 sqm	3.5 spaces per 100 sqm of LFA	51
Office	34,946 sqm	3 spaces per 100 sqm of NFA	1048
Total Car Parking Spaces required			1,099

The proposal involves the removal of 141 at grade parking spaces; therefore, the proposal requires the provision of 1,240 parking spaces within the property.

- Adequacy of Parking Provision

Planning permit condition 16 of WH/2006/441 for this development site required that:

*A minimum of 315 car spaces must be made available on the subject land for the approved use and development at all times. In the event that the at grade parking area shown on the endorsed plans to the north of the office building is removed, appropriate parking provision must be made elsewhere on the subject land to the satisfaction of the Responsible Authority.*

### 9.1.2

(cont.)

The application proposes to provide a total of 1,250 parking spaces on the subject site, which includes 1,006 spaces within the basement car park, 29 spaces at-grade, and the 215 spaces provided in the at-grade car park in the south-eastern corner of the site.

- Traffic Generation

Given that the proposal seeks approval to alter the access ways (intensification of use), the proposal was referred to the Department of Transport. The Department is supportive of the development subject to conditions as discussed below.

The proposed development site can be accessed via an internal access roadway. This roadway provides direct access to Springvale Road and to Burwood Highway via Woodvale Court (which is a private road). The intersection of Burwood Highway and Woodvale Court provides ease of access to Burwood Highway via existing traffic signals.

The application documents propose changes to the traffic signal phasing at the above intersection. A preliminary review of the proposed changes was undertaken by the Department of Transport and was not considered to be acceptable. As such, the proposed changes to the existing signal phasing are not approved as part of this planning permit referral response.

In order to consider and assess what phasing changes best suit the overall network, a post-development review of the performance of the Burwood Highway / Woodvale Court intersection is required. This review needs to analyse the development impacts on this intersection and recommend appropriate changes that need to be made to address any operational issues that may arise post-development, or through any subsequent development on the remainder of the site. No phasing changes are accepted as part of the current application.

- Future access to Springvale Road

The Department of Transport has also provided an assessment of the current access arrangements to Springvale Road. As it stands traffic generated by the development would be able to turn right (or go straight to the Burvale Hotel) at the Springvale Road access point. This presents an unacceptable safety outcome for the Department; therefore, it has been recommended that exiting traffic should be restricted to left-out only.

Clause 22.08 (DDO9) of the Whitehorse Planning Scheme requires new use and development to have regard to the vision and principles of the Tally Ho Major Activity Centre Urban Design Framework (UDF). In the UDF, a new signalised intersection on Springvale Road near the north of the site, approximately opposite the northern Burvale Hotel access, leading to an internal road network, is shown in "Drawing 9". The UDF notes: "Future development of Region 1 (the subject site) is expected to generate a significant increase in traffic and a new signalised access arrangement should be provided at Springvale Road". The UDF traffic assessment adds that "signalised intersection should be earmarked to control future traffic movements generated by future development ... so as to minimise the number of access points and impact on Springvale Road and provide a coordinated approach" and further that "the existing unsignalised movements at the current Springvale Road access to the [subject site] and Burvale Hotel should be reviewed".

### 9.1.2 (cont.)

It is particularly noted that the development layout is not consistent with the access arrangements in the UDF – an internal access road in the UDF is shown clearly running through the location of the proposed buildings. Although this is not necessarily a confirmed layout of the internal road network for the site, consideration of some appropriate layout needs to be given to safeguard the ability to provide such a connection in future as development intensifies. A preliminary plan has been provided by the applicant's traffic consultant as part of ongoing discussions with the Department of Transport showing the ability of the site overall to accommodate a future access arrangement as anticipated by the UDF. Although this is by no means a final layout necessarily, the Department of Transport considers it essential that this future access connection is in some way formally established as part of this permit process so that it is clear to all parties that as part of the development of future stages, an internal access connection is accepted as a requirement.

The Department of Transport is supportive of the proposal subject to conditions.

- Bicycle Facilities

The following details the number of bicycle parking spaces required under Clause 52.34 of the planning scheme:

Use	Size	Statutory Requirement	Number of Bicycle Parking Spaces Required
Office	34,946 sqm	1 to each 300 square metres of leasable floor area to staff  1 to each 1,000 square metres of leasable floor area to visitors	116 staff spaces  35 visitor spaces
Retail	1,462 sqm	1 to each 300 square metres of NFA if the NFA exceeds 1,000 square metres to staff  1 to each 500 square metre of NFA if the NFA exceeds 1,000 square metres to visitors	5 staff  3 staff
Total Bicycle Parking Spaces required			121 staff spaces  38 visitor spaces

The development provides for 288 bicycle spaces which exceeds the statutory requirement by 129 spaces. The spaces are to conform to the requirements of the planning scheme and the Australian Standards. This alteration will be addressed via a condition of any permit issued.

## 9.1.2

(cont.)

### Showers and Change Rooms

User	Bicycle Spaces (staff/resident)	Employee/Resident	Visitor	Number Required
Shower	9	1 shower per first 5 spaces 1 per 10 spaces thereafter	None	2
Change Rooms	9	1 per shower or to a communal change room	None	1

The proposed shower and change room facilities are provided within basement level 1 (adjacent to the bike storeroom).

Subject to conditions, the provision of bicycle facilities are in accordance with clause '52.34 Bicycle Facilities' of the Whitehorse Planning Scheme.

### **Parking Management Plan**

A parking management plan needs to be submitted which will include the allocation of parking spaces to individual tenancies, signing of parking spaces, line marking of parking spaces and detail on how access will be achieved by visitors, i.e. an intercom and how parking will be secured. This can be addressed via conditions of permit.

### **Clause 22.10 – Environmentally Sustainable Development**

Clause 22.10 applies throughout the City of Whitehorse to residential and non-residential development that requires a planning permit in accordance with the thresholds in Table 1 of the policy.

The overarching objective is that development should achieve best practice in environmentally sustainable development from the design stage through to construction and operation. The Sustainability Management Plan Report (SMP Report), dated 1 November 2019, has been assessed by Council's ESD officer. The plan is yet to meet the Council's ESD Standards, therefore, amended plans and an amended SMP Report will be addressed via conditions of the permit.

### **Waste Management**

To ensure that the proposed development will have sufficient capacity and capability to manage the waste generated by future occupants, a Waste Management Plan has been submitted. The plan confirms the following:

- The application proposed all waste to be collected by a private contractor,
- Waste shall be sorted on-site by cleaners and/or tenants as appropriate,
- Waste will be stored in a specially designated waste storage room located on the ground floor. Collections will occur on-site directly from the loading access areas provided adjacent to each waste room at ground level, and
- At a minimum, ventilation will be provided in accordance with Australian Standard AS1668.

The approved Waste Management Plan will be implemented via conditions of the permit.

## **9.1.2**

(cont.)

### **Objectors Concerns**

#### Neighbourhood Character

Concerns were raised with the proposals response to the established neighbourhood character, excessive building height and visual bulk and inadequate setbacks.

The preferred maximum height limit of 14 metres is a discretionary limit, yet there needs to be exceptional circumstances which warrant a departure from the preferred maximum height. DDO9 especially anticipates development exceeding the discretionary height limits by setting up a mechanism to assess such applications. An application to exceed the preferred maximum building height must demonstrate how the development will continue to achieve the Design Objectives and Built Form Outcome of the Schedule and other local policy requirements.

As discussed above, the siting of the development (more than twice the recommended minimum distance to its boundary) will ensure the new built form does not unreasonably impose itself to the northern interface. This is also achieved by the retention of existing native vegetation and further planting within this setback.

The DDO9 specifically seeks to achieve a character for the Activity Centre that is defined by contemporary architecture. The provisions also seek buildings to heighten the sense of address and demarcation to the activity centre. The new office buildings will have a visible and sheer profile; however, they are contemporary in design and contribute towards the distinction of the activity centre.

The character of the activity centre is evolving with built forms that are higher than the preferred heights outlined in DDO9. Examples include:

- A six-storey building (with a preferred 10-metre height limit) at 315-319 Burwood Highway;
- An eight-storey mixed-use development at 380 Burwood Highway; and
- A range of building heights approved of up to 6 storeys through the Development Plan at 104-168 Hawthorn Road (former Channel 10 site).

Given this context and the range of height found in approved nearby developments, the proposed building height will not be an unreasonable outcome within the Activity Centre.

The proposed development on the subject site will provide a range of increased employment opportunities, through the additional retail floor space and the substantial amount of proposed office floor space. The extent to which the proposed development will provide for these employment opportunities in a highly accessible locality where residents would currently outnumber available jobs is another important factor that supports the height and scale of the proposed development.

#### Traffic and Car Parking

As discussed above, subject to conditions, the proposal provides a satisfactory provision of car parking.

#### Amenity Impacts

The proposed development has been carefully designed to ensure that the potential for inappropriate overlooking between the proposed building and existing residential properties to the north is avoided. This has been achieved through the generous 23.5-metre building setback from the northern boundary and the sensitive interface. In addition to the generous setback, the existing band of significant vegetation is to be retained which will provide a visual barrier to the north, which will also significantly reduce any potential overlooking.

### **9.1.2**

(cont.)

#### Construction Impacts

A condition of permit can address the requirement for a Construction Management Plan. The plan will address the potential impacts of demolition and construction.

#### Safety and crime

The provision of an office building and associated uses within appropriately zoned land will not increase crime within this area. The provision of buildings within the site will provide activation where there currently is little, and increase the passive surveillance offered through the uses proposed.

#### Infrastructure

The application has been reviewed by the Council's Assets Team. The proposal is not considered to unreasonably impact on any of the existing infrastructures within the area.

### **CONCLUSION**

The redevelopment of this site enjoys strong policy support, at both State and Local level, and is considered a prime redevelopment site, due to its size and location. However, it is acknowledged that the site is not void of constraints, in particular the existing native vegetation present along the northern and southern boundaries. Subsequently, one of the key assessment criteria of the proposal lies in the balancing of maintaining existing vegetation on site and enabling for the appropriate scale of built form on the land. Overall, officers consider that the extent of tree removal onsite is reasonable, as the proposal provides a significant setback (20 metres) from the northern boundary, which has enabled the retention of up to 50% of the trees located within the proximity of the development. Furthermore, the Council's strategic direction provides for the retention of trees elsewhere in the municipality to balance the intensive development of Major Activity Centres.

The proposal for the use and development of the land for two office buildings, including vegetation removal and alteration of access to a Road Zone is an acceptable response that satisfies the relevant provisions contained within the Whitehorse Planning Scheme, including the State and Local Planning Policies, the Commercial Zone and the objectives and decision guidelines of the Design and Development Overlay, Schedule 9.

A total of 10 objections were received as a result of the public notice, and all of the issues raised have been discussed as required.

It is considered that the application should be approved, subject to conditional changes, as discussed in this report.

### **ATTACHMENT**

- 1 Architectural Plans
- 2 Landscape Plan



**9.1.3 25-35 Prospect Street, Box Hill (CM SP 27315V, Lots 62 to 64 LP 6554) Use of the land for accommodation (dwellings), buildings and works for a 23 storey mixed use development, 6 levels basement and reduction to the car parking requirements.**

FILE NUMBER: WH/2019/1332  
ATTACHMENT

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**SUMMARY**

*This application was advertised and 1 objection was received, in addition to a submission from VicTrack. The objection raised issues concerning the advertising process, tree removal, access, traffic & parking, wind impacts, overshadowing, noise, reflective external surfaces, limited landscaping, limited open space, pedestrian safety, absence of shared footpaths or bicycle lanes, not aligned to Box Hill Vision, no common laundry, traffic and noise impacts of construction period.*

*This report assesses the application against the relevant provisions of the Whitehorse Planning Scheme, as well as 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/2019/1332 for 25-35 Prospect Street, BOX HILL (CM SP 27315V, Lots 62 to 64 LP 6554) to be advertised and having received and noted the objections is of the opinion that the granting of a Planning Permit for the Use of the land for accommodation (dwellings), buildings and works for a 23 storey mixed use development, 6 levels basement and reduction to the car parking requirements, 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 25-35 Prospect Street, BOX HILL (CM SP 27315V, Lots 62 to 64 LP 6554) for the Use of the land for accommodation (dwellings), buildings and works for a 23 storey mixed use development, 6 levels basement and reduction to the car parking requirements, subject to the following conditions:**
  - 1. Before the development starts, but excluding the works detailed in the Early Works Plan, amended plans must be submitted to and approved by the Responsible Authority in a digital format. Once approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale, with dimensions, and be generally in accordance with the plans prepared by Peddle Thorp Architects, revision 5, dated November 2020, but modified to show:**
    - a) At least 250m<sup>2</sup> of communal open space (COS) accessible to all dwellings.**
    - b) In accordance with the recommendations of the Wind Report referred to in Condition 14 of this permit, the entrance of the 'lower ground floor shop':**
      - i. Recessed in from the front boundary by 500mm.**
      - ii. Provided with additional vertical columns generally in accordance with Figure 17 of the Wind Report.**
    - c) No part of any building (includes fixtures and excludes street level roof canopy awnings) must encroach over any property boundaries.**
    - d) All front podium façade windows recessed by at least 1 metre.**
    - e) A new western pedestrian access point for the end-of-trip facility via the external splayed wall of the ground floor rebate area, adjacent to the 'unsecured bike spaces' as detailed on the plans.**

### **9.1.3**

(cont)

- f) The roof canopy extending into the road reserve, must be a minimum height of 3 metres above ground level, and must be setback no closer than 750mm to the back-of-kerb of any road.*
- g) The entrance of the 'lower ground floor shop' relocated at least 2 metres further east from the proposed crossover.*
- h) All doors that open out onto the footpath (gas meter and booster) are able to open 180 degree flat against the building wall.*
- i) A detailed schedule and samples of all external cladding materials, colours and finishes, including fine grain details of façade treatments such as door and window openings at all levels but particularly:
  - i. At the ground and first floor levels which interface with Prospect Street. Consideration must be given to energy efficiency properties, durability and maintenance requirements of selected colours and finishes;*
  - ii. Appropriate external materiality to ensure that any site services visible to the street will blend within the urban design of the front façade of the podium;*
  - iii. A coloured schedule of the materials, colours and finishes to be used on the main external surfaces, including roofs, walls, windows, doors of the proposed buildings. Issues relating to glare and reflectivity of chosen building materials must be addressed within a reflectivity assessment report prepared by a suitably qualified professional to ensure that external building materials and finishes will not result in hazardous or uncomfortable glare to pedestrians, public transport operators and commuters, motorists, aircrafts, or occupants of surrounding buildings and public space to the satisfaction of the responsible authority*
  - iv. The side podium walls to be constructed of patterned concrete;*
  - v. The stone cladding finish for the upper floor levels of the podium, extended down to street level (at least 30% of all ground level vertical columns apply);*
  - vi. Specific pattern and/or textured finishes for external balconies and walls including soffits.**
- j) All dwelling private open space areas to comply with Clause 58.*
- k) The 3 dwellings (2x two bedroom, and 1x one bedroom dwellings) in the south-eastern corner of the respective floor plate for floor levels 4-15, to have front entries no further away than 1.5 metres from the south-east orientated main corridor. Any required floor layout modifications resulting from this requirement, must still allow each dwelling to comply with all provisions of Clause 58.*
- l) The door and associated internal wall to the study of dwelling types 15 and 19 across all floor levels of the development hereby approved, deleted.*
- m) A convex mirror located in the south-western corner of the Residential Lobby corridor to the rear of the lift core, to enhance sight lines within this lobby area.*
- n) All columns that abut car parking spaces must be located and dimensioned so that they are not within the area shown in 'Diagram 1' of Clause 52.06-8 to improve access to a parked vehicle.*
- o) A pedestrian sight triangle for the accessway and the western boundary wall in accordance with Clause 52.06-08;*
- p) Ramp grades to be nominated on the main section of each ramp between basement levels 1 to 6.*

**9.1.3**  
(cont)

- q) A longitudinal section of the circulation roadway showing the headroom provided at the entry point and along the travel path of the proposed 6.4 metre long waste collection vehicle demonstrating a minimum vertical headroom of 3.5 metres;*
- r) The location of Council's stormwater pit in the Road Reserve that does not conflict with the proposed vehicle crossing.*
- s) All necessary exhaust fans detailed in locations that appropriately mitigate against external amenity impacts on noise generation;*
- t) The locations of Tree Protection Zone described in Condition 6, with the nominated street trees clearly notated on both site and landscape plans, and a summary of the requirements of Conditions 6 and 7 to be annotated on the development and landscape plans.*
- u) Any changes required to reflect Conditions 4 (landscape plan), 11 (CPMP), 13 (SMP), and 16 (WMP) of this permit;*
- v) The landscape plan (Condition 4) and landscape maintenance plan (Condition 5), SMP (Condition 13), Wind Report (Condition 14), and WMP (Condition 16) form part of the Condition 1 endorsement.*

*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 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.*
- 3. The use of the land for accommodation as approved, must not commence until all of the buildings and works and landscaping hereby approved are completed to the satisfaction of the Responsible Authority.*

**Landscaping / Tree Protection**

- 4. Prior to commencement of any approved buildings and works, but excluding the works detailed in the Early Works Plan, a detailed landscape plan prepared by a suitably qualified and experienced person or firm has been submitted to and endorsed by the Responsible Authority. Once endorsed this plan shall form part of this permit. This plan must show:*
  - a) Planting throughout the development including front façade treatment, balconies, terraces and various gardens, detailing:*
    - i. A complete garden scheme;*
    - ii. Capacity for the planting to achieve visual softening of building bulk;*
    - iii. The proposed garden beds and the green walls / facade (footprint and depth);*
    - iv. 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, and is 'fit for purpose' for the respective plants proposed location;*
    - v. Soil depths for all planted species;*
    - iv. Details of all suitable containerised planting infrastructure and tree anchoring systems;*
    - iv. All proposed services nominated.*

*Landscaping in accordance with this approved plan and schedules must be completed before the development is occupied. Once approved these plans become the endorsed plans of this permit.*

**9.1.3**  
(cont)

5. *Prior to the commencement of the development, but excluding the works detailed in the Early Works Plan, a Landscaping Maintenance Plan must be prepared by a suitably qualified consultant must be submitted for approval to the satisfaction of the Responsible Authority. The landscaping maintenance plan must include, but is not limited to:*
- a) *Details of the ongoing maintenance procedures to ensure that the garden areas and all 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. *Pruning and mulching.*
    - iv. *Specific procedural measures confirming how all vertical/hanging/cascading plants will be maintained;*
    - v. *Any dead or dying plant species detailed in the landscape plan detailed in Condition 4 of this permit to be replaced with similar plant species as necessary to the satisfaction of the Responsible Authority.*

*Once approved this plan will become part of the endorsed plans of this permit.*

6. *Prior to commencement of any building or works (includes demolition and early works) on the land, a Tree Protection Zone (TPZ) must be established on the naturestrip and maintained during, and until completion of, all buildings and works including landscaping, around the following trees in accordance with the distances and measures specified below, to the satisfaction of the Responsible Authority:*
- a. *Tree Protection Zone distances:*
    - i. *Tree 1 (Platanus x acerifolia, London plane tree) – 3 metres from centre base of tree.*
    - ii. *Tree 2 (Platanus x acerifolia, London plane tree) – 2.4 metres from centre base of tree.*
    - iii. *Tree 3 (Platanus x acerifolia, London plane tree) – 4.4 metres from centre base of tree.*
  - b. *Tree Protection Zone measures are to be established in accordance with Australian Standard 4970-2009 and are to include the following:*
    - i. *Erection of solid chain mesh or similar type fencing at a minimum height of 1.8 metres in height held in place with concrete feet.*
    - ii. *Signage placed around the outer edge of perimeter the fencing identifying the area as a TPZ. The signage should be visible from within the development, with the lettering complying with AS 1319.*
    - iii. *Mulch across the surface of the TPZ to a depth of 100mm and undertake supplementary provide watering/irrigation within the TPZ, prior and during any works performed.*
    - ii. *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.*
    - iii. *All supports and bracing should be outside the TPZ and any excavation for supports or bracing should avoid damaging roots where possible.*
    - iv. *No trenching is allowed within the TPZ for the installation of utility services unless tree sensitive installation methods such as boring have been approved by the Responsible Authority.*

### **9.1.3**

(cont)

- v. Where construction is approved within the TPZ, fencing and mulching should be placed at the outer point of the construction area.*
  - vi. Where there are approved works within the TPZ, it may only be reduced to the required amount by an authorized person only during approved construction within the TPZ, and must be restored in accordance with the above requirements at all other times.*
- 7. During construction of any buildings, or during other works, the following tree protection requirements are to be adhered to, to the satisfaction of the Responsible Authority:**
  - a) 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 the topography of the land within 2.5 metres of any street tree.*
  - b) No roots are to be cut or damaged during any part of the construction process.*
  - c) Any underground services within the tree protection zone must be bored.*
  - d) Any excavation within the tree protection zone of the street tree must be undertaken by hand, hydro excavation or air spading to ensure adequate protection of the trees root network.*
- 8. The garden and recreational areas at Levels 4 and 18, must be available for use by all residents and employees.**
- 9. 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.**

#### **Façade (Access and Strategy)**

- 10. Before the development starts, but excluding the works detailed in the Early Works Plan, a Façade Strategy must be submitted to and be to the satisfaction of the Responsible Authority. When approved this will form part of the endorsed plans. All materials, finishes and colours must be in conformity with the approved Façade Strategy to the satisfaction of the Responsible Authority. The Façade Strategy must detail:**
  - a) Consistency with the Condition 1 requirements.*
  - b) A concise description by the architect of the building design concept and how the façade works to achieve this.*
  - c) A schedule of colours, materials and finishes, including the colour, type and quality of materials showing their application and appearance. This can be demonstrated in coloured elevations or renders from key viewpoints, to show the materials and finishes linking them to a physical sample board with clear coding.*
  - d) External building materials and finishes not resulting in hazardous or uncomfortable glare to pedestrians, public transport operators and commuters, motorists, aircraft, or occupants of surrounding buildings and public spaces;*
  - e) Elevation details generally at a scale of 1:50 illustrating typical podium details, entries and doors, typical privacy screening and utilities, typical tower detail, and any special features which are important to the building's presentation.*
  - f) Cross sections or other method of demonstrating the façade systems, including fixing details indicating junctions between materials and significant changes in form and/or material.*

**9.1.3**  
(cont)

- g) Roof canopies with screens to prevent rain water from dripping onto pedestrians, patrons and visitors alike;*
- h) Information about how the façade will be accessed and maintained and cleaned, including planting where proposed.*
- i) Example prototypes and/or precedents that demonstrate the intended design outcome indicated through plans and perspective images to produce a high quality built form outcome in accordance with the design concept.*

**Car Parking Management Plan (CPMP)**

**11. Before the development commences, but excluding the works detailed in the Early Works Plan, a CPMP to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the CPMP will be endorsed and will form part of this permit. The CPMP must address, but not be limited to, the following:**

- a) The number, dimensions, and allocation (including number and location) of car parking spaces for all land uses hereby approved and visitors including the 42 unallocated car spaces allocated as follows:*
  - i. Office (18 additional spaces allocated, 161 spaces in total);*
  - ii. Retail (24 additional spaces allocated, 45 spaces in total);*
- b) The management of any applicable visitor car parking spaces and security arrangements (intercom etc) for occupants of the development, including details on how residential visitors are to access car parking;*
- c) Car share arrangements;*
- d) Management of loading bays for all retail land uses, including all vehicular and pedestrian related activity, and any potential traffic conflict caused by queuing instances from the mentioned purposes;*
- e) Details of way-finding, cleaning and security of the end of trip bicycle facilities;*
- f) The provision and allocation of usable and secure storage space in accordance with Clause 58.05-4. All storage space must not be constructed of any visibly transparent materials, and be provided with heavy duty locks given their public accessible location;*
- g) Detail any access controls to the parking area, such as boom gates which must take into account the required queue length required as per section 3.4 of AS 2890.1.*
- h) A schedule of all proposed signage including:*
  - i. Directional arrows and signage, informative signs indicating location of disabled bays and bicycle parking;*
  - ii. Exits;*
  - iii. Restrictions;*
  - iv. Pay parking system; and*
  - v. Any other relevant signs;*
  - vi. The collection of waste and garbage including the separate collection of organic waste and recyclables, which must be in accordance with the Waste Management Plan required by Condition 16 and*
  - vii. Details regarding the management of loading and unloading of goods and materials.*

### 9.1.3

(cont)

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

#### **Sustainability Management Plan (SMP)**

- 13. Prior to commencement, but excluding the works detailed in the Early Works Plan, an amended SMP to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. Once approved, the amended SMP will be endorsed and will form part of this permit. The amended SMP must be generally in accordance with the SMP prepared by JBA Consulting Engineers Pty Ltd, dated 18/12/2019, but modified to include, show or address:**
- a) Consistency with the requirements of Condition 1.**
  - b) A complete, 'Published' BESS Report, with an acceptable overall score that exceeds 50% and exceed the 'pass' marks in the categories of Water, Energy Stormwater and Indoor Environment Quality (IEQ) or that is otherwise to the satisfaction of the Responsible Authority.**
  - c) An Integrated Water Management Assessment addressing stormwater quality performance in addition to ensuring that the Responsible Authority's collective integrated water management expectations and requirements pursuant to Clauses 34 and 44 of the State Environment Protection Policy (Waters) are satisfied.**
  - d) Appropriate access indicated to maintain and service integrated water management systems demonstrated on Development Plans.**
  - e) An annotation on Development Plans indicating the capacity of the rainwater tanks and that the capacities stated are allocated exclusively for reuse/retention purposes and excludes any volume allocated for detention.**
  - f) The amount of toilet services and irrigation areas that the rainwater tanks will facilitate annotated on Development Plans.**
  - g) Water efficient fixtures and fittings include minimum 5 star WELS taps, 4 star WELS toilet, 3 star WELS showerheads ( $\leq 7.5$  L/min) and 4 star WELS urinals.**
  - h) Daylight modelling assessments for residential and non-residential areas to the satisfaction of the Responsible Authority.**
  - i) Natural ventilation with all operable windows, doors, terrace openings and vents provided in elevation drawings.**
  - j) Preliminary NatHERS Energy Efficiency Assessments for 10% of the total amount of dwellings within the development. The assessment, as a whole, must ensure that thermally unique dwellings have been modelled, representative of an equitable, average, performance of the development. Each dwelling must demonstrate that the development will achieve cooling loads  $\leq 21$  MJ/m<sup>2</sup>/annum. Assessments must demonstrate an average NatHERS energy efficiency star rating of 6.5 achieved throughout the development with no dwelling performing below 5.5 stars. Indicative commitments towards thermal performance (i.e. R-values), artificial lighting and glazing (i.e. U- and SHGC- values) for residential areas must be provided.**

### **9.1.3**

(cont)

- k) A Preliminary BCA Section J or JV3 Energy Efficiency Assessment for non-residential areas indicating a 10% improvement in energy efficiency performance with respect to the development's reference/base case. The assessment is required to include indicative commitments towards thermal performance (i.e. R-values), artificial lighting and glazing (i.e. U- and SHGC- values) for non-residential areas undertaken in accordance with, as a minimum, the National Construction Code 2016 Building Code of Australia standards.*
- l) Energy efficient heating, cooling and hot water systems indicating the associated COP and EER values or energy efficiency star ratings.*
- m) A minimum 30 kW solar photovoltaic system.*
- n) Exterior building services equipment including any heating, cooling, ventilation, hot water and renewable energy systems on Development Plans.*
- o) Double glazing for all external windows.*
- p) Car park ventilation fitted with CO sensors.*
- q) Car park lighting, where reasonably safe to do so, fitted with motion sensors or timers.*
- r) All common, external, service and lift area lighting fitted with sensors or timers.*
- s) Common, service and lift area ventilation fitted with sensors or timers.*
- t) Shadows detailed for all elevations of the building demonstrating appropriate exterior shading of windows to assist with mitigating peak energy demand. .*
- u) The location of alternative transport facilities including residential, employee and visitor secure bicycle spaces, electric vehicle infrastructure, showers, and changing facilities demonstrated on Development Plans.*
- v) A commitment to divert at least 80% of construction and demolition waste from landfill.*
- w) Timber species intended for use as decking or outdoor timber are not unsustainably harvested imported timbers (such as Merbau, Oregon, Western Red Cedar, Meranti, Luan, Teak etc.) and meet either Forest Stewardship Council or Australian Forestry Standard criteria with a commitment provided as an annotation on Development Plans.*
- x) Where measures cannot be visually shown, include a notes table or 'ESD Schedule' on Development Plans providing details of the requirements (i.e. average energy rating for the development's dwellings, % energy efficiency improvement, energy and water efficiency ratings for heating/cooling, hot water and plumbing fittings and fixtures etc.).*

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

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



### **9.1.3** (cont)

#### **Wind Report**

- 14. The Wind Assessment Report prepared by VIPAC and dated 2<sup>nd</sup> April 2020 will be endorsed and will form part of this permit. The requirements and outcomes of the Wind Report must be demonstrated on the development plans submitted for endorsement in accordance with Condition 1b).**

**The requirements of the Wind Report must be implemented by the building manager, owners and occupiers of the site for the duration of the building's operation in accordance with this permit, to the satisfaction of the Responsible Authority.**

- 15. The recommendations of the wind report must be implemented such that:**
- a) There is no cost to the Responsible Authority.**
  - b) There is no reliance on the provision of street trees for wind mitigation.**
  - c) There is no reliance on the provision of any buildings and works on public land, except roof canopy awnings at street level,**

#### **Waste Management Plan**

- 16. Before the development commences, but excluding the works detailed in the Early Works Plan, an amended Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the amended Waste Management Plan will be endorsed and will form part of this permit. The amended Waste Management Plan must be generally in accordance with the Waste Management Plan prepared by MGA Traffic Pty Ltd, dated 16<sup>th</sup> April 2020, but modified to include:**

- a) By designed to include required transportable waste compactors.**
- b) Include lift equipment to suit the transportable waste compactors as required by Condition 16(a).**
- c) Appropriate provision of private waste vehicle access and a 3.5 metre ceiling height clearance to service the transportable waste compactors as required by Condition 16(a).**

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

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

**The requirements of the Waste Management Plan must be implemented by the building manager, owners and occupiers of the site for the duration of the building's operation in accordance**

#### **Lighting Strategy**

- 17. Prior to the commencement of the development, but excluding the works detailed in the Early Works Plan, a Lighting Strategy must be prepared to the satisfaction of the Responsible Authority. The Lighting Strategy must provide details of proposed lighting of Prospect Street, and must be prepared in accordance with the Safer Design Guidelines for Victoria, Department of Sustainability and Environment, June 2005, to the satisfaction of the Responsible Authority.**

**This lighting must be maintained and operated for the life of the building to the satisfaction of the Responsible Authority.**

### **9.1.3**

(cont)

#### **Green Travel Plan**

- 18. Before the development commences, but excluding the works detailed in the Early Works Plan, a Green Travel Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Green Travel Plan will be endorsed and will form part of this permit. The Green Travel Plan must include, but not be limited to the following:**
- a) Consistency with the Condition 1 requirements of this permit;**
  - b) Car share arrangements;**
  - c) Information for residents and visitors about public transport options in the area;**
  - d) Measures to encourage uptake of public transport to and from the approved development.**

#### **Early Works and Construction Management Plans**

- 19. Except with the written consent of the Responsible Authority, prior to the commencement of any buildings or works, an Early Works Plan must be prepared to the satisfaction of the Responsible Authority. The Early Works Plan must include (but not necessarily be limited to) initial demolition, bulk and detailed excavation. All appropriate approvals must be obtained and the relevant permits in place, prior to endorsement of the Early Works Plan.**
- 20. Prior to the commencement of any site works, including demolition or bulk excavation if applicable, a detailed Construction Management Plan(s) (CMP), to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the CMP will be endorsed and will form part of this permit and must be implemented to the satisfaction of the Responsible Authority. This CMP must be prepared by a suitably qualified person, and be in accordance with the City of Whitehorse Construction Management Plan Guidelines.**
- When approved, the CMP will be endorsed and 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 approved CMP.**
- 21. The provisions, recommendations and requirements of both the approved Early Works Plan and CMP and must both be implemented and complied with to the satisfaction of the Responsible Authority.**

#### **Alterations/Reinstatement of Assets**

- 22. Prior to commencement, but excluding the works detailed in the Early Works Plan, details of any required street frontage features and footpath areas from the building facade to the kerb of Prospect Street. The design and materials must be consistent with the Box Hill Urban Landscape Design Guidelines Urban Core Treatment prepared as a Streetscape Plan, to the satisfaction of the Responsible Authority.**
- 23. Prior to the commencement, but excluding the works detailed in the Early Works Plan, detailed engineering drawings must be prepared to the satisfaction of the Responsible Authority detailing works within Prospect Street. The plans must show existing and proposed works including surface and underground drainage, pavement and footpath details, concrete kerbs and channels and street lighting.**

### **9.1.3**

(cont)

24. *If any works are to be undertaken in the road reserve related to the project, the applicant is required to obtain the Consent to Undertake Works in the Road Reserve (Road Opening Permit) for any new, altered or deleted vehicle crossing, water or drain tapping or other opening within a road reserve. Please note that this is a separate process to the Asset Protection Permit.*
25. *The developer/contractor will be required to submit a Report regarding any pre-existing damage to Council assets (Dilapidation Report), prior to the Asset Protection Permit being issued and the Protection Work Notice is signed off (if required). Please note that this Report will have to show all of the Council assets adjoining to the property boundary, and will be based on the approved access routes, pending on the approved Traffic Management Plan.*
26. *The permit holder must be responsible to meet all costs associated with reinstatement or alterations to Council or other Public Authority assets deemed necessary by such Authorities as a result of the development. The permit holder shall be responsible to obtain an "Asset Protection Permit" from Council at least 7 days prior to the commencement of any works on the land and obtain prior specific written approval for any works involving the alteration of Council or other Public Authority assets.*
27. *Prior to the occupation of the development, all boundary walls must be constructed, cleaned and finished to the satisfaction of the Responsible Authority.*

#### **Asset Protection and Drainage Conditions**

28. *Prior to the commencement of any works, but excluding the works detailed in the Early Works Plan, the owner of the land must enter into an agreement with and to the satisfaction of the Council's Asset Engineering Team, in which the owner covenants and agrees that:*
  - a) *Council will be indemnified against any loss or damage it may incur as a result of any proposed buildings and works constructed on or over Council owned land.*
  - b) *The owner must pay the reasonable costs of preparation, review, execution and registration of the Agreement.*
29. *Detailed plans and computations for stormwater, on-site detention and connection to the legal point of discharge must be prepared by a registered consulting engineer (who is listed on the Engineers Australia National Professional Engineer Register) and submitted for approval by the Responsible Authority prior to the commencement of any works.*
30. *The completion of stormwater connection to the nominated point of discharge and stormwater on-site detention must be approved to the satisfaction of the Responsible Authority prior to the occupation of the building.*
31. *Stormwater that could adversely affect any adjacent land must not be discharged from the subject site onto the surface of the adjacent land.*
32. *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.*
33. *The development must be provided with external lighting capable of illuminating access to each the basement ramp and pedestrian areas at ground floor. Lighting must be located, directed and shielded and of limited intensity that no direct light or glare is emitted outside the site, to the satisfaction of the Responsible Authority.*

### **9.1.3** (cont)

#### ***Building Services***

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

#### ***Acoustic Treatment***

- 35. The Acoustic and Vibration Assessment prepared by Marshal Day Acoustics, dated 26 March 2020 will be endorsed and will form part of this permit.**
- 36. Prior to the occupation of the development, a letter of confirmation from a suitably qualified Acoustic Consultant must be submitted for approval by the Responsible Authority to certify that the development has been constructed in accordance with the updated Acoustics and Vibration Assessment.**
- 37. Noise emissions from the site must be limited to ensure compliance with the requirements of the State Environmental Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1.**
- 38. The amenity of the area must not be detrimentally affected by the use of development, including through:**
- a) The transport of materials, goods or commodities to or from land;**
  - b) The appearance of any buildings, works or materials;**
  - c) The emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil;  
or**
  - d) The presence of vermin;**
- To the satisfaction of the responsible Authority.**

#### ***General Conditions***

- 39. Existing street trees must not be removed or damaged except with the written consent of the Responsible Authority.**
- 40. All pipes, fixtures, fittings and vents servicing any building on the land must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.**
- 41. 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 Prospect Street.**

### **9.1.3**

(cont)

#### ***Department of Transport and Vic Track Conditions***

- 42. *Before the development starts, or such other time agreed to in writing by the Head, Transport for Victoria, amended plans to the satisfaction of the Head, Transport for Victoria must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application (dated November 2020, Revision 5, prepared by Peddle Thorp) but modified to show:***
- a) Details of fencing or similar barrier measures to prevent illegal or unauthorised trespass of people onto railway land.***
  - b) Screens or guards to prevent items from being thrown or falling onto railway land from any part of the building development.***
  - c) The designs prevent items from being thrown or falling onto railway land from any part of the building development.***
  - d) The development design does not require people to access onto railway land, or breach electrical safety requirements, for the purposes of routine cleaning, replacement, inspection, maintenance and repair of any part of the building or development.***
  - e) The development does not cause reflected sunlight, or reflect or refract artificial light, such that it interferes with train driver visibility or interpretation of rail signals. This must be accompanied by a statement/report prepared by a suitably qualified engineering consultant that verifies the materials will not interfere with train driver visibility or signal recognition.***
  - f) The development avoids use of red, green or yellow colour schemes that may interfere with driver operations.***
  - g) The development's landscaping and planting will not interfere with train driver visibility or interpretation of rail signals upon completion or in the future.***
  - h) The development's landscaping and planting will not facilitate illegal access to railway land over boundary fence or wall via tree climbing upon completion or in the future.***
  - i) The development's landscaping and planting will not cause damage to any rail assets or infrastructure, via root or branch ingress, upon completion or in the future.***
  - j) That any temporary or permanent ground anchors, soil nails, reinforced earth straps or other ground stabilising devices, do not penetrate onto railway land.***
  - k) Any facilities intended to house and operate electrically sensitive equipment, such as a magnetic resonance imaging (MRI) machine and any associated electrical shielding required to facilitate its operation.***
- 43. *Unless otherwise agreed in writing with Head, Transport for Victoria and VicTrack, windows, doors and balconies must not be placed on the title boundary with railway land. Such windows, doors and balconies if permitted, must:***
- a) Be designed to prevent illegal trespass of people onto railway land.***
  - b) Be designed to prevent items from being thrown or falling onto railway land.***
  - c) Not open beyond the railway land title boundary.***

### **9.1.3**

(cont)

- d) Not require people to access onto railway land for the purposes of cleaning, replacement, inspection and maintenance.*
  - e) Not cause reflected sunlight to interfere with train driver visibility or interpretation of rail signals.*
  - f) Not reflect or refract artificial light such that it interferes with train driver visibility or interpretation of rail signals.*
- 44. Unless otherwise agreed in writing with Head, Transport for Victoria and VicTrack, any windows, doors and balconies that are set back from, and generally facing the railway land title boundary must:**
  - a) Be designed to prevent items from being thrown or falling onto railway land.*
  - b) Not require people to access onto railway land for the purposes of cleaning, replacement, inspection and maintenance.*
  - c) Not cause reflected sunlight to interfere with train driver visibility or interpretation of rail signals.*
  - d) Not reflect or refract artificial light such that it interferes with train driver visibility or interpretation of rail signals.*
- 45. Prior to the commencement of work on site detailed construction / engineering plans and structural computations for any construction abutting railway infrastructure or railway land must be submitted and approved by VicTrack, the Head, Transport for Victoria and the Rail Operator (RO). The plans must detail all basement excavation design, retention works and controls of the site adjacent to the railway corridor having any impact on railway land. The design plans must ensure compliance with:**
  - a) The relevant Rail Transport Operator's engineering standard for minimum structural gauge clearances and for minimum clearances to all electrical assets and procedures for works adjacent*
  - b) Energy Safe Victoria (ESV) requirements for minimum clearances to electrical assets and works adjacent.*
  - c) Australian Standards AS2067, AS7000 and Electricity Safety (General) Regulations 2019 (Particularly Part 6 – 610 and 615) for clearances to electrical assets. Clearances required include for safe working, fire life safety design, electromagnetic interference and earthing, bonding and electrolysis mitigation design.*
  - d) The required rail collision loadings and collision protection measures for the building supports adjacent the rail tracks in accordance with AS5100.1;2017 – 'Bridge Design, Scope and General Principals'.*
  - e) Earthquake design loadings for structure designated as a minimum Importance Level 2, by AS1170.4 – 'Structural Design Actions, Earthquake Actions in Australia'.*
- 46. Before development starts (including demolition and bulk excavation), all necessary construction control agreements and indemnity agreements must be prepared and entered into with the Head, Transport for Victoria to the satisfaction of and at no cost to the Head, Transport for Victoria and the Rail Operator.**

### **9.1.3**

(cont)

- 47. Unless otherwise agreed in writing with Head, Transport for Victoria, prior to demolition and construction commencing on site, the permit holder must demonstrate to the satisfaction of VicTrack and the Head, Transport for Victoria that entry onto railway land or air space over railway land is not required for fire, light, ventilation and maintenance for all buildings and works on site.**
- 48. Prior to commencement of demolition or construction works, the Rail Operator must be contacted through the email address [metrositeaccess@metrotrains.com.au](mailto:metrositeaccess@metrotrains.com.au) to obtain the Rail Operator's conditions and safety requirements for works on, over or adjacent to railway land.**
- 49. Before development starts (including demolition and bulk excavation), a Traffic Management Plan must be submitted to and approved by the Head, Transport for Victoria. The Traffic Management Plan must provide for:**
  - a) How public transport operations, traffic, walking and cycling movements will be managed during the demolition and construction; and**
  - b) How any traffic impact to the railway land and associated infrastructure will be mitigated.**

**The Traffic Management Plan must be implemented and complied with to the satisfaction of the Head, Transport for Victoria.**

**All costs associated with the preparation and implementation of the Traffic Management Plan will be at no cost to the Head, Transport for Victoria.**

**The endorsed Traffic Management Plan must not be modified without the prior written consent of the Head, Transport for Victoria.**

- 50. Before development starts (including demolition and bulk excavation), separate Demolition and/or Construction Management Plan must be submitted to and approved by the Head, Transport for Victoria, VicTrack and the Rail Operator. When approved, the Demolition and Construction Management Plan will form a part of this permit. The Demolition and Construction Management Plan must include (but not be limited to) details of:**
  - a) The buildings, works and other measures necessary to:**
    - i. Protect railway land, track, overhead power and associated infrastructure;**
    - ii. Prevent and /or minimise disruption to the operation of the railway;**
  - b) The remediation of any damage to railway land, track, overhead and underground power and communication assets associated infrastructure;**
  - c) Details of required access to the railway land during demolition and construction of the development with appropriate durations and schedules;**

**9.1.3**  
(cont)

**d) Arrangements for:**

- i. Any hoarding associated with the construction of the development at the railway boundary or encroaches onto or overhangs railway land;**
- ii. Piling excavation, shoring, stabilising, anchoring, filling, earthworks or construction associated with the development occurring on or next to the boundary of the railway land;**
- iii. The deposit or store of waste, fill or other materials associated with the development on the railway land;**
- iv Air and dust management;**
- vi Operating hours;**
- vii Noise and vibration controls; and**
- viii The security of the railway land and associated infrastructure.**

**All demolition and construction works must be carried out in accordance with the approved Demolition and Construction Management Plan unless with the prior written consent of the Head, Transport for Victoria. The Demolition and Construction Management Plan must be prepared, implemented and monitored at no cost to the Head, Transport for Victoria.**

**The Demolition and Construction Plan must be consistent with any Construction Management Plan required by the Responsible Authority.**

- 51. The permit holder must, at all times, ensure that the common boundary with railway land is fenced to prohibit unauthorised access to the rail corridor. Any permanent walls or fences on the common boundary with railway land must be cleaned and finished using a graffiti proof finish or alternative measures used to prevent or reduce the potential of graffiti as approved by the Head, Transport for Victoria.**
- 52. No drainage, effluent, waste soil or other materials must enter or be directed to railway land or stored or deposited on railway land.**
- 53. Prior to the occupation of the development all works outlined on the endorsed plans must be completed to the satisfaction of the Head, Transport for Victoria & Vic Track and the Rail Operator at the full cost to the permit holder.**
- 54. Access to railway assets by rail staff for the purposes of inspection, cleaning, maintenance and repair is to be maintained at all times. Existing access routes to railway land must not be closed, diverted or modified without prior agreement with the by the Head, Transport for Victoria and the relevant Rail Transport Operator(s).**

**Time Expiry Condition**

- 55. This permit will expire if one of the following circumstances applies:**

- a) The development is not commenced within three (3) years from the date of issue of this permit;**
- b) The development is not completed within five (5) years from the date of this permit;**
- c) The approved use is not commenced within five (5) years from the date of this permit.**

**The Responsible Authority may extend these periods if a request is made in writing before the permit expires or within six months afterwards for commencement or within twelve months afterwards for completion.**



### 9.1.3

(cont)

#### Notes

##### General

- a) *The granting of this permit does not obviate the necessity for compliance with the requirements of any other authority under any act, regulation or local law.*

##### Asset Engineering

- b) *The design and construction of the storm water drainage system up to the point of discharge from an allotment is to be approved by the appointed Building Surveyor. That includes the design and construction of any required storm water on-site detention system. The Applicant/Owner is to submit certification of the design of any required on-site detention system from a registered consulting engineer (who is listed on the Engineers Australia National Professional Engineer Register or approved equivalent) to Council as part of the civil plans approval process.*
- c) *The requirement for on- site detention will be noted on your storm water point of discharge report, or it might be required as part of the civil plans approval.*
- d) *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*
- e) *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.*
- f) *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.*
- g) *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.*
- h) *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".*
- i) *The property owner/ builder is to obtain the relevant permits and consents from Council in relation to asset protection, drainage works in easements and works in the road reserve prior to the commencement of any works. Any modifications to the road reserve, including footpath, nature strip and kerb and channel must be in accordance with the Box Hill Urban Realm Treatment Guidelines (BHURT).*
- j) *As-constructed drawings prepared by a Licensed Land Surveyor are to be provided to Council after the completion of civil works prior to Statement of Compliance or occupation.*

### **9.1.3**

(cont)

- k) The developer/contractor is required to submit a Report regarding any pre-existing damage to Council assets (Dilapidation Report), prior to the Asset Protection Permit being issued and the Protection Work Notice is signed off (if required). Please note that this Report will have to show all of the Council assets adjoining to the property boundary, and will be based on the approved access routes, pending on the approved Traffic Management Plan.**

#### **Transport Engineering**

- l) The architect and/or designer must ensure that vehicle access is to conform to the Australian Standards for Off-Street Parking (AS/NZS 2890.1:2004)**
- m) Redundant vehicle crossing(s) must be removed at the same time as the construction of any vehicle crossings(s), prior to the completion of development works and where access to a property has been altered by changes to the property.**

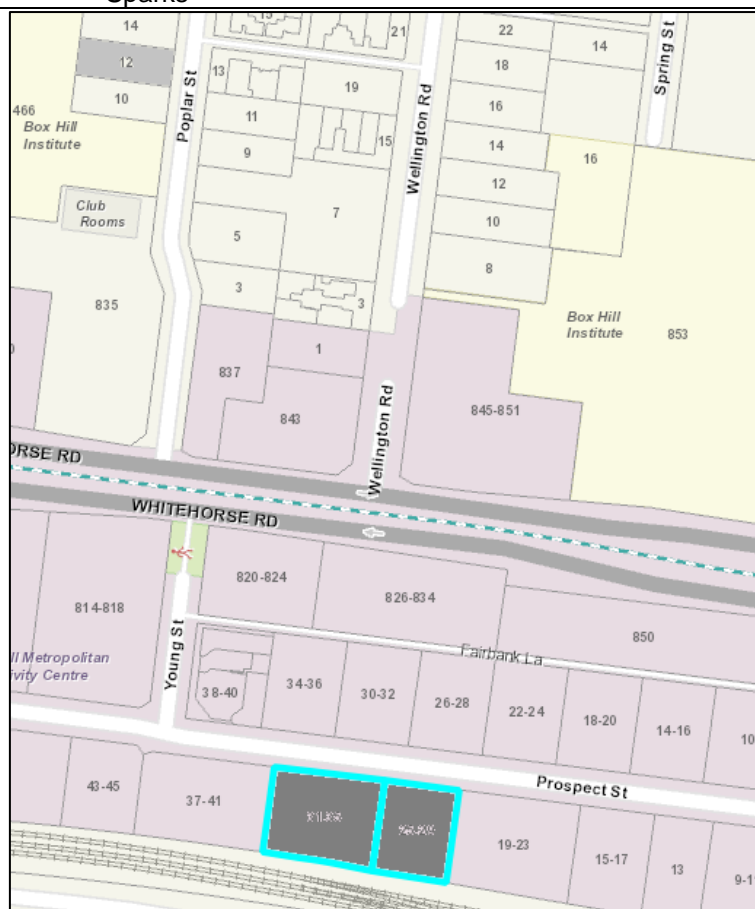
#### **Parks Wide Arborist**

- n) Authorisation for removal of Tree 3 (Platanus x acerifolia, London plane tree) will be granted after payment of the Tree Amenity Value of \$27,464.00 for the tree to Council's Parkswide department (including removal costs+replanting+2 years maintenance on new replanting).**
- o) If any damage to Council trees occurs during the building works, full amenity value of the trees will be charged to the applicant. If any trees have to be removed as a part of this project, amenity value of the trees has to be paid in full to the Council Parkswide Department prior to the commencement of works.**
- p) If any works are to be undertaken in the road reserve related to the project, the applicant is required to obtain the Consent to Undertake Works in the Road Reserve (Road Opening Permit) for any new, altered or deleted vehicle crossing, water or drain tapping, roof canopy/verandah or other opening within a road reserve. Please note that this is a separate process to the Asset Protection Permit.**
- q) Prior to the commencement of any works, excluding site excavation, piling and basement slab, the owner of the land must enter into an agreement with the City of Whitehorse which will indemnify Council against any loss or damage it may incur as a result of any proposed buildings and works constructed on or over Council owned land.**
- C. Has made this decision having particular regard to the requirements of Sections 58, 59, 60 and 61 of the Planning and Environment Act 1987.**

### 9.1.3 (cont)

MELWAYS REFERENCE 47 B9

Applicant:	CBR Development Group (Prospect) Pty Ltd
Zoning:	Commercial 1 Zone
Overlays:	Parking Overlay Schedule 1
Relevant Clauses:	
Clause 11	Settlement
Clause 12	Environmental and Landscape Values
Clause 15	Built Environment and Heritage
Clause 16	Housing
Clause 17	Economic Development
Clause 18	Transport
Clause 19	Infrastructure
Clause 21.05	Environment
Clause 21.06	Housing
Clause 22.03	Residential Development
Clause 22.04	Tree Conservation
Clause 22.06	Activity Centres
Clause 22.07	Box Hill Metropolitan Activity Centre
Clause 22.10	Environmentally Sustainable Development
Clause 34.01	Commercial 1 Zone (C1Z)
Clause 45.09	Parking Overlay, Schedule 1 (PO1)
Clause 52.06	Car Parking
Clause 52.34	Bicycle Facilities
Clause 65	Decision Guidelines
Ward:	Sparks



		Subject site		1 Objector Property	North
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### **9.1.3**

(cont)

## **BACKGROUND**

### **History**

One (1) previous planning permit application was lodged for the site of 31-35 Prospect Street, Box Hill for 'Buildings and works for Construction of 25 storey building, including use of accommodation (194 dwellings), associated retail and office space, with basement car park, and reduction to the required car parking requirements'. This application was subsequently withdrawn on 16/12/2019 once the property of 25-29 Prospect Street transferred into the subject site (now forming as 25-35 Prospect Street).

The proposal has been subject to pre-application discussions prior to the submission of the subject application.

### **The Site and Surrounds**

#### The Site

The subject site is formally identified as Strata Plan SP 27315V, and Lots 62 to 64 of Plan of Subdivision PS 6554. The site contains no easements, and slopes east to west by 3 metres, and south to north by up to 1.5 metres, at gradients of up to 7%. The site is located on the southern side of Prospect Street, approximately 42 metres east of Young Street and approximately 134 metres west of Nelson Road. The site is rectangular in shape, has a northern frontage width of 91.44 metres (facing Prospect Street), a maximum depth of 38.63 metres, and a total area of 2,809m<sup>2</sup>.

The eastern half of the site is currently occupied by a single storey office building at 25-29 Prospect Street with basement and ground level car parking and an adjacent vacant lot. The western of the site at 31-35 Prospect Street is currently vacant, but utilised as a public carpark operated by Ace Parking, with temporary offices at the rear of the site. The site retains vehicular access to Prospect Street. The combined site is located within the Box Hill Activity Centre and is zoned Commercial 1 Zone.

#### The Surrounds

##### *Immediate Surrounds*

The subject site is adjoined by Commercial 1 Zone land to both side aspects, comprising 4 storey office buildings with front vehicular access provided directly from Prospect Street. No. 19-23 Prospect Street adjoins the site to the east, while No. 37-41 Prospect Street adjoins the site to the west. The entire extent of Prospect Street is dominated by a continuous row of established London Plane canopy trees on each side of the street, presenting as a key landscape theme and significant feature of this streetscape.

The site is located within a commercially zoned area, approximately 19km east of the Melbourne CBD and is within the Major Development Precinct designated by the Box Hill Transit City Activity Centre Structure Plan 2007. The Box Hill Metropolitan Activity Centre (Box Hill MAC) provides retail, education, office, civic, medical, community facilities, entertainment, dining and recreational opportunities for the regional population, as well as a major hub for local community activities.

The subject site is located within close proximity (315 metres) of the Box Hill Train Station, which is serviced by Belgrave and Lilydale train services, with the rail corridor adjoining the southern rear of the site. A major bus interchange is also located at the Box Hill Train Station, which is serviced by approximately twenty (20) bus routes. The 109 Tram Service to the Melbourne CBD also runs along Whitehorse Road, further to the north. There are also major bus routes along Elgar Road, 156 metres west of the site, that link into the Box Hill bus interchange and the suburban area west of the site.

### 9.1.3

(cont)

There are no major public reserves close to the site. The narrow Whitehorse Road reserve, and the Box Hill Gardens public reserve are both located approximately 500 metres north-east of the site, but are also divided by the busy road junction of Whitehorse Road.

The Box Hill MAC is experiencing significant redevelopment, with the following sites in the vicinity of the subject land either approved, under construction, or have been completed:

- 813-823 Whitehorse Road (WH/2016/1109) – 16 storey office / residential development.
- 820-824 Whitehorse Road (WH/2016/68/A) – 29 storey residential development.
- 3-5 Poplar Street & 837 Whitehorse Road (WH/2017/313) – 29 storey residential development.
- 836 Whitehorse Road (WH/2014/763/F) – 36 storey and 26 storey tower mixed use building.
- 843 Whitehorse Road (WH/2017/313) – 36 and 37 storey mixed use development.
- 845-851 Whitehorse Road (WH/2014/1223/A) – 37, 30 and 18 storey residential development.
- 9-11 Prospect Street (WH/2015/108/A) – 25 storey residential building.
- 34-36 Prospect Street (WH/2016/1156/A) – 30 storey mixed use building.
- 26-28 Prospect Street (WH/2020/9) – 30 storey mixed use building –.

The following applications are under consideration in proximity to the site:

- 13-17 Prospect Street (WH/2020/83) – 22 storey mixed use building.
- 22-24 Prospect Street (WH/2020/1008) – 30 storey office building.

#### **Planning Controls**

##### Clause 34.01-4 -- Commercial 1 Zone (C1Z)

In accordance with Clause 34.01-1 Commercial 1 Zone of the Whitehorse Planning Scheme, a Planning Permit is required to use the land for accommodation (dwellings) where the ground floor frontage width exceeds 2 metres.

In accordance with Clause 34.01-4 Commercial 1 Zone of the Whitehorse Planning Scheme, a Planning Permit is required to construct and/or carry out buildings and works.

It is noted that commercial uses (shop, retail and offices) do not require a permit as they are 'as of right' in the zone.

##### Clauses 45.09-3 (Parking Overlay) and 52.06-3 (Car Parking)

In accordance with Clauses 45.09-3 and 52.06-3 Parking Overlay, a Planning Permit is required for a reduction to the required parking requirements for the residential (dwelling) visitors, retail and office land uses.

### **9.1.3**

(cont)

#### **PROPOSAL**

The proposal comprises 'use of the land for accommodation, buildings and works for a 23 storey mixed use development, 6 levels basement and reduction to the car parking requirements'. The key features of the proposal include:

- Lower ground floor level that includes a shop tenancy, main front entries for the lower ground shop, the upper floor/mezzanine office, the commercial lobby (access to the balance of the podium office floor levels), residential lobby (all tower level dwellings) and the end of trip (EOT) facilities which are not visible to the street, and provided with internal access only.
- Upper floor ground level includes the upper ground floor/mezzanine office, 2x food and drink tenancies, site services and street access to the end of trip facilities.
- The office floor space is provided over 4 levels (upper ground, first, second and third floor levels all within the podium). The total office floor area comprises an area of 8,055m<sup>2</sup>.
- The retail aspects (lower ground shop and 2x upper ground food and drink premises) will total 1,687m<sup>2</sup> in area.
- 262 dwellings, located at levels 4 to 22, all within the tower element of the building. There will be a mix of 70 X one bedroom, 165 X two bedroom, 24 X three bedroom, and 3 X four bedroom apartments.
- Vehicular access will be provided adjacent to the west boundary connecting the six level basement to Prospect Street at the front of the site. The basement level carpark will provide a total of 408 car spaces, 236 storage areas and 147 bicycle spaces (includes 127 secured spaces within the EOT area, 8 unsecured spaces within the central rebate area of the main entry to Prospect Street, and 12 unsecured spaces within basement level 1). Waste storage and collection ('refuse area') will occur on basement level 1.
- The design provides for a four to five storey podium to the public realm and a tower form which reaches an overall height of approximately 72 metres.
- The architectural response incorporates curvilinear and angular forms with a range of materials and finishes, including extensive glazed elements, textured concrete, stone, and metal cladding. Transparent and receding balconies particularly to the south elevation and plinths provided for ground floor retail areas.
- The removal of one street tree (Tree 3: London Plane, 14 metres high).

#### **CONSULTATION**

##### **Public Notice**

The application was advertised on 19<sup>th</sup> May 2020 by mail to the adjacent and nearby property owners and occupiers and by erecting three notices across the multiple parcel frontage. Following the advertising period one resident objection was received. The issues identified comprise the extent of properties advertised to in the notification process, tree removal, access, traffic & parking, wind impacts, overshadowing, noise, reflective external surfaces, limited landscaping, limited open space, pedestrian safety, absence of shared footpaths or bicycle lanes, not aligned to Box Hill Vision, no common laundry and impact of construction period.

Vic Track was also notified given the rail corridor adjoining the site to the south, and they provided a submission in response to the notice. Conditional consent was provided, which in turn prompted the applicant to make additional minor changes to the plans to address Vic Track requirements, as a Section 57 amendment. The changes include barrier measures to prevent objects being thrown into the adjoining rail corridor from numerous balconies on levels 5-16, which could pose as a rail safety hazard.

### 9.1.3

(cont)

The Section 57 changes were not readvertised as they are minor in nature and would not cause any detriment to the amenity of any person in addition to the plans originally advertised on 19 May 2020.

#### External Referrals

Department of Transport (including Vic Track)	<p>The proposal was referred to the Department of Transport who provided conditional consent.</p> <p>It is noted however that VicTrack were notified as an adjoining land owner, not as a referral authority.</p>
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#### Internal Referrals

Urban Design	<p>The proposal was referred to Council's Urban Design consultant who were generally supportive. The following summarised comments are provided:</p> <ul style="list-style-type: none"><li>• The general form and presentation of the building is generally acceptable.</li><li>• Variations in urban design materiality is supported.</li><li>• Ideally, given the tower width, 2 towers should be proposed.</li><li>• The capping element is boxy and should be refined.</li><li>• Wide dominant podium frontage, and its materiality should respond to and reinforce the existing 'grain' of building sites in Prospect Street and Box Hill in general.</li><li>• Further refined community / shared residents' uses into building encouraged.</li><li>• Height of building should be designed to avoid overshadowing to residential area to north in Hopetoun Parade during the Spring equinox.</li><li>• Internal functionality requires refinement (minimal use of snorkel windows, long corridors with 'pause areas', inadequate POS balconies at 8m<sup>2</sup>, flexibility in floor use arrangement, more generous communal open space, larger end of trip facilities,</li><li>• Improvements on sustainability features.</li><li>• Increased activation of podium front façade.</li><li>• Maintenance and appropriate infrastructure for landscaping particularly to south elevation.</li></ul>
Asset Engineering	<p>The proposal was referred to Council's Asset Engineers who are generally supportive subject to conditional changes relating to levels between the proposed building and Prospect Street, possible building encroachment over a boundary, relative impact on a Council storm water pit, and a required agreement for the roof canopy awning that projects into the road reserve.</p>

**9.1.3**  
(cont)

Transport Engineer	<p>The proposal was referred to Council's Transport Engineers who provided conditional consent on expected traffic generation levels, the end of trip facility provision, visitor parking and access provision. Concerns were however raised about: the car parking shortfall; access to the bicycle space provision; and car space dimensions due to the encroachment of building columns.</p> <p>Further detail was also required concerning vehicular head room ramp clearance heights and sightline distance requirements.</p>
ESD Officer	<p>The proposal was referred to Council's ESD advisor who indicated that Clause 22.10 has not yet been met, but that the outstanding items can be addressed as permit conditions.</p>
Waste Officer	<p>The proposal was referred to Council's Waste officer who has not yet approved the WMP. The key issue is that the WMP and plans have not allowed sufficient space and capacity to store and access transportable waste compactors, including their associated lifting equipment.</p> <p>Given the 4.4 metre floor to floor height clearance between the ground and basement 1 levels, there is sufficient height clearance to accommodate a 2 metre high, 6.4 metre long rear loader waste vehicle. Council's Transport Engineer has required via a condition of any approval, cross-section plans to demonstrate appropriate clearance heights.</p>
Design and Construction Engineer & Landscape Architect	<p>The proposal was referred to Council's Design and Construction Team who have raised concerns in relation to floor levels, the adequate provision of DDA access, and any public realm footpath treatment to be in accordance with the Box Hill Urban Realm Treatment guidelines. This detail can be provided in the form of a 'streetscape plan' via a condition of approval.</p>

**DISCUSSION**

**Consistency with State and Local Planning Policies**

*Plan Melbourne – The Metropolitan Planning Strategy* identifies Box Hill as a major regional centre and amongst Melbourne's largest centres of activity with a wide variety of uses and functions including commercial, retail, housing, highly specialized personal services, education, government and tourism. State policies encourage the intensification of Box Hill as a commercial and employment hub, supported by one of Melbourne's biggest transport interchanges.

Clause 16 (Housing) of the State planning policy framework also strongly advocates the need to provide substantial new housing (in a diversity of housing types) ensuring developments are integrated with infrastructure and services. Higher density housing is to be located in or close to activity centres, employment corridors and public transport. Such new development is to match changing demand by widening housing choice, and improving affordability.

Clause 17 (Economic development) further encourages development which meets community needs for office and other commercial services and provides net community benefit in relation to accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities within existing or planned activity centres.



### 9.1.3

(cont)

Clause 18 (Transport) has objectives to encourage higher land use densities and mixed use developments near railway stations, major bus terminals, transport interchanges and tramways. Clause 18.02-1 promotes the use of sustainable personal transport, including walking and cycling whilst Clause 18.02-5 requires that an adequate supply of car parking is provided, that is appropriately designed and located to protect amenity of residential precincts.

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

In terms of State planning policy, the subject site represents a significant strategic redevelopment opportunity to provide for a high density building comprising a strong mix in both high density residential and commercial land uses, given its central location within the Box Hill Metropolitan Activity Centre, its interface with the Vicinity Centres Box Hill Shopping Centre and proximity to a broad range of urban infrastructure including public transport services, employment opportunities and commercial facilities.

With over 8,000m<sup>2</sup> of office space, the proposed development will deliver a noticeable net increase in office floor space (currently an area of approximately 200m<sup>2</sup>), while also providing a range of retail / shop front tenancies to activate the Prospect Street frontage. The diverse commercial aspects of the proposal in the form of office and retail, will provide strong economic boost as part of the Box Hill MAC, providing a net increase in employment opportunities on a local, regional and metropolitan scale.

#### **Local Planning Policy Framework**

Clause 21.06 (Housing), notes that the City of Whitehorse is under increased pressure to accommodate more people who are attracted to the area due to its strategic location, high amenity residential areas and quality services and facilities. The Box Hill Metropolitan Activity Centre is identified to accommodate increased housing growth while providing high levels of amenity for residents. In this regard the proposal meets the policy objectives and will contribute to the overall diversity of housing in the area, including a mix of one, two three and four bedroom tenures.

Council's *Housing Strategy 2014* identifies areas of substantial, natural and limited growth. The subject site is included within a Substantial Change area which will provide for housing growth with increased densities, in accordance with the *Box Hill Transit City Activity Centre Structure Plan 2007* (Box Hill Structure Plan).

Clause 21.07 (Economic Development), identifies Box Hill as a Central Activities Area (CAA), which provides significant opportunities for investment in terms of retail, public transport, entertainment and higher density residential development. Although the overall use of the site is largely residential (262 dwellings), the re-development also provides a significant area of commercial floor space, comprising 8,055m<sup>2</sup> (office) and 1,687m<sup>2</sup> (retail).

Clause 22.06 (Activity Centres Policy) includes objectives to ensure that new development maintains and enhances the role of the activity centre as a community focus and to improve the appearance and amenity of the activity centre.

Clause 22.07 (Box Hill Central Activities Area Policy), expands upon Clause 22.06 in providing policy direction relating to open spaces, pedestrian mobility and bicycle spaces, road traffic management, car parking, land use mix and built form. The policy further seeks to implement the Box Hill Structure Plan. The vision for the Centre is that '*Box Hill will be sustainable, safe and accessible to all. It will be a distinctive, vibrant, diverse, inclusive, participatory, caring and healthy community where you live, work and enjoy – day and night*'. The subject site is located within Activity Precinct B (Prospect Street Precinct) and Built Form Precinct F (Major Development Precinct).

### 9.1.3

(cont)

Precinct B (Prospect Street Precinct) is identified for:

- *Consolidation as the primary office precinct in the activity centre.*

Precinct F (Major Development Precinct) seeks to achieve the following:

- *Major Development Precinct: Taller buildings permitted, enabling increased density. Heights must not cause overshadowing of Key Open Spaces, Residential Precincts A or B or residential areas beyond the study area. Transitional heights to be provided at edges of the precinct to respect the scale of neighbouring precincts.*

In relation to land uses for the Prospect Street precinct, the structure plan promotes the continuance of the area as a primary office precinct, encourages retail at the ground levels of taller buildings and promotes a mix of uses including residential development to create a '24 hour precinct'. The site and its immediate environs are also earmarked for major development with taller buildings and increased densities. Precinct F is the only precinct within the Box Hill MAC where no specific preferred or maximum height limit applies. This area therefore represents a significant opportunity to deliver the proposed mixed-use development without impacting on the amenity of any residential neighbourhood or identified key public open space.

#### **Built Height and Form**

##### Height

The building form and architectural expression will make a positive contribution to the Box Hill Activity Centre. The built form height follows a profile between Nelson Road and Young Street, along both Prospect Street and Whitehorse Road (north of site), and from Whitehorse Road (north of the site) down to peripheral residential areas of Hopetoun Parade south of the railway corridor. Buildings which have been approved and/or constructed are considered as useful indicators for appropriate transitional building heights as detailed in the 'proposal' section earlier in this report.

The urban context indicates that approved and/or constructed building heights are generally 30 stories to 36 stories (Whitehorse Road), 30 stories (Prospect Street – north side), and 22 stories to 25 stories (Prospect Street – south side), with peripheral residential properties of Hopetoun Parade 80 metres further south expected to reach 3 stories in future.

The proposed 72 metre, 23 storey proposed building height is appropriate within Built Form Precinct F under the Structure Plan and provides a suitable transitional building height as part of the tower buildings approved, constructed and / or currently being considered between (a) Young Street and Nelson Road and (b), Whitehorse Road and the peripheral residential area of Hopetoun Parade.

Built Form Precinct F states in summary, that *heights must not cause overshadowing of Key Open Spaces, Residential Precincts A or B or residential areas beyond the study area. Transitional heights to be provided at edges of the precinct to respect the scale of neighbouring precincts.*

The site is situated well away from any key open spaces but is located 80 metres north of peripheral Residential Precinct A south of the railway. The Structure Plan requires that there should be no overshadowing of this peripheral residential precinct during the Winter Solstice (22 June) between 11am and 2pm. However, this margin has already been compromised by a number of approved and/or constructed tower buildings east and north of the site, due to both approvals issued at the direction of VCAT, and as, guided by the '*Draft Box Hill Metropolitan Activity Centre Built Form Guidelines*' (Amendment C175), which was later abandoned and does not apply under today's planning regulations.

### 9.1.3

(cont)

Most of these nearby tower buildings do however protect the southern footpath of Hopetoun Parade and all dwellings fronting Hopetoun Parade, from overshadow during the Spring Equinox (September 22<sup>nd</sup>). While the proposed building will also overshadow a number of properties on Hopetoun Parade during the Winter Solstice, all properties and the southern footpath of Hopetoun Parade are however fully protected from overshadow on the Spring equinox between the hours of 11am and 2pm. This consistency with tower buildings in the surrounding area demonstrates that the transitional building height is appropriate within the surrounding urban context of the Box Hill MAC, as well as from an external amenity perspective.

#### Built Form & Massing

The tower form is broken into 3 distinguishable elements, being the 4-5 storey podium, the 19 storey tower, and that part of the structure that includes a 5 storey capping component being the third element. Each element is delineated from each other by variations in architectural detail, use of landscaping and articulation.

The tower element is well articulated as part of its curvilinear form, and contains a number of variations in architectural detailing and materiality to provide for visual interest. From the northern front interface, the white and grey balcony treatment combines to appear as two key vertical elements that project out from the clear glass curtain wall of the tower. The central dark grey glass curtain wall, located in between the balcony treatment, provides a background effect, resulting in a deliberate two-tower appearance (*see 3D artist impression elevations in Attachment 1*).

All architectural detailing and materiality complement each other in their delineated and integrated visual themes, which will generate sufficient visual interest amongst the surrounding towers once constructed. The curved capping at the top of the tower, while also a dominant architectural feature from both side and northern front aspects of the building, are also well integrated with the architectural detailing of the tower form as a whole.

From the south elevation the cascading floor level design for the top 8 floors is also a positive feature of the building in relieving building mass to the peripheral residential area south of the railway corridor. This stepped cascading profile is also reflected in the upper floors of the approved tower building at 9-11 Prospect Street further to the east of the site and thereby, providing consistency in the emerging built form within the surrounding urban landscape. Subject to refinement in the detail of the building, the overall built form and massing has received general support from Council's urban design consultant.

Overall, while recognising that a 23 storey building will be tall and prominent in its context, it will ultimately blend within the surrounding urban landscape of the Box Hill MAC, which is increasingly being defined by the towers that sit within the skyline, and as are envisaged in the long term vision for the Box Hill MAC. While acknowledging that the building in isolation may appear to be wide, the building when viewed within the emerging built form and skyline combined with the architectural detailing discussed above the proposal will be an acceptable outcome

#### **Public Realm**

The 3.4 metre to 7.2 metre articulated tower recess from the podium ensures that the podium street wall will be the key building feature as viewed from a human scale and pedestrian perspective, within the public realm. The four to five storey podium anchors the site and provides a pedestrian scale at the street edges.

### 9.1.3

(cont)

The podium street wall is visually broken into four separate vertical elements separated by glazed façades that contribute to, and are generally reflective of, the rhythm of existing buildings along Prospect Street. The central clear glass curtain wall draws the line of sight down to the office and residential main entries, consolidated centrally at ground floor level. The high use of glazing along the majority of the front façade width, anchored by vertical columns, plinths below, and weather and wind protective roof canopy awning treatment above, will provide for an active commercial frontage to Prospect Street.

The key concerns relate to the limited visual depth and interest provided in the front podium facade. For the upper podium floor levels, the use of soft, tactile, and 'human' materials like stone cladding in various colours, is supported and relates to the 'gritty' / 'grungy' building grain of the Box Hill MAC streetscape character. The window treatment, intended to read as 'penetrations' within the stone clad building façade, are not set deep enough into the façade wall to achieve this effect. An additional 500mm depth (total recess depth of 1 metre) is required to resolve this issue, which in turn will visually break how this presents to Prospect St. This can be addressed via a conditions of any permit issued.

This issue applies to the central glass curtain above the main entry which also requires an additional 500mm depth (maximum 1 metre recess) to again, visually break the podium street wall, while celebrating both the main entries and front court area. This is where pedestrians are likely to gather, to meet, and potentially to sit down should potential café seating be provided in future.

Another key issue concerns the ground floor level. The stone cladding has not extended fully down to street level and thereby does not allow the building to visually meet the ground. Instead, what is presented is a dominant window curtain across the entire extensive width of the site frontage, where the shop fronts are located. Vertical columns and plinths are provided which are generally supported, however, the columns do not stand out within the public realm, and do not sufficiently integrate with or relate to, the balance of the podium's building appearance, which is heavily defined by stone cladding. It is recommended that at least 30% of all podium building pillars extending to street level, be constructed of similar stone cladding to address this issue. This issue can be addressed as a permit condition should this application ultimately be approved.

The entry of the lower ground floor shop is also too close to the proposed vehicle crossover, which raises safety concerns of individuals potentially walking in front of vehicular traffic especially given the real potential for the grouping of pedestrianised activity to occur at this point. This issue can be addressed via a permit condition requiring this mentioned front shop entry be relocated at least 2 metres further east away from the proposed crossover, to address this issue.

Notwithstanding, the entire width of the front podium wall projects into the road reserve of Prospect Street. This has not been supported by Council's Asset Engineer and thus, must be set back within the property boundaries. This issue can be addressed as a condition of any permit issued.

All site services are hidden in the upper level basement and upper ground floor near the EOT facility, which has resulted in only the gas meter and fire booster being exposed to Prospect Street at ground level. This will ensure the site services will not be a dominant element in the public realm given the extensive site width.

VicTrack and DoT have also requested a number of changes to the interface of the south elevation including increased setbacks to ensure that the development does not (a) preclude future development opportunities and/or (b) present safety issues (items thrown from balconies into the rail reserve) along the rail corridor. These changes can be addressed via conditions of any permit issued.

### **9.1.3**

(cont)

#### **Landscaping**

The application includes a concept landscape plan which shows the retention of 3 of the 4 existing London Plane street trees (Trees 1, 2 and 4). Tree 3, being located closer to the site's frontage, will be structurally compromised by the construction of the basement and will need to be removed. This has been accepted by Council's ParksWide arborist, who has also recommended that tree protection measures be implemented to Trees 1, 2 and 4 during the construction period, while requiring an amenity contribution for the loss of Tree 3. These recommendations can be addressed as permit conditions and notes should the application ultimately be approved.

Landscape treatment is otherwise shown in common terrace areas and planter walls particularly floor levels 4 and 18, and rear apartment balconies on the cascading floor levels 16-22 to the soften the edges of the building. Shrubs will be provided for these landscaped areas with small feature trees spaced apart only for communal terraced areas.

A detailed landscape design and maintenance plan will be required to be submitted as a condition of any permit issued. Forming part of this condition will be the requirements of Council's Landscape Architect, with particular emphasis on ensuring that plant species, pot depth, and containerised infrastructure will be 'fit for purpose'. This will ensure that plants can thrive and feature so that the landscape theme successfully integrates with the design intent of the building.

Any landscape and/or paving in the road reserve will be addressed as a 'streetscape plan' required by Council's 'Design and Construct' officers. The streetscape plan must be in accordance with Council's Box Hill Urban Realm Treatment Guidelines, and will ensure that the integrated frontage treatment will successfully blend the interface between the public and private realms. All measures can be addressed as conditions of approval.

#### **Amenity**

##### Wind Impact

The proposal includes a Wind Impact Assessment (pedestrian level winds & wind tunnels). There are three relevant criteria comprising sitting comfort, standing comfort, and walking comfort. It is noted there are no industry wide standards and no measurable specification in the Planning Scheme on matters of wind impact or amelioration, and as such, officers take guidance from work undertaken within the CBD. The standards developed by expert consultants in this field, have been used to understand the effects of wind within the CBD where large buildings have been constructed, and use this knowledge to apply the standards of sitting, standing and walking comfort. Planning officers have required assurances that at least these standards must be met.

Vipac Engineers and Scientists Ltd have carried out a wind tunnel desktop assessment for wind pedestrian comfort levels concerning the proposed development in a report dated 2<sup>nd</sup> April 2020. The assessment covers wind effects for the ground level entries, adjacent pathways and adjoining properties. The Vipac report indicates that adjacent footpaths and adjoining properties should have 'walking' wind comfort levels, while entries and terraces should have 'standing' wind comfort levels. This is to guarantee an appropriate level of usability, functionality and safety for patrons & residents alike so that these spaces are able to be used in the manner intended.

The report's results indicate that the proposal meets all required pedestrian wind comfort levels, subject to (a) additional columns being provided for the entrance of the mezzanine office and (b), the lower ground level shop entry being recessed from the front boundary by 500mm. Both recommended changes can be required as permit conditions should this application ultimately be approved.

### 9.1.3

(cont)

#### Equitable Development

The site has no direct residential abutments. The proposed podium is to be situated onto both side boundaries. This will respect the development potential of both side adjoining sites enabling adjoining podiums to also be constructed up to 4 to 5 stories onto the respective common boundary. This is consistent with the expectations of the Structure Plan which seeks to eliminate requirements for side setbacks, encourage party wall construction and prohibit side facing windows at the podium level.

Minimum 4.5 metre side boundary setbacks for the proposed tower element of the development will provide for appropriate separation between both future adjoining buildings (combined distance of 9 metres). It will help direct boundary setbacks for future adjoining tower buildings, and as an industry-accepted separation distance, will ensure that issues of overlooking and providing appropriate adequate daylighting potential, are both addressed.

#### Environmentally Sustainable Development (ESD)

The orientation of the building on the lot has generally maximised available solar access. The use of shared roofing, floors and walls also promotes energy and resource efficiency. A Sustainability Management Plan prepared by Sustainable Design Consultants, was submitted with the application. Subject to conditional modifications to energy efficiency ratings, air conditioning details, ventilation, water tank sizes, recycled water for landscaping and cladding finishes, numerous outstanding omissions identified by Council's ESD advisor can be addressed via conditions of approval.

#### **Council's Urban Designer Recommendations (not already discussed):**

##### Address to Street

- a. Consideration should be given to the viability of transparent canopies – in particular with respect to cleaning, litter and dirt accumulation and maintenance requirements;

This is a maintenance issue for the applicant to consider and not an issue fundamental to the outcome of this application. No further conditional modifications are required should the application ultimately be approved.

- b. Identify areas for residential and business signage, street address and street edge lighting and ensure these are designed into the overall project (not considered as 'add-ons');

The revised plans have since addressed this issue showing on the plans that there is sufficient space for signage to be incorporated at a later date should this application be approved. This issue has been sufficiently addressed.

- c. Consider where and how services required to front the street will be incorporated into the building façade. In particular, the fire booster cupboards may provide an opportunity for some landscaping at the ground level;

This comment has merit and can be addressed as a permit condition accordingly.

### 9.1.3

(cont)

#### Street Activation

- d. The podium levels should include some outdoor balcony spaces fronting Prospect Street. These could be 'randomly' located within the stone clad elements to provide 'pop-out' spaces where workers can gather at the building façade.

The applicant has chosen not to incorporate this urban design suggestion. While this comment has merit, it is not fundamental towards providing a visually interesting front podium building façade that positively contributes to the surrounding public realm. Any ventilation issues are discussed earlier under 'Environmentally Sustainable Development (ESD)'. However, from an urban design perspective, the front facade of the podium has sufficient architectural merit and generates sufficient visual interest to positively support the Prospect Street public realm. No further modifications are warranted concerning this matter.

- e. The glazing to the podium levels should comprise a clear transparent glass enabling activities within the building spaces to be seen from the Prospect Street edge (northern footpath). We would similarly encourage this to the tower element, but do not regard this as of similar importance.

From a public realm experience providing transparency and integration between public and private realms, and to minimise reflectivity to building materiality, both considerations are key issues that must be addressed. This suggestion is warranted and can be addressed as permit conditions should this application ultimately be approved.

- f. Provide direct access to secure bicycle storage off the street. We consider the use of basement ramps to access bicycle storage as unacceptable.

The street ramp access to the bicycle storage and EOT area was also a key issue raised by Council's Transport Engineer from a pedestrian accessibility perspective. Should ramp and stair access prove too steep or unworkable for pedestrian with bicycles, there must be an alternate option to access this area. It is recommended that a western access point direct from the central court area in front of the main ground floor entries, be provided to address this issue. This can be addressed as a condition of any permit issued.

#### Address to Other Interfaces

- g. Until such time as new development occurs, exposed areas of concrete wall should be patterned or otherwise finished to provide interest.

As this recommendation is warranted, it is recommended that the side exposed concrete walls of the podium be of patterned concrete accordingly. This recommendation can be addressed as a permit condition should the application ultimately be approved.

- h. The finish to balconies and walls may require some further refinement (eg. pattern or texture) with the balcony soffits carefully resolved (as these are easily viewed from the street).

This recommendation is warranted and can be addressed as a permit condition accordingly.

### 9.1.3

(cont)

#### Residential Internal Amenity

- i. The provision of a lift(s) for the 3 storey townhouses in the capping of the building is encouraged;

While this comment champions providing 'aging in place' accommodation, these modifications would result in extending the lift core beyond the top of the building, increasing its overall maximum height and bulk, as well as its consequential overshadowing impacts to Hopetoun Parade. This modification is not warranted given the number of dwellings already provided with lift access, in providing the market with sufficient housing choice.

- j. Provide dedicated spaces in basement for electric vehicle charging and shared vehicle parking.

The plans have since been amended and now show 2 dedicated EV charging spaces, and 2 car share spaces, which address these recommendations.

#### **Uses**

The development is consistent with the purpose of the Commercial 1 Zone which seeks to, 'create vibrant mixed use commercial centres for retail and office and provide for residential uses at densities complementary to the role and scale of the commercial centre'. Precinct B of the Box Hill Activity Centre Structure Plan is identified as the primary office precinct in the activity centre. The re-development of the site provides a significant net increase in office floor area from approximately 200m<sup>2</sup> up to 8,055m<sup>2</sup> and activates Prospect Street through the provision of retail shop fronts (food and drink, shop and retail: 1,687m<sup>2</sup>) across the predominant site frontage. The apartments located at upper levels will not undermine the commercial role the development offers.

Planning approval is required for the residential uses. The provision of separate, but centralised commercial and residential ground level entries and lobbies is acceptable as it provides a sense of address and street presentation to these uses.

The street level activation from shop fronts is also split into lower and upper ground floor levels to address the site's slope constraints, which is an acceptable outcome.

#### **Clause 58 – Apartment Developments (not already discussed earlier)**

##### Urban Context

Standards D1 (Urban Context) and D2 (Residential Policy) have been largely discussed earlier in this assessment under 'Planning Framework', 'Local Planning Framework', 'Use' and 'Built Form and Massing' above.

Infrastructure (Standard D4) has also been discussed earlier confirming that all applicable service areas have been provided, and predominantly within the lower ground floor area to minimise visual exposure to the street frontage.

As previously discussed, subject to permit conditions, the development will be adequately integrated into the street frontage providing a sense of identity to both office, dwelling and retail land uses in accordance with Standard D5.

##### Site Layout

Standard D7 requires a minimum Communal Open Space (COS) provision of 250m<sup>2</sup> be provided. On floor level 18, 215m<sup>2</sup> of COS is provided, fragmented into 4 sections, with 3 sections ranging between 24m<sup>2</sup> and 47m<sup>2</sup> in area. Given the scale of the proposal, this COS provision is inadequate, but can be addressed as a condition on any permit issued.



### 9.1.3

(cont)

The proposal generally provides for the safety of its future residents and patrons. However, the EOT facility bicycle storage area is accessible only from the street, raising concerns for the security of residents. A required new western access into the EOT facility close to the main entry as discussed earlier will be required as a condition of any permit issued, which will increase pedestrian activity and improve sightlines into the EOT facility to address this issue.

To address the security issues concerning the residential lobby stair access, a convex mirror is recommended to be located in the south-western corner of this area to connect view-lines from the main lobby area. These measures can be addressed as a permit condition should the application be approved accordingly.

#### Amenity Impacts

There are no internal view conflicts between dwellings internally, side by side or floor by floor, with suitable screen devices included. No additional modifications are required as Standard D15 has been met. An acoustic report was submitted to address all noise impacts external of the site particularly from the rear adjoining railway corridor, and generated from within the development, including loading area, refuse areas, plant rooms, site services etc. Subject to a condition requiring confirmation that all acoustic measures have been addressed prior to occupation, the proposal will provide an acceptable level of internal amenity in this regards, complying with Standard D16.

Notwithstanding, the acoustic report was referred to and assessed by Vic Track and the Department of Transport (DoT) regarding the impacts to the railway corridor in particular. Both referral agencies consented to the proposal subject to the inclusion of numerous permit conditions being added to any approval.

#### Onsite Amenity and Facilities

All corridors are appropriate in width and have access to at least one external wall for daylighting and ventilation concerning the tower element. All dwellings are appropriately accessible.

There are a number of dwellings with poor entry profiles and sightlines particularly from extended 'snorkel like' corridors off the main corridor to door entries. This design feature is evident for three dwellings per floor level (applies to the south-eastern most dwellings on all floor levels 4-15). This design flaw can however be corrected via permit conditions should this application ultimately be approved to meet Standard D18.

#### Private open space areas

Secluded Private Open Space areas (POS) for dwellings (excluding those dwellings with 8m<sup>2</sup> balconies) will meet the minimum required dimensions for area and width. However, there are a number of dwellings (dwelling types 3, 5, 12 and 13) that have 8m<sup>2</sup> balconies with a/c units that are scaled on the plans at 7.3m<sup>2</sup> to 7.5m<sup>2</sup> and are required to have additional 1.5m<sup>2</sup> of area to account for the a/c unit (9.5m<sup>2</sup> minimum POS area required). This currently does not meet Standard D19 and must be modified accordingly. This issue can however be addressed as a permit condition should the application ultimately be approved.

#### Dwelling Design and Functional Layout

All common property, corridors and site services are adequately provided. The dwelling diversity is reasonable with a mix of 1, 2, 3 and 4 bedroom dwellings provided in varied floor layouts in accordance with Standard D3. The bedrooms are appropriately dimensioned in accordance with the objectives under Table D7. The bedroom layouts are considered to be acceptable with regards to their future level of amenity for residents in that each room is provided with built in wardrobes.

### 9.1.3

(cont)

The exception concerns dwelling types 15 and 19 that include self-contained studies (2.5m x 3m or 7.5m<sup>2</sup>), which could also function as substandard third bedrooms if all storage fixtures were removed. A condition of approval will ensure that the wall and connecting access door are both removed to provide an open plan study area, and restricts the potential future conversion of a third bedroom.

There are a number of kitchen layouts with butler's kitchens, which test the room depth requirements of Standard D25. However, overall the layouts will have designated kitchen areas, separated from the living rooms with adequate functional spaces for residents. It is considered that each dwelling will be provided with functional areas to meet needs of residents.

No habitable rooms rely on borrowed light, but do commonly utilise 'snorkel' arrangements for various bedroom layouts up to 1.7 metres in depth in some instances. Despite this, Standard D26 will generally be met.

### Parking, Traffic and Access

#### Car Parking

The proposal would generate the following parking requirement under Clause 45.09.

Use	Size / Number	Car Parking Rate Clause 45.09 Rate	Car Parking Demand	Car Space Provided
<b>Dwellings</b>	70 x one bedroom	0.5 spaces per dwelling	35 spaces	35 spaces
	165 x two bedroom	0.75 spaces per dwelling	123 spaces	123 spaces
	27 x three or more bedroom	1 space per dwelling	27 spaces	27 spaces
	Visitor parking for 262 dwellings	0.2 spaces per dwelling for first 5 dwellings, and 0.1 spaces thereafter per dwelling	26 spaces	13 spaces
		<b>Total Residential parking</b>	<b>211 spaces</b>	<u>198 spaces</u>
<b>Retail</b>	1687sqm	3.5 spaces / 100sqm	<b>59 spaces (+ 4 accessible spaces)</b>	<u>21 spaces</u>
<b>Office</b>	8,055 sqm	2 spaces / 100sqm	<b>161 spaces</b>	<u>143 spaces</u>
<b>Total</b>			<b>431 spaces</b>	<u>408 spaces (includes 42 unallocated spaces and 4 car share spaces)</u>

The proposal has a statutory requirement for 431 car spaces (185 resident car spaces and 26 visitor spaces, 161 office spaces and 59 retail / food and drink spaces). The proposed parking provision is 408 spaces (198 car spaces (dwellings), 143 spaces (office), 21 spaces (retail), 4 spaces (car share spaces), and 42 spaces (unallocated).

With consideration given to the applicant's submitted traffic report, Council's Transport Engineering Team's empirical assessment results in a modified visitor parking requirement of 13 spaces (reduced by 50%) on the basis that the 'Office' parking spaces are shared as visitor parking outside business hours.

### 9.1.3

(cont)

The applicant intends to allocate the 42 'unallocated car spaces' to the dwellings. Council's Transport Engineer does not support this approach when there is an empirical parking provision shortfall for both proposed 'office' (shortfall of 18 spaces) and 'retail' (shortfall of 38 spaces) land uses. It is recommended that the unallocated car spaces be reallocated as follows:

- Office (18 additional spaces allocated, 161 spaces in total, no modified shortfall)
- Retail (24 additional spaces allocated, 45 spaces in total, modified shortfall of 14 spaces)

The resulting reduction to the car parking rate is 14 car spaces under the empirical assessment of Council's Transport Engineer. Given the highly convenient location of the proposed development within the Box Hill MAC, including the major transport interchange, and the Whitehorse Road tram line, this car parking shortfall is considered acceptable, and importantly, the residential apartments have the appropriate number of car parking spaces allocated to them.

#### Traffic Generation

The Traffic Engineering Assessment has anticipated that the proposed development would generate a total of 900 trips per day (123 trips in the peak hour). Council's traffic engineers have identified that this will result in a 20% anticipated increase to the current traffic generation of Prospect St and at the intersections with Nelson Road and Elgar Road (average daily volume of 5,000 vehicles daily). Council's Transport Engineers have required the applicant to provide further analysis to demonstrate that the traffic generation can be accommodated within the surrounding road network. This requirement is not warranted for a number of reasons that will now be discussed.

The site is located in the heart of the Box Hill MAC, which is rapidly evolving with high density tower development similar to the proposal, expected to dominate the skyline for decades to come for which the proposal is a key part of. A strong percentage of these buildings will provide a variety of high density residential and commercial land uses, which will have local, regional and metropolitan catchments attracting high levels of activity and employment opportunities.

The Box Hill MAC will continue to become a place to visit for longer periods and more frequently from a wider range of the community. This is specifically encouraged by the Parking Overlay (Clause 45.09) that seeks to ensure that development and use in the Box Hill Transport and Retail Precinct are appropriate to its role and function, which includes accommodating a more intensive and diverse range of activities that increase choices and opportunities, support synergies between different uses, encourage use of sustainable transport and complement surrounding areas.

Given the scale of these tower buildings and highly accessible and convenient locations to the major transport hub in Box Hill, multi-purpose trips will be common place, which will likely combine with a trip to the proposed development given its mixed use nature and employment capabilities. Alternative modes of transport use (including car share arrangements) will also be common place, which the proposal supports through the provision of 2 car share spaces. These characteristics are all encouraged by Clause 52.06 (State Parking Policy).

The widespread activation of street frontages throughout the MAC will give rise to a more pedestrian-friendly public realm, with walking, bicycle riding and public transport being the dominant modes of transportation within the MAC. Both Clauses 22.07 (Box Hill MAC Policy) and 45.09 (Parking Overlay) specifically encourage this, including activity encouraging a significant increase in the use of public transport given the metropolitan role of the MAC, and reducing vehicle trips by minimising parking provision were appropriate.

### **9.1.3** (cont)

The Parking Overlay also seeks to improve the general amenity for pedestrians within Box Hill to increase the willingness for visitors and staff to walk to and within the MAC to their destination. A key deterrent in supporting a viable and dynamic pedestrian realm from a functionality, atmosphere and safety perspective is to minimise the extent of vehicles required to enter the MAC.

For the above reasons, the impact of vehicular traffic to the surrounding road networks and nearby junctions is considered to be outweighed by the greater need to actively support a pedestrian-friendly public realm, where the use of alternate modes of transport is common place.

#### Access

The provision of access is largely compliant against Clause 52.06. Council's Transport Engineer did however raise concerns on car parking facilities (columns potentially encroaching into car spaces), carpark headroom clearance heights, sight distance splay and access controls into the parking area from Prospect Street, which can all be addressed as permit conditions should this application ultimately be approved.

Notwithstanding, only 1 access point to Prospect Street will be provided to maximise safe traffic movements and a safe pedestrian environment with the Prospect Street road reserve in accordance with Standard D11. Parking location is consolidated as a multi-level basement level carpark, which will be well ventilated and conveniently located to dwellings via the use of lifts or stairs to meet Standard D12.

#### Bicycle Facilities

The proposal has a statutory requirement for 133 bicycle spaces as required by Clause 52.34 (Bicycle Facilities). The proposed bicycle allocation is 147 spaces, which meets this requirement. The proposal also requires 4 showers for the 35 proposed staff numbers, and a change room for both males and females. The proposal provides a separate male and female change room within the end of trip (EOT) facility, each including 3 showers (6 in total), which satisfies this requirement.

The end of trip facility is intended to have a dual purpose in both serving the proposed development, but also to be a public facility for pedestrians nearby the site. Its primary access is from the eastern corner of the building's Prospect Street frontage, which is a good initiative in supporting the MAC as a key destination, and Prospect Street functioning as a more pedestrian friendly realm.

There are however two key issues from an accessibility perspective. There is no convenient access from the site, while the ramp access from the street has raised concerns from both Council's urban design advisor and Transport Engineer for being too steep. To address both issues, it is recommended that a new secondary western access point to the front ground floor rebate area beside the unsecured visitor bicycle hoops, be provided. This access will not require steep ramping and can address these issues as a permit condition should this application ultimately be approved.

#### Waste Collection

Waste collection can be undertaken by private waste contractor within the dedicated loading bay adjacent to the waste refuse area on basement level 1, accessed via Prospect Street. Council's waste engineer has not yet approved the WMP requiring additional space to accommodate waste compactors and associated lifting equipment, which can be addressed as a condition on any permit issued.

### **9.1.3**

(cont)

Council's Transport Engineer has supported the provision of access to enable the waste vehicle to enter the site, carry out collection on site and leave the site accordingly. However, additional cross-section plans are required to demonstrate 3.5 metre minimum height clearances to accommodate the waste vehicle and compactor lifting equipment.

The applicant intends to use a 2 metre high, 6.4 metre long mini-rear loader private waste vehicle to collect the waste. The floor to floor cross-section plans indicate a clearance height of 4.4 metre between the ground and basement level 1 floor levels, which will likely be sufficient to address this issue. If any required modifications to floor heights are required, they are expected to be minor in nature and can be addressed as a condition of any permit issued.

#### **Draft Box Hill Vision / Development Plan Overlay (DPO9) / Activity Centre Zone (ACZ1)**

At the Council Meeting on 25 May 2020, Council resolved to seek authorisation from the Minister for Planning under the Planning and Environment Act 1987 to prepare and exhibit an amendment to the Whitehorse Planning Scheme to implement the recommendations of the project. This completes Phase 3 of the project and Council will now prepare an amendment to the planning scheme for exhibition and public comment.

This will include a revised Box Hill Structure Plan, new Urban Design Framework and draft planning scheme controls. Although this documentation is not yet considered 'seriously entertained' given the status of the Planning Scheme Amendment, it is worth providing a summarised discussion on how the proposal compares with this policy and the proposed new zone (ACZ1) should it be implemented in its current form.

The proposed ACZ1 will be applicable to the site. Permit triggers would remain the same for the proposed retail and office land uses, while a modified permit trigger for 'accommodation' would apply with more than 30% of the building comprising apartment dwellings from a land use perspective. The ACZ1 would also require 6% of the proposed 262 dwellings to be provided as affordable housing (total of 16 dwellings), which currently is not complied with. This is also a common feature with a number of approved and/or constructed tower buildings in the area where residential land uses are proposed. Commonly the residential aspect noticeably exceeds the 30% expected total, although there has to date been a limited supply of affordable housing.

A permit would be required for all buildings and works as it currently applies in the planning scheme. From a buildings and works perspective the proposal generally achieves the precinct guidelines and design and development requirements concerning building height (below 120 metres high), street wall height (below 20 metres high) and external overshadow impacts (residential precinct from Hopetoun Parade is protected during the Spring Equinox). The single consolidated vehicular access, high grade architecture, articulation cladding, and active frontage podium floor levels are also supported under the ACZ1.

The non-compliant items relate to tower separation internally (ideally 2 towers should be proposed given the site's multi parcel width) and externally (side boundary tower setbacks of five metres at 8-15 stories, and ten metres at 15+ stories). The 0 metre podium street setback will not comply with the 3 metre minimum street setback required by the ACZ1, but it is also acknowledged that a large central rebate area recessed 4 metres from the street frontage is provided for meeting, gathering and café seating purposes.

Overall, while some development components would not meet the proposed ACZ1, the proposal would likely achieve overall support and an acceptable outcome under the ACZ1.

#### **Integrated Public Transport Planning**

Clause 62.02-11 requires the land to be referred to Department of Transport (DoT). Consent has been provided by DoT without the inclusion of any additional permit conditions.

### **9.1.3**

(cont)

#### **Objections**

##### Advertising Process

This issue has been discussed earlier indicating that the application was correctly advertised in accordance with the normal statutory requirements of Section 52 of the Planning and Environment. One objection has been received, and in addition to a submission from VicTrack.

##### Tree Removal / Landscaping

This issue has been discussed earlier confirming that Trees 1, 2 and 4 can be retained and Tree 3 removed, which has received conditional consent from Council's Parks Wide arborist. The proposal will also provide landscaping as part the communal terrace areas of which includes numerous feature trees, as well as within private dwelling balconies.

##### Traffic / Parking / Access / Safety / Absence of Shared Footpaths or Bicycle lanes

Objection grounds have acknowledged the pedestrian safety issues resulting from traffic and parking demands. These issues have been discussed in detail earlier in this report. Concerning shared footpaths and bicycle lanes, the Prospect Street footpath is at least 2 metres in width and allows for the shared use of pedestrians and cyclists. However, as more tower development emerges in Prospect Street, the level of bicycle and pedestrian activity is expected to increase significantly.

Although the podium has no street setback to maximise the future public realm width, the 4 metre deep central rebate space in front of the main residential and office entries will ensure that the gathering, meeting and seating of patrons/residents/visitor will largely occur on site and away from Prospect Street pathway. This will help relieve congestion in the public realm to enable shared pedestrian and bicycle activity to occur in the public realm.

##### Wind Impacts

This issue has been discussed earlier, confirming that the pedestrian wind comfort levels concerning the proposal will be 'walking' for adjacent footpaths and adjoining properties, and 'standing' for entries and terraces. This provides certainty that there will be an appropriate level of usability, functionality and safety for patrons & residents around and within the building so that these spaces are used as intended.

##### Overshadowing/loss of sunlight:

As stated earlier, an acceptable level of compliance has been achieved with relevant policy on this issue.

##### Noise and light spill

Based on an acoustic report submitted as part of the application, the proposal will not likely result in unacceptable noise emissions given the location of the site away from any surrounding residential area, and the nature of the building's use for dwellings, office and smaller scale retail purposes. Concerning noise generated from the rear adjacent rail corridor to the development, Vic Track and the DoT have both required numerous permit conditions to ensure that noise will not be an issue for future occupants from a liability perspective.

##### Reflective External Surfaces

This is a key issue that has become evident with some of the recent buildings constructed within Box Hill. As discussed earlier in the report, this is an important element that can be managed through appropriate conditions of any permit issued.

### **9.1.3**

(cont)

#### Limited Open Space

This issue is warranted particularly to future residents of the 262 dwellings proposed, where the provision of communal open space (COS) does not meet Standard D7 (COS) of Clause 58 as previously discussed. This issue can however be addressed via a permit condition should this application ultimately be approved.

#### Not Aligned with Box Hill Vision

As discussed earlier, although some non-compliance under the ACZ1 is evident, the proposal will achieve a good overall level of compliance including a large net gain of office floor space and strong street frontage activation with a variety of shopfronts provided. The proposal will not prevent the intent of the Box Hill vision from being achieved in the Prospect Street Precinct.

#### No Common Laundry

This provision may have been required if short-term accommodation was included in the proposal, however this is not the case in this instance. The provision of a common laundry is not therefore warranted from a planning perspective.

#### Impact of Construction Period

The requirement for preparation of a Construction Management Plan (CMP) is commonly required for large build developments including towers, imposed through a permit condition if approved. The CMP helps to reduce disruption to neighbouring residents and the environment during the demolition, excavation and construction of a building site. Specific issues addressed include matters of public safety, site security, operating hours, noise control, air and dust management, stormwater and sediment control, waste and traffic management and staged development. Should this application be approved, a CMP will be required via a permit condition accordingly.

### **CONCLUSION**

The proposal for use of the land for accommodation (dwellings), buildings and works for a 23 storey mixed use development, 6 levels basement and reduction to the car parking requirements, is an acceptable response that will satisfy the relevant provisions contained within the Whitehorse Planning Scheme, including the State and Local Planning Policies and the Commercial 1 Zone.

The proposed design of the building has architectural and urban design merit, and has reasonably responded to all external overshadowing impacts from a building height transition, and external public realm amenity perspective, respectively. The proposal does not require an excessive reduction in car parking and thus, poor traffic congestion and traffic safety will not directly result from the proposed development. All issues of environmental sustainable design and waste management can be addressed as conditions of approval.

It is therefore considered that the application should be approved accordingly.

### **ATTACHMENT**

- 1 Development Plans

## Strategic Planning

### 9.1.4 Tally Ho Major Activity Centre: Review of Commercial 1 Zone and consideration of submissions

FILE NUMBER: SF18/2614  
ATTACHMENT

#### SUMMARY

In March 2019 Urban Enterprise and Echelon Planning were appointed by Council to undertake an analysis of the economic performance of the Tally Ho Activity Centre and review the suitability of its Commercial 1 Zoning. This work resulted in a report 'Tally Ho Commercial 1 Zone Review – July 2019.' The report examined the risk to the success of the business and employment role of the activity centre if left in the current Commercial 1 Zone and recommended that the suitability of the Commercial 3 Zone be explored as an alternative zone.

At its meeting on 26 August 2019 Council resolved to note the 'Tally Ho Commercial 1 Zone Review' report prepared by Urban Enterprise and to publicly release the report for a period of consultation.

This report provides Council with the results of consultation undertaken in February-April 2020 with landowners and occupiers in the Tally Ho Activity Centre, explores the issues raised and recommends changes via an amendment to the Whitehorse Planning Scheme.

#### RECOMMENDATION

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

1. **Note the submissions received during consultation on the Tally Ho Commercial 1 Zone Review prepared by Urban Enterprise, July 2019.**
2. **Adopt the Tally Ho Commercial 1 Zone Review (July 2019) revised December 2020 at Attachment 1, which has been updated as outlined in this report.**
3. **Request Authorisation from the Minister for Planning under Section 8 of the Planning and Environment Act 1987 to prepare and exhibit Planning Scheme Amendment C232 to the Whitehorse Planning Scheme as shown in the Amendment documents at Attachment 2 to:**
  - a) **Rezone the land in the Tally Ho Major Activity Centre from the Commercial 1 Zone to the Commercial 3 Zone and apply the schedule to the zone to:**
    - i. **Prohibit dwellings and residential buildings in the Tally Ho Business Park.**
    - ii. **Limit dwellings and residential buildings on the Poly Holdings site at 347-383 Burwood Highway, Forest Hill and the Crossway Baptist Church site at 2-18 and 27-29 Vision Drive and 709 Highbury Road, Burwood East to the default specified in the Commercial 3 Zone, being up to 35% of the combined gross floor area of all buildings on the lot.**
  - b) **Apply a Specific Controls Overlay (SCO) to the Crossway Baptist Church land and insert a new associated Incorporated Document under the schedules to Clauses 45.12 and 72.04.**
  - c) **Make consequential changes to the Tally Ho Activity Centre local policy at Clause 22.08.**
4. **Authorise the General Manager City Development to make changes to the amendment to meet any conditions of authorisation from the Department of Environment, Land, Water and Planning (DELWP), provided these are consistent with the intent of the amendment, prior to submitting the amendment to the Minister for Planning for exhibition.**
5. **Advise all submitters of the outcome of this report.**



### 9.1.4

(cont)

#### BACKGROUND

The Tally Ho Activity Centre is designated as a Major Activity Centre (MAC) in the State government strategy, Plan Melbourne 2017-2050. Tally Ho plays a very different role to that of other Major Activity Centres in the City of Whitehorse and across Melbourne. At its core, it functions as an office park and technology hub and provides approximately 3,500 -3,700 jobs, set in campus style surroundings. With approximately 100,000 sqm of commercial office space, Tally Ho accommodates in the order 10% of the commercial office space in the outer eastern region of Melbourne, making it a significant location for office uses. Property specialists for Melbourne's eastern region identify Tally Ho in Burwood East as one of 7 'Major Metropolitan Hubs' in the eastern region alongside Box Hill, Doncaster, Glen Waverley, Mulgrave, Camberwell and Malvern.

Council actively supports maintaining and enhancing the economic role and function of Tally Ho by encouraging businesses and services that create jobs. This is underpinned by a range of strategies applying to the Activity Centre including:

- The *Tally Ho Urban Design Framework* (UDF) 2007 implemented through Clause 22.08 of the Whitehorse Planning Scheme – Tally Ho Activity Centre
- The *Tally Ho Activity Centre Urban Design and Landscape Guidelines* (Guidelines) 2013 implemented through the Design and Development Overlay Schedule 9 (DDO9)
- The Whitehorse Housing and Neighbourhood Character Review 2014 (Housing Review) which formed the basis of the Housing Framework Plan at Clause 21.06 (Housing) of the Planning Scheme. This identifies the preferred locations of 'Substantial Change' for residential development on the Burvale Hotel site and extending along Burwood Highway, to the immediate east and west of Tally Ho Activity Centre, and on the nearby former ATV-0 redevelopment site approx. 300 metres to the north of the Activity Centre.

These strategies support Tally Ho as a significant 'high tech' business location with a vision to maintain and enhance its primary role as an office hub. While the UDF identifies locations suitable for residential development within the wider UDF study area boundary, it does not identify land in the current Commercial 1 Zone shown in Figure 1 (below) as being suitable for residential purposes.

At a State planning level, Tally Ho has also recently been identified as a regionally significant commercial area in the *Commercial and Industrial Land Use Plan 2020* prepared by the Department of Environment, Land, Water and Planning (DELWP).

#### **Planning Scheme Amendment VC100**

In July 2013, as part of State-wide zone reforms, the previous Business 1 (B1Z) and Business 2 Zone (B2Z) were combined via Amendment VC100 by the Minister for Planning to become the Commercial 1 Zone (C1Z). This amendment fundamentally changed the purpose of the B2Z from a zone that encouraged the development of offices and associated commercial uses, into the C1Z that provides for a range of uses including retail, office, business, entertainment and community and residential uses. The zone reforms altered the planning permit trigger for a number of uses in areas previously in the B2Z, whereby uses including shop, retail premises and child care centre, and in particular, accommodation (above ground level), are now as of right in the C1Z.

Prior to these zone reforms the existing C1Z land in the Tally Ho Major Activity Centre was included in the B2Z. This change has the potential to undermine the policy intent of the Tally Ho Activity Centre which is not only a significant existing and future employment node for Whitehorse but also for the wider eastern metropolitan region.

### 9.1.4 (cont)

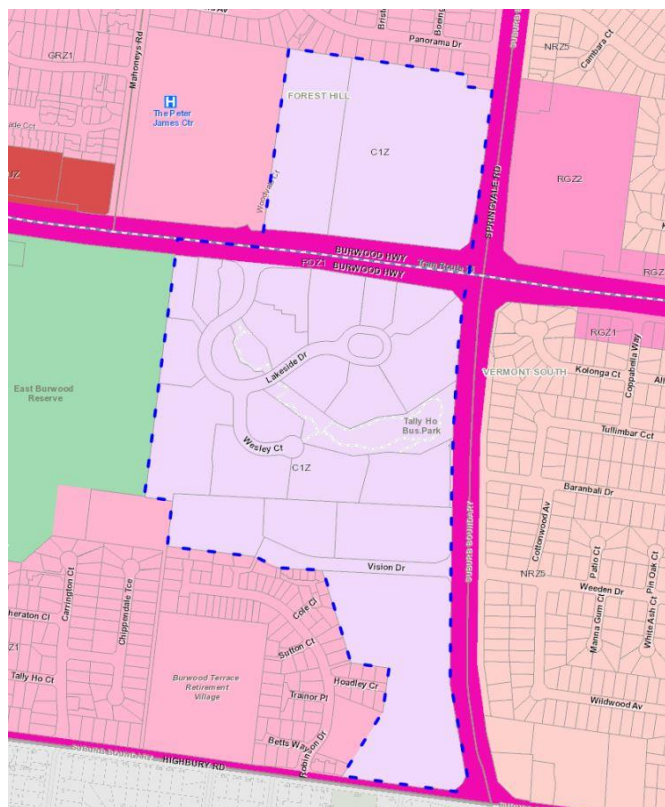
Since the 2013 reforms Council has received enquiries for sites within the Tally Ho Activity Centre, particularly the Poly Holdings (former Hewlett Packard owned) site at 347-383 Burwood Highway and other sites in the Tally Ho Business Park, for residential uses. In October 2018 VCAT issued a permit (WH/2017/646) for an eight-storey mixed-use building, comprising commercial, retail, food and drink and educational uses and including 122 residential apartments at 378-380 Burwood Highway, also known as the 'China Bar' site.

These enquiries and permit applications signal that the vision for the Tally Ho Activity Centre relating to its primary employment strengths may become compromised if residential uses (in particular 'dwellings'/apartments) incrementally establish in the commercial zoned areas.

## Review of the Commercial 1 Zone at Tally Ho

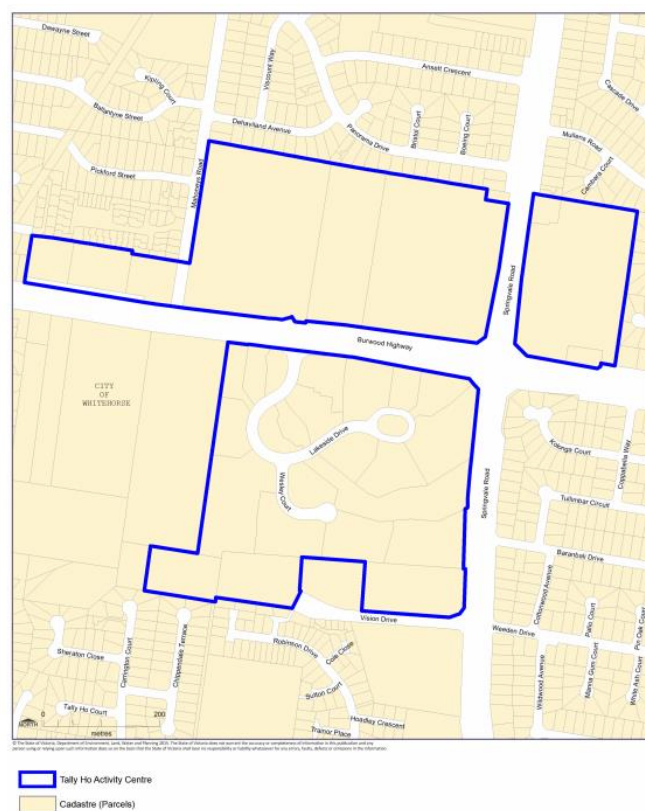
In March 2019 Urban Enterprise and Echelon were appointed by Council to review the C1Z in the Tally Ho Activity Centre. The project sought to analyse the economic characteristics and role of the C1Z land in the Activity Centre, assess the appropriateness of the building stock to meet the needs of potential business types, and consider the extent to which residential development might complement or conflict with existing employment uses. One of the key findings of the project was that while defined as an 'Activity Centre,' the C1Z Study Area principally accommodates headquarters for large corporations and government agencies, including emergency services, and therefore has an economic role of regional significance.

The map at Figure 1 shows the extent of land in the C1Z that is the focus of this study (the Study Area), noting that the C1Z boundary does not follow the existing Activity Centre boundary defined in Clause 22.08 of the Planning Scheme (shown in Figure 2). For clarity, Figure 3 shows a combination of both boundaries. This discrepancy between the zone boundary and the Activity Centre boundary is addressed further in the 'Discussion' section of this report, specifically in the commentary relating to Clause 22.08 of the planning scheme.

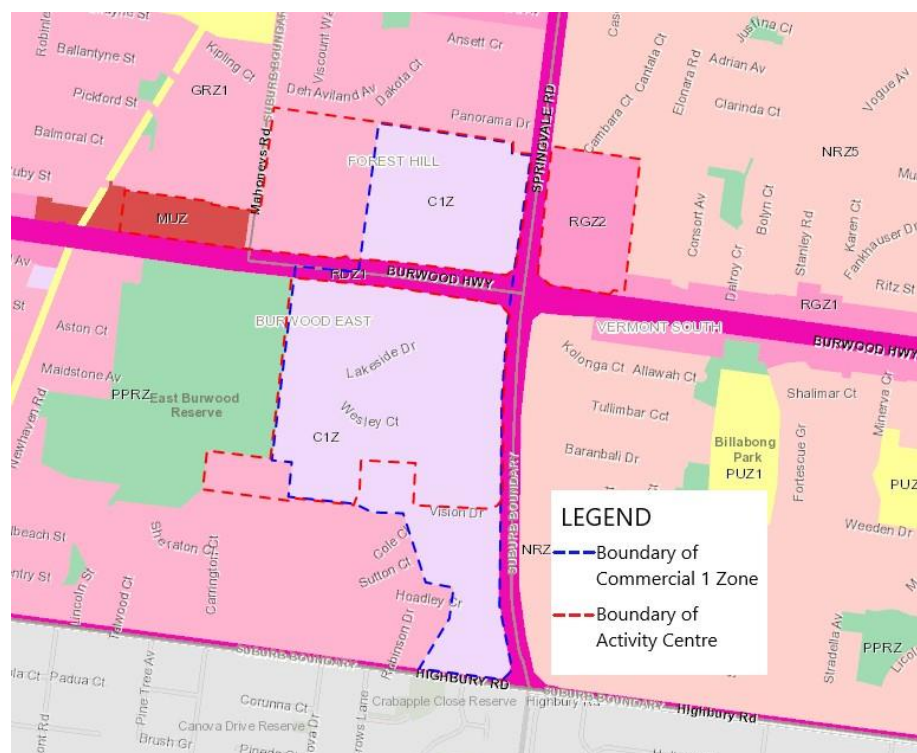


**Figure 1 - Study Area includes land in the Commercial 1 Zone (C1Z)**

## 9.1.4 (cont)



**Figure 2 – Activity centre boundary (Clause 22.08 Whitehorse Planning Scheme)**



**Figure 3 – Combined Activity Centre boundary and Commercial 1 Zone boundary**

#### 9.1.4 (cont)

The aerial photograph at Figure 4 shows that the Study Area is made up of the Poly Holdings site (A) on the north western corner of Springvale Road and Burwood Highway, the Tally Ho Business Park (B) on the south western corner of the intersection and a large tract of land adjoining to the south owned by the Crossway Baptist Church (C). Other notable nearby sites include the Burvale Hotel (D), the Peter James Centre (E) and the Quest apartments (F), however these three nearby sites are not included in the Study Area as they are not zoned Commercial 1.



**Figure 4** – Aerial photograph showing key landholdings within and surrounding the study area

The resulting report from this work, *Tally Ho Commercial 1 Zone Review, July 2019* (the Review) confirmed that performance indicators for the centre as an employment node are strong. There are 3,500 jobs within the Study Area and those businesses currently located at Tally Ho will continue to be relevant into the future, including headquarter offices and government agencies. The Review concluded that there is a strong case for retaining an employment focus for the Study Area. Following are the five recommendations from the Review as presented to Council on 26 August 2019:

- *Recommendation 1 - Revise the existing Tally Ho Policy (clause 22.08) [of the Whitehorse Planning Scheme] to make clearer the specific range of complementary uses that are supported by Council within the Study Area (and under what conditions).*
- *Recommendation 2 - Apply the Commercial 3 Zone (with a schedule which prohibits dwellings, but which permits residential buildings with a floor area of up to 50% of the total floor area of a building) to the entire Study Area, including the area north of the Burwood Highway, and the Crossways Church site.*
- *Recommendation 3 - . Apply a site specific control to the existing Crossways church site which retains the same land use status for a place of worship that currently exists under the Commercial 1 Zone.*



#### 9.1.4

(cont)

- *Recommendation 4 - In the event that Council considers that a specific part of the Study Area needed to be set aside for the provision of freestanding short-stay accommodation and/or some form of a small 'local activity centre' comprising a small supermarket and associated speciality shop uses, then part of the land could be differently zoned to allow this.*
- *Recommendation 5 -. Undertake a review of the existing built form controls that apply to the Study Area in the coming years. The review should focus on ensuring that the high quality building and landscape design vision established under the existing UDF and Design Guidelines is achieved whilst at the same time supporting the creation of a greater intensity and diversity of activities and also the renewal and redevelopment of ageing building stock within the Study Area.*

Recommendation 2 includes replacing the C1Z in the Study Area with a Commercial 3 Zone (C3Z). The C3Z was introduced to the suite of planning tools by the State government in September 2018 to help facilitate business growth and innovation in select parts of Victoria. The purpose of the C3Z is as follows:

- *Providing for a range of industrial, commercial, office and other employment generating uses which support the mixed-use employment function of the area.*
- *Promoting collaborative and high-quality working environments which support the area through good urban design and high amenity, accessible and well-connected places.*
- *Providing opportunities for limited retail uses which are complementary to the role and scale of the area.*
- *Providing the option for limited residential uses that do not undermine the primary employment and economic development focus of the zone.*
- *Facilitating the use, development and redevelopment of land in accordance with the objectives specified in a schedule to the zone*

Planning Practice Note 85 – *Applying the Commercial 3 Zone* (PPN85) indicates that the primary intent of the C3Z is employment generation, and that the extent to which other land uses such as retail and residential are accommodated, needs to be carefully managed.

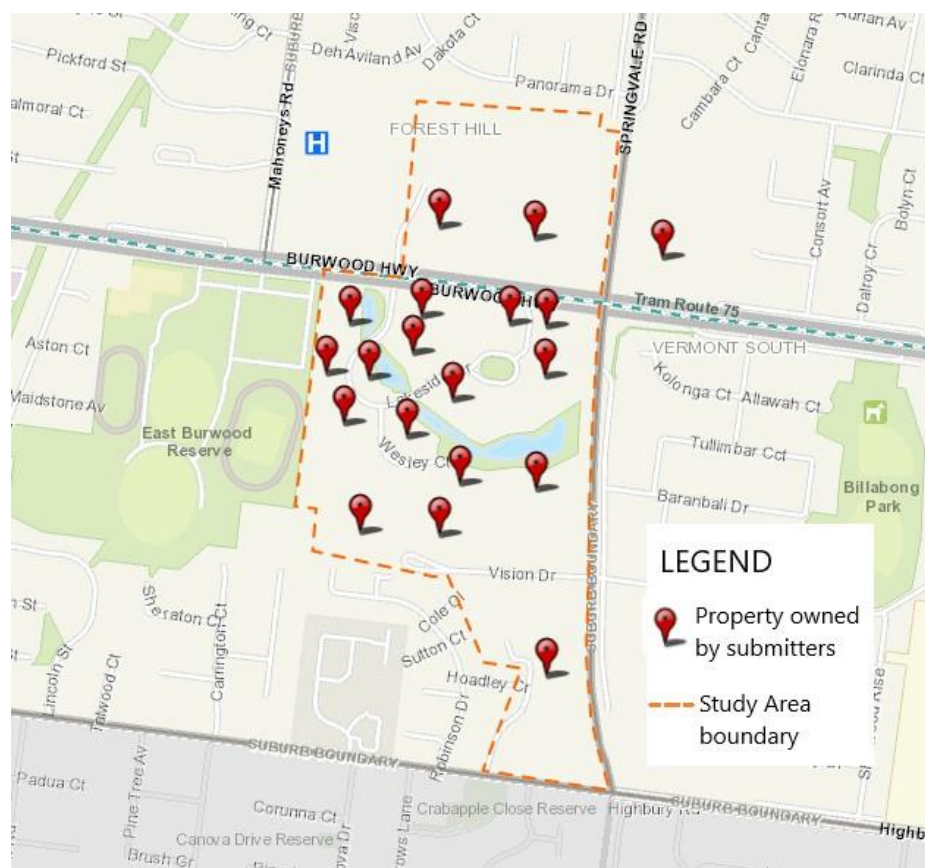
The report to Council on 26 August 2019 provided a detailed outline of the key findings of the Urban Enterprise Review report. Council resolved to note the contents of the Review and to publicly release the report for a period of consultation.

## DISCUSSION

### ***Results of Consultation***

The Review was made publicly available via Council's website and submissions were accepted over a six week period from 24 February to 9 April 2020. During that period 11 submissions were received, 10 of which were made on behalf of landowners within the Study Area and one of which was made on behalf of a land owner elsewhere in the Tally Ho Activity Centre (refer Figure 5). A list of submitters and their property of interest is at **Attachment 3**.

### 9.1.4 (cont)



**Figure 5** – Property location of submissions. Note: Some submissions covered multiple properties

The consideration and assessment of submissions has been done according to common issues/themes including:

- Use of the Commercial 3 Zone (C3Z)
- The Design and Development Overlay (DDO9)
- Status of Tally Ho as an Activity Centre
- Crossway Baptist Church
- An overview of these issues, a response to each concern and a recommended outcome is outlined below.

#### **Use of the Commercial 3 Zone – 10 submissions**

There is concern from submitters that the C3Z has not yet been tested in Victoria and it seems inappropriate to test it on Tally Ho, especially while the Activity Centre is experiencing low vacancy rates. Many submitters believe that the C3Z was introduced to facilitate areas of growth for creative industries, small manufacturers and start-up businesses rather than established tech companies and government agencies.

There is a strong preference from submitters to retain the C1Z across the Activity Centre or at least review the DDO9 as a first step in stimulating investment and interest in the centre. Submitters generally see the C1Z as the right zone to ensure flexibility for growth and economic viability for the Activity Centre in the future although the suitability of the Mixed Use Zone (MUZ) was also questioned as an alternative zoning.

#### 9.1.4 (cont)

Most submitters believe that employment generating uses such as child care facilities, gyms, short term accommodation, cafes and bars would benefit from being co-located with offices. This would allow night-time and after-hour activities to a commercial area that would otherwise be 'dead' and be at odds with the purpose of activity centre. Submitters believe that C1Z offers the greatest flexibility for the establishment of these land uses.

Submission 2 from Tract on behalf of Welloyd Trust for the sites at 378 and 380 Burwood Highway and 1 Lakeside Drive, Burwood East, specifically commented that under the current C1Z there is no ability for an applicant to propose a development entirely comprising accommodation land uses without triggering a planning permit, and as such, Council has the ability to facilitate and negotiate the final development outcome. The submission states that the Review should more clearly identify and acknowledge the 'condition' associated with Accommodation in the land use table of the C1Z.

#### Response

It is agreed that the C3Z is a relatively new and untested zone as it has still not been introduced into a municipal planning scheme in Victoria. The benefits and drawbacks of the C3Z are therefore yet to be properly tested through implementation.

Given its unfamiliarity, submitters may not be aware that the intent of the C3Z is to foster a diversity of employment generating uses, provide affordable floor space for such uses, and limit the displacement of employment generating uses from productive areas. There appears to be concern that the introduction of the zone will limit opportunities and flexibility for uses that haven't been part of the Tally Ho landscape previously. However it is this desire to profit from residential development as a short sighted, market-driven decision that may ultimately lead to the loss of commercial floor area in Tally Ho and therefore to the detriment of its long term sustainability for employment uses. The long term sustainability of Tally Ho was a relevant pillar for the review and is a consideration perhaps amplified by the anticipated changing nature of workplaces and desirability of suburban office space in a 'COVID-normal' society.

Some submitters indicated that they saw the C3Z as being applied in former industrial areas that require repurposing however, 'Applying the Commercial Zone Planning Practice Note' (PPN85) indicates that a broader application of the C3Z is possible. While former industrial precincts represent one such area where the C3Z may be appropriate, PPN85 refers to the C3Z as a:

*"New planning tool which can be applied to help facilitate business growth and innovation in select parts of Victoria".*

The 'How to Apply the Zone' section of PPN85 references a need to:

*"Evaluate the ongoing suitability of established industrial **and commercial areas** for different types of employment purposes, and determine whether such areas should be retained in an existing industrial **or commercial zone**, or whether the Commercial 3 Zone should be applied as a means of enabling broader mixed-use employment outcomes"* [emphasis added].

It can be reasonably concluded from PPN85 that the C3Z is an appropriate zone to guide and evolve future land use and development in an already well-established commercial precinct. The C3Z does allow some complimentary uses (including accommodation, small-scale retailing, places of assembly, and warehouses) that have the potential to contribute to the amenity and economic vibrancy of the locality but with floor area thresholds applied to reflect their role as small-scale activities within a mixed use employment context.

#### **9.1.4** (cont)

The MUZ was not considered to be a suitable option for Tally Ho. It has long been a criticism that the MUZ is actually a residential zone and, given 'dwelling' is an as-of-right use, it offers limited ability to retain employment generating uses (given the stronger market in recent years for residential development). It was for this reason many traditional inner-employment precincts, like Cremorne and parts of Fitzroy and Collingwood, remain in the Commercial 2 Zone, where 'dwelling' (and most other forms of 'accommodation') is a prohibited use. The C3Z is therefore considered a more appropriate option for Tally Ho as it has a strong employment focus.

With respect to Submission 2 it is acknowledged that accommodation uses must meet a condition that restricts the use to above ground floor in order to not require a permit. The nature of the issue being considered, is whether the extent of residential development (in the form of dwellings / apartments) permissible under the existing C1Z would support the overall economic strength and ongoing viability of Tally Ho as a specialised office-based employment precinct. The condition is not considered material to this question, as the opportunity to develop a building primarily for accommodation in the zone without a permit clearly has the potential to displace office floor space which currently occupies multiple levels of buildings and the ability of sites to accommodate a greater amount of office space into the future and as economic activity and businesses re-activate post COVID19.

The conclusions from the Review were that substantial residential development within the precinct could materially change the role and function of the centre and risk eroding the specialisation, value and employment role of the area. Given that the use of land for accommodation is explicitly supported by the purpose of the C1Z and that the use of land above the ground floor is 'as of right' it would not be possible to refuse an apartment proposal under the present zoning based on 'use' grounds alone. For this reason it is considered that retaining the majority of the precinct within the Commercial 1 zone will create a significant risk that the role and function of the centre as an employment precinct may be undermined by residential development over time.

It is acknowledged that the C1Z retains the opportunity for the ground floor of buildings to remain 'non-residential'. However, where land is to be used for apartments on the upper levels, the predominant use of the land is not commercial in nature (which is the desired outcome across the precinct). Further, the quantum of commercial floor space that can be created on the ground floor of an apartment building is significantly constrained by the need to set areas aside for vehicle access, services, lobbies, waste storage, bicycle car parking. Therefore the resulting ground floor commercial floor space outcome associated with apartment buildings is very modest (usually catering for retail and hospitality uses, albeit these may complement the office functions of the centre) and will not result in the creation of the type of commercial floor space outcomes desired under policy for this precinct.

Subsequent to the consultation period, the operation of the C3Z has been further clarified with DELWP to better understand the floor area calculations. Advice from DELWP is that the intent of the schedule is that the Gross Floor Area (GFA) percentage (%) cannot be further broken down between 'dwellings' and 'residential buildings' (i.e.: apportioned as a % to a dwelling and as a % to a residential building). Only one rate (%) may be specified in a schedule to the C3Z and it applies to both uses in totality.

However, consultants for the Review remain of the opinion that 'dwellings' and 'residential buildings' can be separately specified in the schedule to the C3Z. In light of the submissions and the scope for a master-planned approach for larger redevelopment sites, Recommendation 2 of the Review has been amended by Urban Enterprise to allow up to 35% of the gross floor area on the Poly Holdings and Crossway Church sites as dwellings as part of a masterplan and in locations on the sites that transition to residential interfaces.



### 9.1.4

(cont)

The updated recommendation is shown in the *Tally Ho Commercial 1 Zone Review* (July 2019) revised December 2020 at **Attachment 1** as follows:

*Apply the Commercial 3 Zone across the study area with schedules which apply the following controls:*

- Tally Ho Business Park:
  - Prohibit dwellings (i.e. 0%); and
  - Permit residential buildings (e.g. hotels, short stay accommodation) with a floor area of up to 50% of the total floor area of a building;
- Former HP [Poly Holdings] site:
  - Permit residential buildings with a floor area of up to 50% of the total floor area of a building anywhere within the site; and
  - If it is determined via a masterplanning process that some limited residential uses might be permissible (as a transitional use in the northern part of the site) apply the default schedule for dwellings (35% of the floor area of a building) via a schedule to that part of the site only.

Based on the advice from DELWP and the views of the consultants, it is proposed to take the lower of the percentages recommended by UE in each of the above precincts (consistent with the intent to give primacy to employment floor space) and apply these to both dwellings and residential buildings (consistent with DELWP's advice) as follows:

- Set the combined percentage of GFA for 'dwellings' and 'residential buildings' at zero (0%) in the Tally Ho Business Park (including land on the north side of Vision Drive) to effectively prohibit these uses.
- Allow the default in the C3Z of up to 35% of the combined GFA of all buildings on the Poly Holdings and the Crossway Church sites to be for 'dwellings' and 'residential buildings'.

Given the infancy of the C3Z it is considered appropriate for opinion on the structure of the zone to be fully explored during exhibition of the planning scheme amendment and at a future independent panel (should this be required) where submitters have the opportunity to be heard.

#### Recommended outcome

Updates have been made to the *Tally Ho Commercial 1 Zone Review* prepared by Urban Enterprise (July 2019) revised December 2020 as noted above (refer **Attachment 1**).

It is considered that Recommendation 2 of the Review to apply the C3Z to the Study Area is appropriate but the schedule to the zone should be used to:

- Prohibit dwellings and residential buildings in the Tally Ho Business Park, including the portion of the Crossway Baptist Church land located north of Vision Drive.
- Limit dwellings and residential buildings to the default total GFA of up to 35% of the total GFA of all buildings on the land for the remainder of the Study Area being the Poly Holdings and the portion of Crossway Baptist Church land located south of Vision Drive.

Revisions made to the Urban Enterprise report in December 2020 also include commentary on the impact of COVID-19 on the office sector and the importance of providing flexibility and opportunity for a range of business types, premises and developments to occur. This further justifies use of the C3Z.

### 9.1.4

(cont)

#### Design and Development Overlay - 8 submissions

The land in the Study Area, excluding the Crossway Baptist Church site, is covered by a DDO9. The DDO9 was introduced through Amendment C110 which was approved by the Minister for Planning on 22 October 2015. The Amendment implemented the *Tally Ho Major Activity Centre Urban Design Framework 2007* (also making it a permanent reference document in the planning scheme) and subsequent work on the *Tally Ho Urban Design and Landscape Guidelines 2013*. The DDO9 includes Development Guidelines that provide preferred building heights (variously from 7 metres to 20 metres across the DDO), setbacks, and preferred landscape, streetscape and fencing treatments.

One of the most frequently raised concerns in submissions related to DDO9. Submitters expressed that the building heights allowed under the DDO9 are too restrictive and that they are stifling growth and investment and discouraging development in the activity centre. Submitters are concerned that while internal fit-outs can cater for some change, actual floor space is limited. It is claimed that this problem is further exacerbated by the fact that Tally Ho's building stock is ageing and often does not meet the needs of larger and expanding anchor tenants.

There is concern that the DDO9 is out of date and the building heights do not align with current planning, design and development outcomes anticipated in a Major Activity Centre. Many of the submitters believed that a review of the DDO9 (building heights) would be more beneficial to the success of the Activity Centre than a rezoning.

#### Response

The main focus of this study was to review the suitability of the C1Z for the on-going success of land use in the Tally Ho Activity Centre. Reviewing the DDO was not considered to be a high priority given that the *Tally Ho Urban Design and Landscape Guidelines 2013*, were prepared relatively recently and implemented in the planning scheme in 2015.

The building heights specified in the DDO9 are preferred heights and can be increased if a permit application demonstrates how the development will meet certain outcomes and requirements of the DDO.

It is considered that the existing DDO that applies to the Activity Centre addresses the necessary range of design and built form measures. Whilst at a future point further analysis of the built form framework that applies to Tally Ho may be desirable, the suitability of using the DDO as a tool to define the desired built form outcomes is appropriate and was ultimately supported by the Panel for Amendment C110 which implemented DDO9. In supporting Amendment C110, the Panel agreed that the preferred controls would allow flexibility where the built form outcome did not compromise the integrity of the 2007 UDF and 2013 Guidelines.

The Panel noted the strategic work underpinning the DDO9 and the consistency between the 2007 UDF and the subsequent 2013 Guidelines, and that the amendment implemented the relevant sections of the State and Local Planning Policy Framework. It is acknowledged that the Panel referred to a lack of formal review of the 2007 UDF when it was first introduced in an interim way in Clause 22.08. However the Panel also noted that Amendment C110 "*provided an opportunity to express views about the provisions proposed to implement the 2007 UDF*"<sup>1</sup>. The Panel suggested a future review of the 2007 UDF and any subsequent updates to the 2013 Guidelines accordingly "*to ensure that the preferred heights are still relevant and that they align with realistic benchmarks*"<sup>2</sup>. The Panel viewed this as a separate process to Amendment C110.

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<sup>1</sup> Panel Report - Whitehorse Planning Scheme Amendment C110 - Tally Ho Activity Centre, 5 September 2014 (Page 15)

<sup>2</sup> Panel Report - Whitehorse Planning Scheme Amendment C110 - Tally Ho Activity Centre, 5 September 2014 (Page 2).

#### 9.1.4

(cont)

To date, there has been very little test of the DDO9 through subsequent planning applications to conclude that the built form controls in the overlay are not suitable.

#### Recommended Outcome

Recommendation 5 of the June 2019 Review includes undertaking a revision of the existing built form controls that apply to the Study Area in the coming years via a separate body of work. At this time the focus of the Review is determining the most suitable zone to guide land use in the Study Area to ensure the on-going economic viability of the Activity Centre. Further review of built form may be contemplated at a future date and subject to budget approval, however it is reiterated that the DDO9 was introduced relatively recently.

Recommendation 5 of the Review has been amended accordingly to consider potential review of the DDO9 into the future. This is shown in the *Tally Ho Commercial 1 Zone Review* prepared by Urban Enterprise (July 2019) revised December 2020 at **Attachment 1**.

#### **Status of the Tally Ho Activity Centre / Clause 22.08 policy - 5 submissions**

Tally Ho is identified in the metropolitan planning strategy, *Plan Melbourne 2017 – 2050*, as a Major Activity Centre. Clause 22.06 of the Whitehorse Planning Scheme provides the policy basis for all of the activity centres across Whitehorse and outlines the objectives to be achieved. Clause 22.08 specifically relates to the Tally Ho Activity Centre and identifies the centre as a key eastern suburbs office and technology hub with high quality built form set in extensive landscaped gardens.

While Clause 22.08 acknowledges Tally Ho's economic importance and high amenity aspects, some submitters claim that the importance of the Activity Centre for employment could be reinforced by strengthening the Local Policy at Clause 22.08 rather than undertaking a land rezoning. There is concern that rezoning land to Commercial 3 Zone is contrary to the policy position at Clause 22.08 of the Whitehorse Planning Scheme in relation to Economic Sustainability which states that it is policy to:

- Develop a greater mix of complementary uses of high need, notably retail, business services, short term accommodation and high quality conferencing facilities.
- Facilitate improvements to the capacity and flexibility of building stock.
- Develop a greater range of residential opportunities.
- Prioritise affordable housing, aged-care housing, specialist housing, serviced apartments and hotel facilities.

In this regard, submissions expressed concern that the recommendations of the Review are counter to Clause 22.06 and Clause 22.08 of the Whitehorse Planning Scheme which encourage a wider mix of uses including opportunities for housing.

#### Response

The submissions fail to acknowledge that while Tally Ho is identified as an Activity Centre in both State and local planning policy it operates differently to those other designated Activity Centres in Whitehorse including Forest Hill Chase, the Whitehorse Road Nunawading/MegaMile and Burwood Heights. Moreover, there are very few activity centres that are directly comparable to Tally Ho in suburban areas and in the eastern region with a major focus on office floor space, considerable health uses nearby, access via public transport and only secondary retail uses present.

It is agreed that strengthening Clause 22.08 would aid in supporting the vision for Tally Ho. This is reflected through Recommendation 1 of the Review that is to:

*Revise the existing Tally Ho Policy (clause 22.08) to make clearer the specific range of complementary uses that are supported by Council within the Study Area (and under what conditions).*

#### **9.1.4**

(cont)

However strengthening the policy alone will not address the potential loss of employment floor space under the current C1Z where certain uses, such as accommodation, education centre and retail premises, remain as of right.

The submissions also overlook the Burvale Hotel site, which is included in the Tally Ho Activity Centre, provides approximately 11 acres of land in the Residential Growth Zone (RGZ2) and therefore has potential for future residential development in addition to the RGZ corridor along Burwood Highway neighbouring Tally Ho and the former ATV-0 site to the north.

Although Tally Ho is designated as an Activity Centre its operation is quite specialised in that it plays an important economic role in the Whitehorse and eastern Melbourne region. Economic analysis undertaken as part of the Review has found that the centre is performing well so any future uses shouldn't inhibit its specialised role.

The other issue that should be addressed through this review process is the discrepancy between the boundary of the commercial zone and the Activity Centre boundary. The map in Clause 22.08 currently excludes land owned by the Crossway Baptist Church (as shown in Figures 2 and 3). This is inconsistent with the Tally Ho Urban Design Framework (UDF) 2007 that was implemented through Clause 22.08 and the Tally Ho Activity Centre Urban Design and Landscape Guidelines (updated 2015) implemented through the Design and Development Overlay Schedule 9 (DDO9).

Although there is significant discussion in the Panel Report for Planning Scheme Amendment C110 about excluding Forest Ridge and the low density residential areas from the Tally Ho Activity Centre the Panel did not recommend that Crossway Church be excluded. The Panel Report stated: *The Panel believes that the Crossways Baptist Church land has more opportunities to integrate with Precincts 3 and 4 than Forest Ridge has with other precincts. The church land is also of a smaller scale compared to Forest Ridge.*

By this time Council had already supported a separate strategic planning exercise through Planning Scheme Amendment C123 and the application of the Development Plan Overlay to the Crossway Church site. However, Council submitted Amendment C110 to DELWP for approval with the Crossway Church site included in the Activity Centre boundary. An update to the Clause 22.08 map appears to have inadvertently excluded the site.

#### **Recommended outcome**

Recommendation 1 of the Review includes revising the existing Tally Ho Policy (clause 22.08) to make clearer the specific range of complementary uses that are supported by Council within the Study Area (and under what conditions). Revising this local policy would also provide an opportunity to highlight the point of difference between Tally Ho and other Activity Centres in Whitehorse and across Metropolitan Melbourne and provide a stronger basis for guiding discretion around land uses under the future zone.

Revisions to the policy at Clause 22.08 should also include updating the Tally Ho Activity Centre Precinct Plan to correctly identify the Crossway Church site as being in the Activity Centre.

#### **Crossway Baptist Church**

The submission from Crossway Baptist Church focusses on the Crossway owned parcels which are located primarily between Vision Drive and Highbury Road. These parcels make up one of the larger land holdings within the Review covering an area of almost 15 acres. While the Crossway Church site is not affected by the DDO9, it is covered by a Development Plan Overlay (DPO4) gazetted via Amendment C123 in October 2013. The DPO4 directs most future use and development to the northern (elevated portion) of the site as well as on the allotment on the north side of Vision Drive ensuring that any development on the site is in accordance with an approved Development Plan.

#### **9.1.4**

(cont)

The written submission and discussions with Crossway Church have revealed that the church would like to retain future flexibility to develop the site for a range of church uses and non-church related uses, including development of the lower portion of the site closer to Highbury Road. During these discussions Council officers have reminded church representatives that there are significant stormwater and infrastructure constraints to development on the lower portion of the site toward Highbury Road which would need consideration as part of any future development aspirations.

The church asserts that the proposed planning changes on the site would significantly impact the long-term security of the operation and the value of the land, which in turn would significantly constrain Crossway's ability to borrow funds for future development. Advice sought by the church has found that the valuation of its land would decline by more than 30% (representing a capital loss in the range of \$25-30 million) as the C3Z would prevent some types of residential development and most types of retail development. Crossway Church also later submitted a valuation report prepared by Charter Keck Cramer to substantiate their submission.

There is concern from the church that if the C1Z is replaced with the C3Z, the existing land use as a Place of Worship would effectively become a prohibited use with significant negative implications and that the future of the site would also be considerably constrained. Crossway Church opposes the proposed rezoning believing that a significant number of uses would no longer be permitted in the new zone, such as retail and residential uses. There is also concern that residential development would be limited in scope to a percentage of the land area.

#### Response

The Crossway Baptist Church site presents differently to the rest of the Study Area in terms of its current land use. Discussions with the Crossway Church have indicated that it wishes to maintain the Place of Worship function on the site but to explore options for other land uses on the site, particularly on the lower portion of the site on the corner of Springvale Road and Highbury Road. It has been noted above and in the discussions with the church that use and development of the Crossway Church site is already strongly tied to an approved Development Plan under the existing DPO.

Prior to the zone reforms and during the Amendment C123 process, the Crossway Church site was zoned Business 2 (B2Z), the purpose of which was to encourage the development of offices and associated commercial uses and required a permit for a place of worship. The Ministerial Amendment that introduced the C1Z allowed the church to enjoy a wider range of uses permitted than under the previous B2Z, including retail, office, business, entertainment and community uses.

In the existing C1Z a Place of Worship is an as of right use conditional upon the gross floor area of all buildings not exceeding 250 square metres. In the proposed C3Z a Place of Worship is a permit required use and the leasable floor area must not exceed 250 square metres.

While the church has indicated that it intends to remain on the current site, from a strategic point of view it is important for Council to ensure that this land is zoned appropriately for the long term future and benefit of the Tally Ho Activity Centre. While Crossway Church is the current landowner and occupier, this does not prevent them from deciding to relocate or dispose of land into the future if they are not committed to their current location or the extent of the church's use and development of the land. This approach, not only towards Crossway Church but also to other sites in the study area, is a reflection of Council's responsibilities under the *Planning and Environment Act (The Act)*, 1987 *to establish a framework for planning the use, development and protection of land in Victoria in the present and long-term interests of all Victorians*.

#### 9.1.4

(cont)

Given the sensitive residential interface to the west and south of the site, it is considered that a zone with a major retail component (as would be allowed under the C1Z) would be inappropriate. Also, several substantial retail centres already service the area, including Burwood One, Vermont South Shopping Centre and The Glen. While Crossway is part of the Study Area (given it is C1Z), it is not part of the Tally Ho Activity Centre (as shown on the map at Figure 2).

It is acknowledged that the church is concerned about how a potential rezoning will impact its financial position. Existing use rights will allow the continuation of the current uses on the site. It is understood that the financial concerns that have been raised relate to benefits of potential land uses under the C1Z on the value of the land, their borrowing capacity and future income stream opportunities, rather than any wider reaching social and economic effects.

There are many factors that influence land value including location, amenity, recent sales results and property improvements. Several planning panels have considered the issue of property values, and there is a long held view in both panel reports and in case law that property devaluation is not a valid planning consideration. Panel reports for Amendment C3 to the Yarra Planning Scheme and Amendment C18 to the Stonnington Planning Scheme provide examples of this.

#### Recommended outcome

As noted above under “Use of the Commercial 3 Zone”, it is recommended that the Crossway Church site be included in the C3Z and limit dwellings and residential buildings to the default total GFA of up to 35% of the total GFA of all buildings on the lot.

The current DPO4 should be retained to guide use and development of the land and a Specific Controls Overlay (SCO) applied. The SCO will allow the application of specific controls designed to achieve a particular land use or development outcome in extraordinary circumstances. This would allow the church’s intentions for the site in terms of the Place of Worship and associated community uses to continue under the C3Z. This would confirm the site’s existing use rights and confirm continued development in accordance with the intention of the approved Development Plan.

#### ***Proposed planning controls***

It is proposed to manage the economic future and success of the study area through planning scheme changes including rezoning land, the application of a new overlay to the Crossway Church Site and updates to the existing policy. Planning scheme amendment documents have been prepared for *Amendment C232* and are at **Attachment 2**. Below is an outline of the proposed zone changes:

#### Clause 22.08 – Tally Ho Activity Centre

The Tally Ho Activity Centre Policy at Clause 22.08 has been strengthened by specifying that any new land uses, particularly accommodation uses, must complement and support the primary employment role of the activity centre. Any residential land uses in the Study Area should serve as a secondary function of the Activity Centre, such as a residential hotel or other visitor accommodation.

The changes to the policy better define the commercial core that sits within the activity centre boundary and supports small-scale complementary uses such as convenience retailing, child care centres and food and drink premises, especially at ground level to supplement the primary employment function of the centre.

Another change to the Policy at Clause 22.08 includes updating the Tally Ho Activity Centre Precinct Plan to correctly identify the Crossway Church site as being in the Activity Centre.

#### 9.1.4 (cont)

##### Clause 34.03 - Commercial 3 Zone

The C3Z is a new planning zone that has been included in the Victorian Planning Provisions (VPP) that has been created to complement the existing Commercial and Industrial Zones. The C3Z was developed to ensure the provision of a sufficient supply of commercial land to support business growth and innovation in Victoria. The intent of the C3Z is to foster a diversity and critical mass of employment generating uses, provide affordable floor space for such uses, and limit the displacement of employment generating uses from productive areas. The C3Z is considered to be the most suitable choice for ensuring that the employment role of Tally Ho is maintained and enhanced.

The C3Z applies a default maximum allowable gross floor area percentage requirement for residential 'dwellings' and 'residential buildings' of 35% of the total gross floor area of all buildings on the lot. However the schedule to the C3Z can specify a different percentage requirement. It is proposed to have two schedules to the C3Z; one for the core Tally Ho Business Park (as shown as Area B in Figure 4) specifying 0% for 'dwellings' and 'residential buildings' and a second schedule for the Poly Holdings and Crossway Baptist Church site south of Vision Drive (as shown as Areas 'A' and 'C' respectively in Figure 4) using the default maximum allowable gross floor area for 'dwellings' and 'residential buildings' under the C3Z (i.e.: 35% of the GFA).

The proposed floor area percentage proposed for the Crossway Baptist Church site is contrary to the recommendation of Urban Enterprise. The consultants did not consider that this site was suitable for residential uses, fearing a further erosion of commercial land use. However given the current use of the site, and the existing Development Plan Overlay, it is considered that the default maximum requirement for residential uses will allow the church to provide some accommodation in association with their existing function without overwhelming the site with residential uses.

##### Clause 45.12 - Specific Controls Overlay

The primary use of the Crossway Baptist Church site as a Place of Worship is acknowledged and there is no intention for this to be compromised. It is proposed to apply a Specific Controls Overlay (SCO) to the church's site to enable specific controls to override other requirements of the planning scheme in regard to Place of Worship and associated community care accommodation.

This SCO will mean that the church site may be used or developed in accordance with a specific control contained in an Incorporated Document that is specified in the schedule to the overlay. The SCO may:

- Allow the land to be used or developed in a manner that would otherwise be prohibited or restricted.
- Prohibit or restrict the use or development of the land beyond the controls that may otherwise apply.
- Exclude any other control in this scheme.

An Incorporated Document has been prepared for the Crossway Church site and forms part of the planning scheme amendment documents at **Attachment 2**.

#### 9.1.4

(cont)

### CONSULTATION

On 24 February 2020 letters were sent to approximately 90 landowners and occupiers in the Commercial 1 Zone of Tally Ho and to the neighbouring Burvale Hotel and Peter James Centre. The letter provided a link to access the *Tally Ho Commercial 1 Zone Review* on Council's website. The letter also invited people to a drop in session on 19 March 2020 at the Quest in Burwood East if they had further questions or comments, however this event was cancelled due to the impact of COVID-19. Given the cancellation of this event the comment period was extended to Thursday 9 April 2020, providing a consultation period of over six weeks.

If Council resolves to proceed with a planning scheme amendment and if authorisation is granted by the Minister for Planning to prepare and exhibit the Amendment, the statutory exhibition period will allow for further public comment and any future panel hearing will provide independent review of submissions received and the proposed planning controls.

#### *Preliminary feedback from the State government*

DELWP has indicated that the C3Z may be suitable for the Study Area subject to a planning scheme amendment process. Tally Ho is identified as a Regionally Significant Commercial Area in DELWP's *Melbourne Industrial and Commercial Land Use Plan 2020*. The plan acknowledges that: *Tally Ho Major Activity Centre acts as a regional employment node with significant office space accommodating a range of professional services as well as government offices and headquarters for large corporations. These centres are supported by a range of large and small neighbourhood activity centres.*

DELWP has acknowledged that using the C3Z would assist in protecting the Study Area for employment purposes, contributing to the longer term aim of supplying an appropriate amount of employment generating land uses to serve the needs of metropolitan Melbourne.

The Department has however expressed concern about the 50% floor area proposed in the Review citing that housing capacity is being met outside the Study Area. It is therefore proposed to limit dwellings and residential buildings to a total gross floor area of up to 35% of the total floor area for the Poly Holdings and Crossway Baptist Church land being the default percentage in the C3Z.

### FINANCIAL IMPLICATIONS

	Budget	Expenditure
Tally Ho Review of the Commercial 1 Zone prepared by Urban Enterprise ( <b>completed</b> )	\$30,000	\$29,990
<i>Future Amendment Costs (proposed):</i>		
- Exhibition costs	\$4,000	
- Statutory Fees (consideration by the Minister for Planning)	\$4,371	
- Planning Panel cost estimate (if required)	\$20,000	
- Expert witness at Planning Panel (if required)	\$15,000	
<i>Subtotal – Future Amendment Costs</i>	<i>\$43,371</i>	
<b>Total Budget</b>	<b>\$73,371</b>	



#### **9.1.4**

(cont)

#### **POLICY IMPLICATIONS**

Strategic Direction 5 of the Council Plan 2017-2021 is *to support a healthy local economy*. Goal 5.1 of the Plan is to *work in partnership to support a strong, active local economic environment that attracts investment and provides economic opportunities for businesses and employment for people*. The Review of the Commercial 1 Zone at Tally Ho recognises the strength of the centre which contributes to economic activity and employment growth. Addressing the zoning issues at Tally Ho will ensure that land for employment generating uses is maintained and not lost to residential.

#### **CONCLUSION**

While there is uncertainty about the property market and investment in a post COVID environment, this strategic work has its sights on the longer term vision for broader economic and community benefit. The revisions made to the Urban Enterprise Report include a December 2020 update reflecting on the impact of COVID-19 on the office sector and the importance of providing flexibility and opportunity for a range of business types, premises and developments to occur.

There has been a gradual chipping away of employment based land in the inner and middle ring suburbs of Melbourne for the past 30 years, which has had a significant impact on local economies. Once that land is lost to residential there is no reclaiming it for employment generating land uses. There have been unintended consequences of the Zone Reforms of 2013 that have potentially contributed to this problem

The C3Z has been studied and is considered to have merit for application to the Study Area. Notably, the C3Z makes repeated reference to the primary purpose of the zone being for 'employment and economic development' with a 'mixed-use employment' focus. The zone allows 'office' as an as of right use. It does not prohibit 'dwelling' or 'residential building' but allows the schedule to the zone to specify a zero percentage requirement for residential uses provided there is a strategic basis established through the planning scheme amendment process.

The C3Z is another tool in the Victorian Planning Provisions that is available to apply to those areas seeking to maintain and better protect employment generating land uses. While the zone is untested in Victoria it is considered to be a sound option for Tally Ho's economic success into the future.

#### **ATTACHMENT**

- 1 Tally Ho Commercial 1 Zone Review (July 2019) revised December 2020
- 2 Planning Scheme Amendment Documents
- 3 List of Submitters

## **9.2 INFRASTRUCTURE**

### **9.2.1 Extension and Amendment to Maximum Expenditure Threshold (Contract 15042) Provision of Weed Control Services**

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#### **SUMMARY**

*The purpose of this report is to seek approval to extend Contract 15042 – Provision of Contract Weed Control Services and amend the maximum expenditure threshold.*

*Contract 15042 Provision of Weed Control Services is due to expire on 20 September 2021. The Contract includes an option for Council to extend the contract until 20 September 2022*

*As part of the extension, approval is sought to increase the maximum expenditure threshold that was approved by Council on 19 September 2016 from \$1,125,000 to \$2,000,000 excluding GST.*

#### **RECOMMENDATION**

***That Council:***

- 1. Approves the contract extension for Contract 15042 – Provision of Contract Weed Control Services to 20 September 2022 with the following:**
  - a) Telamo Pty Ltd A.B.N. 43 088 081 869 of 11 Rowling Street Plumpton Victoria 3335 trading as “Rays Weeds Spraying Service” for Garden Beds, Items 6, 7 & 8, Block Items 15 & 16, Broadleaf Items 1, 2 & 4, Hard Surfaces Items 9-14 and Grass Cutting Items 17, 18 & 19.**
  - b) Harricks Services Pty Ltd A.B.N. 83 088 248 088 of 818 Warburton Hwy Seville Vic 3139 trading as “Wipe Out Vegetation Management” for Garden Beds, Items 6, 7 & 8, Block Items 15 & 16, Broadleaf Items 1, 2 & 4, Hard Surfaces Items 9-14 and Grass Cutting Items 17, 18 & 19.**
  - c) Landlinks Environmental Services Pty Ltd A.B.N. 53 078 936 151 of 100 Morbey Rd Gembrook 3783 Vic PO Box 277 Gembrook 3783 or Garden Beds, Items 6, 7 & 8, Block Items 15 & 16, and Broadleaf Items 1, 2 & 4.**
  - d) Herbert Group Holdings Pty Ltd A.B.N 80 602 813 454, 1/375 Bayswater road Bayswater PO Box 204 Bayswater 3153 trading as “Herbert Contractors” for Grass Cutting Items 17, 18 & 19 and Hard Surfaces Items 9-14; and**
- 2. Approves a maximum expenditure threshold of \$2,000,000 excl GST for Contract 15042 – Provision of Contract Weed Control Services Panel.**

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#### **BACKGROUND**

The Council Plan sets strategic directions to ‘Maintain and enhance our built environment to ensure a liveable and sustainable city’ and ‘Protect and enhance our open space and natural environment’.

Contract 15042 – Provision of Contract Weed Control Services Panel was awarded to Telamo Pty Ltd, Harricks Services Pty Ltd, Landlinks Environmental Services Pty Ltd and Herbert Group Holdings Pty Ltd at the Council Meeting in September 2016 with an initial Contract term of five years that commenced on 20 September 2016, with an option to extend the contract for a further one year at Council’s discretion.

This Contract is for the provision of Weed Control Services across Council managed land. Council manages and maintains a geographic area of 64 square kilometres with 611km sealed roads, 1,182km foot paths kerb and channel, 30.8km constructed laneways, 18km unconstructed laneways, 86km of sealed paths, 95km of gravel paths and trails, and 590 hectares of open space comprised of parks, bushland reserves, landscaped gardens, recreation reserves, community centres, together with tree-lined residential streetscapes including shops, centre medium strips, outer separators and traffic management devices.

### **9.2.1**

(cont)

These open space and horticultural assets are maintained through a combination of in-house resources and specialist contractors.

Legislation requires Council to control a range of weed types and as such, maintenance programs have been developed to meet this requirement. Minor and small scale weed control works are undertaken by Council's staff however bulk volume and large area weed control works are outsourced to specialist weed control contractors.

This Contract is for the provision of weed control services to Council's entire open space network and the provision of mowing, brush cutting and slashing services to open space, Council maintained nature strips and laneways. It includes the use of herbicide under best practice application methods to control environmental, noxious and general weeds within open space.

It is recognised that some members of the community are concerned about the use of chemicals in the environment and alternatives continue to be explored. Whitehorse and the Municipal Association of Victoria (MAV) have engaged Deakin University to undertake a research project looking at the safety, effectiveness, financial implications and potential soil impacts of alternative weed control methods. While this research is being undertaken, Council's use of glyphosate continues to be guided by the Australian Pesticides and Veterinary Medicines Authority (APVMA) and WorkSafe who are the regulatory authorities in this space. The APVMA has clearly stated that APVMA-approved products containing glyphosate can continue to be used safely following the directions in the Safety Data Sheet and the labels.

#### **DISCUSSION**

The contractors currently undertaking work under this Contract do so to a high standard in accordance with the specification and in line with all regulatory and Occupational Health and Safety requirements. In response to the satisfactory performance, it is recommended that the one year extension option be granted.

The Weed Control Services contract commenced on 20 September 2016 and the total expenditure threshold was approved at \$1,125,000 over five years. This figure was based on the total expenditure of the previous amount of work undertaken under the weed control Services Contract that expired in 2016.

Increasing the term of Contract requires the maximum expenditure threshold to be increased and the amount estimated is greater than simply adding one fifth of the original amount. Since the original estimate of overall Contract expenditure was made, seasonal conditions including higher rainfall (particularly over the past few years) have resulted in an increase of weed works control across the Municipality. A number of newly completed projects including new parks have also increased the amount of vegetation and weed management required to be undertaken.

#### **CONSULTATION**

Staff from Council's Procurement team have assisted with providing current contract expenditure details and advice on this process in line with Council's adopted Procurement Policy.

#### **FINANCIAL IMPLICATIONS**

There are no financial implications associated with this report. This is a schedule of rates contract and all expenditure incurred against this contract is in accordance with the relevant adopted annual budgets.

## 9.3 CORPORATE

### 9.3.1 Audit and Risk Committee: Appointment of Independent Member

FILE NUMBER: SF08/319

#### SUMMARY

*As a result of the Local Government Act 2020 now requiring a majority of independent members on its Audit and Risk Committee (currently two) Council advertised and received 29 applications for the position of third independent member of the Audit and Risk Committee (ARC). Four applications were short listed and interviewed by a selection panel convened by an Independent Local Government Consultant and included the current Chair and Independent Member of the ARC. The panel recommends that Council appoint Jonathan Kyvelidis to the position.*

#### RECOMMENDATION

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

- 1. Appoint Mr Jonathan Kyvelidis as the third independent member on the Audit & Risk Committee for the term commencing 1 March 2021 to 31 August 2024, with performance based options for extension for a further three year term.***
- 2. Approve continued remuneration for the role at \$1,400 per meeting for a maximum of five meetings per annum.***

#### BACKGROUND

Under the terms of the *Audit & Risk Charter 2020*, independent members will be appointed for an initial period not exceeding three years after which they will be eligible for extension or re-appointment, for a further three-year term after a formal review of their performance. The Charter does not preclude an end-of-term member from reapplying for the position.

Pursuant to Section 53 of the new *Local Government Act 2020*, Councils must establish an ARC and that committee must consist of a majority of members who are not Councillors of the Council and who collectively have expertise in financial management and risk; and experience in public sector management. As a consequence of these provisions Council was required to recruit a third independent committee member, with the composition of the committee now being two Councillors and three independent members

An advertisement inviting applications from interested individuals was placed in *The Age* on 31 October 2020 as well as Council's Employment Website, with a closing date of 20 November 2020. Twenty-nine applications were received. The Independent Consultant engaged to facilitate the recruitment process and Council's HR Business Partner reviewed and considered all applications after which four were short listed on the basis of the level of their conformity with the skills matrix criteria developed for the recruitment process as well as the following key criteria:

- Relevant qualifications and technical expertise
- Strong financial literacy
- Proven experience in public sector management
- Experience in audit and knowledge of local government
- Knowledge of legislative compliance, risk management, public integrity and data governance.

The four short listed applicants were subsequently interviewed. Interviews were held by a panel convened by the Independent Consultant and included the Chair and Independent Member of the Audit & Risk Committee.

### **9.3.1**

(cont)

At interview, a ranking process was used to score each candidate on the published selection criteria. The panel considered Jonathan Kyvelidis to be the preferred candidate when assessed against all of the selection criteria.

#### **DISCUSSION**

The recommended applicant is Jonathan Kyvelidis who has qualifications including a Masters of Business Administration, Bachelor of Commerce, Graduate Diploma - Institute of Chartered Accountants, ASIC Registered Company Auditor and an Affiliate Membership of the Australian Institute of Managers and Leaders. These qualifications combined with a strong professional background including a nine year career at the Victorian Auditor General's Office (2011-2020) including the position of Sector Director Local Government, make Mr Kyvelidis an outstanding applicant.

Mr Kyvelidis brings an excellent understanding of sector issues including governance, risk, compliance and accountability obligations. He is also a current member of the Baw Baw Shire ARC.

In addition, Mr Kyvelidis demonstrated passion, energy and commitment to make a contribution to the Local Government sector. He specifically identified Whitehorse as an ARC role he would like, and demonstrated values and behaviours that are being sought by the Committee and would complement other members' skills and experience.

Finally, Mr Kyvelidis possesses public sector management experience and a strong understanding of risk, public integrity functions including through his previous role with VAGO and, while there, with the Local Government Inspectorate and IBAC.

#### **CONSULTATION**

The recruitment process was conducted by an Independent Local Government Consultant, the Chair and Independent Member of the Audit & Risk Committee.

#### **FINANCIAL IMPLICATIONS**

Remuneration for an independent member of the Audit & Risk Committee was previously approved at \$1,400 per meeting (for 5 meetings) or \$7,000 per annum and is recommended to continue at this level.

The recruitment process incurred costs for advertising and services of the Independent Consultant were approximately \$9,000.

### 9.3.2 Emergency Management Arrangements

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#### **SUMMARY**

*Local Governments are required under the Emergency Management Legislation Amendment Act 2018 (Act) to align its Municipal Emergency Management Planning Committee (MEMPC) with the reformed emergency management planning arrangements outlined in the Act.*

*The Act also amends a number of associated pieces of legislation and the Emergency Management Act 2013. The legislative changes align State, Regional and Municipal emergency management planning arrangements.*

#### **RECOMMENDATION**

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

- 1. Authorises the disestablishment of the existing Municipal Emergency Management Planning Committee (MEMPC) established under ss.21(3)-(5) of the Emergency Management Act 1986, in recognition that on 1 December 2020 these provisions were repealed by s.82(2) of the Act and replaced by the provision of s.68 of the Act.***
  - 2. Authorises the Chief Executive Officer or delegated Senior Officer to facilitate the establishment of the Municipal Emergency Management Planning Committee (MEMPC) in accordance with the provisions of s.68 of the Act (which inserts a new Part 6 - Municipal Emergency Management Planning Committees into the Act on 1 December 2020).***
  - 3. Notes that, under Municipal Emergency Management Planning Committee (MEMPC) Terms of Reference provided and the Act (which inserts s.59 and s.59F into the Act as on 1 December 2020), Council's role is to establish the Committee. Once the established, the Committee exists separately to Council and is not a Committee of Council.***
- 

#### **BACKGROUND**

The Act outlines a consistent approach to municipal emergency management across the State with municipal committees accountable to Regional Emergency Management Planning Committees (REMPC)

The Act requires the establishment of a new MEMPC and the development of a new Municipal Emergency Management Plan (MEMP) and associated sub plans. Those revised Plans will be endorsed by the Eastern Metro REMPC

The realignment of responsibilities highlights the intent of the legislative change to move away from municipal emergency management responsibility to an integrated and collaborative multi-agency approach

#### **DISCUSSION**

The Whitehorse MEMP identifies nine key emergency management risks and has developed appropriate preparedness, response and recovery plans to address each of those risks and the consequences aligned to each. The strategies were developed in partnership with members of the MEMPC and reflect the emergency risks Whitehorse faces.

These plans are in place to mitigate any adverse impacts of emergency events

Members of the Whitehorse MEMPC include representation of the relevant response, relief and recovery agencies including VicPol, Vic SES, DHHS, Ambulance Victoria, municipal and community delegates, Victorian Council of Churches and Red Cross

### **9.3.2**

(cont)

It is proposed that the existing members be invited to join the new MEMPC as well as other key stakeholders

As delegated by the Chief Executive Officer, Council's Municipal Emergency Management Officer has been nominated to chair the new MEMPC in accordance with the Act

It is recommended that Council adopts the recommendations to ensure compliance with the Act and *Emergency Management Act 2013*

#### **CONSULTATION**

Under the relevant provisions of the Act, Council is required to re-establish the MEMPC. Invitations have been forwarded to existing member organisations and those organisations nominated by the Act.

The MEMPC has been engaged through the legislative review process and are aware of the changes.

The next MEMPC is scheduled for 9 February 2021.

#### **FINANCIAL IMPLICATIONS**

Not applicable.

#### **POLICY IMPLICATIONS**

Not Applicable.

### **9.3.3 Proposal to Assign Name to Unnamed Laneway at Rear of Lake Road Blackburn (running from Wellington Avenue to Alandale Road)**

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#### **SUMMARY**

*The purpose of this report is to consider naming the unnamed laneway at the rear of Lake Road, Blackburn running from Wellington Avenue to Alandale Road.*

#### **RECOMMENDATION**

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

- 1. Endorses the name Yellow Box Lane for the unnamed laneway at the rear of Lake Road, Blackburn running from Wellington Avenue to Alandale Road, for community consultation purposes.***
- 2. Receives a further report, following the completion of the community consultation, outlined in 1 above.***

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#### **BACKGROUND**

The Special Committee of Council at its meeting on 9 June 2020, resolved to commence the statutory process to name the unnamed laneway at the rear of Lake Road, Blackburn running from Wellington Avenue to Alandale Road, Blackburn (refer to site map - [Appendix A](#)).

#### **DISCUSSION**

Council has the power to name roads, subject to having due regard to the naming rules provided under the Geographic Place Names Act 1998.

The naming rules are guided by the following 12 general principles:

1. Ensuring public safety;
2. Recognising the public interest (both in the short and long term);
3. Linking the name to place (relevant to the local area);
4. Ensuring names are not duplicated;
5. Names must not be discriminatory;
6. Recognition and use of aboriginal languages in naming;
7. Dual names (not applicable to roads);
8. Using commemorative names (to commemorate an event, person or place);
9. Using commercial and business names (not to be used);
10. Language;
11. Directional names to be avoided; and
12. Assigning extent to a road, feature or locality.

The 12 general principles are designed to ensure that no ambiguity, confusion, errors or discrimination results from any naming, renaming or boundary change process.

In preparation for this report, Council officers made contact with identifiable interested parties, in order to assemble early naming suggestions. The following table lists the suggestions received and identifies whether they comply with the Geographic Names Victoria database (VICNAMES), in terms of duplicate or similar sounding names.



### 9.3.3 (cont)

Proposed name	Background/Meaning	Complies with VICNAMES
<b>Whitehorse Historical Society</b>		
McCubbin	Frederick McCubbin	N
Meagher	Name of Brownie Leader in the 1960 tours around Blackburn lake. Members Friends of the Lake, started Lake Education unit in 1985	N
<b>A &amp; Q Bailey (Blackburn) and F Takes &amp; C Bailey (Blackburn)</b>		
Tatas	Nickname of builder of units 8 & 10 Lake Rd	N
<b>1<sup>st</sup>/8<sup>th</sup> Blackburn Scouts Group</b>		
Swords	What the Scouts call their Hall	N
Wild	Led the project for upgrade of hall	N
Jamieson	Scout master in the 1930s	N
<b>Wurundjeri Woi Wurrung Cultural Heritage</b>		
Warrk-Warrk	Nimble	N
Warrawa	Runaway	N
Giya	Scatter	N
Banda	Sleepy	N
Gurnmil	Snake	N
Gurri	Summer	N
Ngamayi	Sunshine	N
Gunawarra	Swan	N
Wadjil	Pelican	N
<b>S Casey (Blackburn Scouts)</b>		
Lesley	First name of Scout Leader	N
Raksha	Scout name of Group Leader	N
<b>J &amp; D Henry (Blackburn)</b>		
Bellbird	Bellbirds in the area	N
<b>L Thomson (Blackburn)</b>		
Scout Hall	Scouts have been there since 1945	N
Bangalay	Eucalyptus botryoides, a variety of native tree, and a number of mature trees at 6 Lake Rd	N

All of the submitted names were assessed as non-compliant with VICNAMES, so Council Officers initiated targeted research to identify some possible names. Clearly, one of the key objectives with any naming exercise is to try to find a name that has relevance and meaning to the specific location of the road/lane to be named.

### **9.3.3**

(cont)

Consequently, Council Officers identified two names which have been assessed as compliant with VICNAMES. The first preferred option is “Yellow Box”, the common name for the Eucalyptus melliodora tree species that was found along the waterway of Gardiner’s Creek, prior to the creation of Blackburn Lake and many are now lining the shores of Blackburn Lake. The second option is “Goshawk”, based on the Brown Goshawk bird found at Blackburn Lake.

#### **CONSULTATION**

As indicated earlier in this report, Council officers made contact with interested parties including: the abutting property owners and occupiers, the Blackburn Scouts Group, the Whitehorse Historical Society and the Wurundjeri Cultural Heritage Aboriginal Corporation, inviting naming suggestions for the un-named lane.

#### **FINANCIAL IMPLICATIONS**

There are no financial implications in the preparation of this report.

#### **POLICY IMPLICATIONS**

It is important that in carrying out its street naming obligations, that Council does ensure that due regard is given to the 12 general (naming) principles of the Office of Geographic Names.

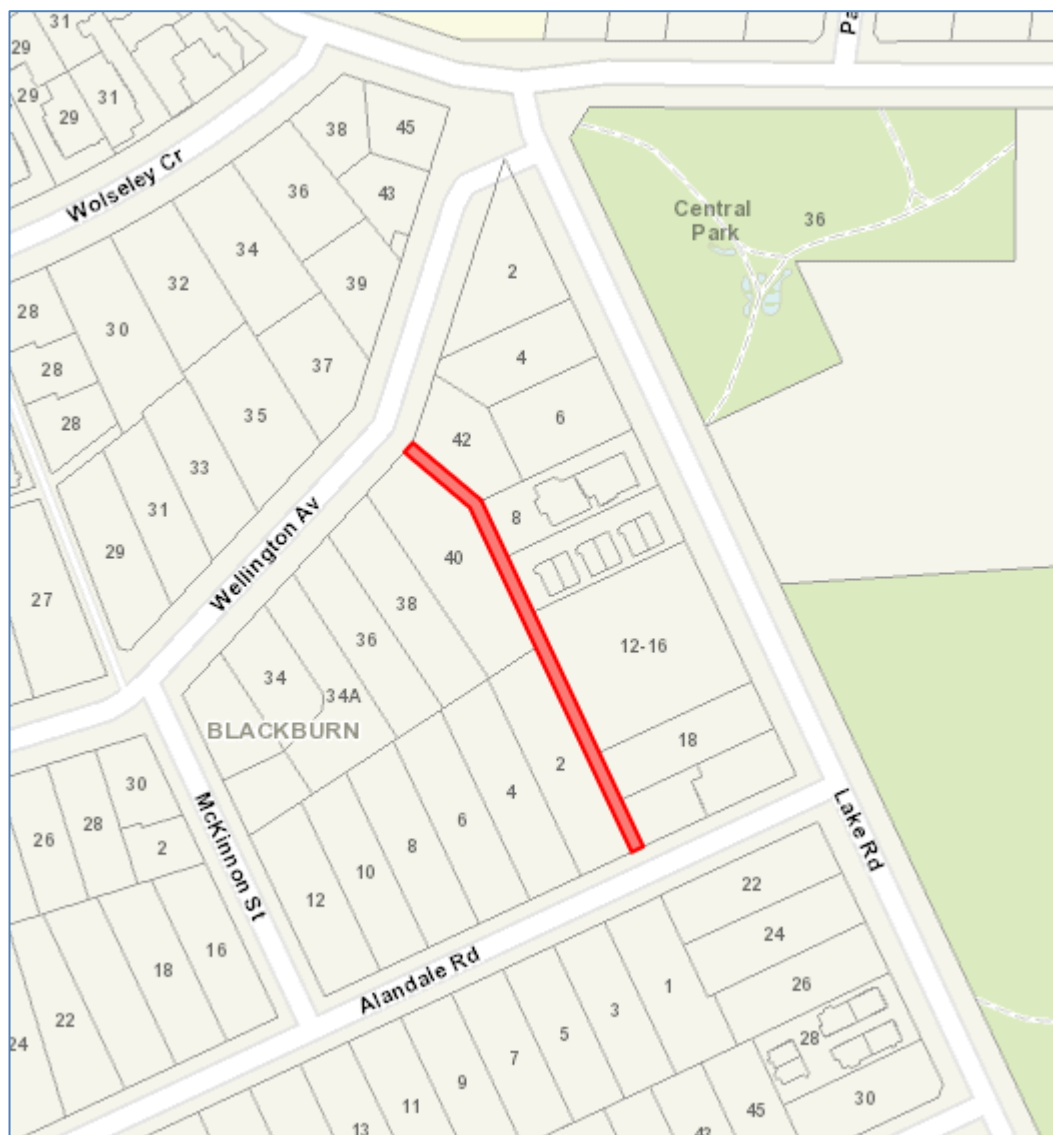
**9.3.3**  
(cont)

**APPENDIX A**

**SITE MAP**

**LANE TO BE NAMED (HIGHLIGHTED) BELOW**

(Rear of Lake Road, Blackburn running from Wellington Ave to Alandale Rd)



**10      REPORTS FROM DELEGATES, DELEGATED COMMITTEE  
RECOMMENDATIONS AND RECORDS OF INFORMAL  
MEETINGS OF COUNCILLORS**

**10.1    Reports by Delegates**

(NB: Reports only from Councillors appointed by Council as delegates to community organisations/committees/groups)

**RECOMMENDATION**

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

**10.2    Recommendation from the Delegated Committee of Council  
Meeting**

No meeting held.

### 10.3 Record of Informal Meeting of Councillors

Meeting Date	Matter/s Discussed	Councillors Present	Officers Present	Disclosures of Conflict of Interest	Councillor /Officer attendance following disclosure
14.12.20 6:00-6:30pm	<b>Councillor Informal Briefing Session</b> <ul style="list-style-type: none"> <li>9.3.3 Floodlighting policy: Sports and Recreation</li> <li>12.1 City of Whitehorse Civic Awards 2021</li> </ul>	Cr Munroe (Mayor & Chair) Cr Barker Cr Cutts Cr Davenport Cr Lane Cr Liu (from 6.15pm) Cr McNeill Cr Massoud (from 6.25pm) Cr Skilbeck Cr Stennett	S McMillan J Green S White T Wilkinson P Smith S Cann J Russell C Altan R Johnston A McCarthy	Nil	Nil
17.12.20 5:30-6:30pm	<b>Virtual Councillor Code of Conduct</b>	Cr Munroe (Mayor & Chair) Cr Barker Cr Carr (Deputy Mayor) Cr Cutts Cr Davenport Cr Lane Cr Liu Cr McNeill Cr Massoud Cr Skilbeck Cr Stennett	S McMillan J Russell R Anania	Nil	Nil
18.01.21 6:00-8:39pm	<b>Councillor Briefing Session</b> <ul style="list-style-type: none"> <li>3.1 Draft Environmentally Sustainable Design Policy for Council Buildings and Infrastructure</li> <li>3.2 Financial report as at 30 November 2020</li> <li>Draft Council Agenda 27 January 2020</li> </ul>	Cr Munroe (Mayor & Chair) Cr Barker Cr Carr (Deputy Mayor) Cr Cutts Cr Davenport Cr Lane Cr Liu Cr McNeill Cr Massoud Cr Skilbeck Cr Stennett	S McMillan (AGMCD) I Kostopoulos S White (AGMHS) M Hassan (AGMCS) S Cann J Russell R Johnson J Blythe K Marriott P Sutton A North I Barnes W Tolis M Portelli S Morison C Altan	Nil	Nil

#### RECOMMENDATION

*That the record of Informal Meetings of Councillors be received and noted.*

**11      REPORTS ON CONFERENCES/SEMINARS ATTENDANCE**

**RECOMMENDATION**

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

**12      CONFIDENTIAL REPORTS**

**13      CLOSE MEETING**