



# Whitehorse City Council

## AGENDA

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### Council Meeting

on

**Monday 23 May 2022**

at 7:00pm

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

Mr Simon McMillan, Chief Executive Officer





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## **AGENDA**

### **1 Prayer**

#### **1.1 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.**

#### **1.2 Aboriginal Reconciliation Statement**

“Whitehorse City Council acknowledges the Wurundjeri Woi-wurrung people of the Kulin Nation as the traditional owners of the land we are meeting on and we pay our respects to their Elders past, present and emerging and Aboriginal and Torres Strait Islanders from communities who may be present today.”

### **2 Welcome**

### **3 Apologies**

### **4 Disclosure of Conflict of Interests**

### **5 Confirmation of Minutes of Previous Meetings**

Minutes of the Council Meeting 09 May 2022

#### **RECOMMENDATION**

That the minutes of the Council Meeting 09 May 2022 having been circulated now be confirmed.

### **6 Public Presentations**

**7      Petitions and Joint Letters**

**7.1 Spotlight / Anaconda Box Hill Rear Stairs and Ramp Access  
from Gardiners Creek Trail Request for Replacement.**

A petition signed by 227 signatories has been received requesting Council replace the current rear stairway and ramp access from Gardiners Creek Trail to the Spotlight/Anaconda Box Hill site.

**RECOMMENDATION**

That the petition be received and referred to the Director City Development for appropriate action and response.

**8      Public Question Time**

**9      Notices of Motion**

**10     Urgent Business**

**11     Council Reports**

## 11 COUNCIL REPORTS

### 11.1 Elevating ESD Targets Planning Scheme Amendment

City Planning and Development  
Director, City Development  
ATTACHMENT

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#### SUMMARY

Current and future land developments for all types of uses will impact the municipality's sustainability for years to come. Introducing requirements through the Whitehorse Planning Scheme is an effective and low-cost way for Council to influence the built environment that will result in lasting improvements to sustainability and quality of life. These requirements can help to minimise energy use, water use and waste, improve environmental outcomes and amenity, and reduce ongoing running costs for our community.

Council first introduced a local ESD policy (Clause 22.10) into the Planning Scheme as part of C130 in November 2015. These ESD requirements have resulted in improvements to sustainability outcomes in the built environment, but will not be sufficient to ensure that new developments meet industry best practice or align with global, national and state policy.

Whitehorse City Council is part of the Council Alliance for a Sustainable Built Environment (CASBE), and is one of 31 Victorian councils embarking on a collaborative project, titled the '*Elevating ESD Targets Planning Policy Amendment*' project (also referred to as the 'Elevating ESD Targets' project) that aims to elevate ESD targets and embed zero carbon development outcomes via the Planning Scheme.

The project is divided into two stages. Stage 1 of the project has now been completed and saw the preparation of an evidence base to support new ESD standards. Stage 2 comprises the Planning Scheme amendment and is the subject of this report.

This report presents the outcomes from Stage 1 and proposes next steps in Stage 2. It highlights local government innovation and leadership, a response to critical environmental issues, plus the legislative, policy and strategy consistency and the technical feasibility of the project. The report also acknowledges the work of State government regarding proposed ESD requirements (albeit delayed and uncertain in its environmental reach), the lack of financial analysis at this point of the project's ESD targets, and the guidelines and tools yet to be prepared and the additional technical resources that councils may require to support their implementation. It is also noted that the collaborative nature of this project to elevate ESD targets for development seeks to do so in a uniform way across the State rather than recognising different municipal contexts. Further, it is anticipated that the proposed amendment will receive a wide spectrum of reaction from the community and the development industry.

**11.1**  
(cont)

Financial analysis of the project is proposed as part of Stage 2. Therefore at this point, the financial impact on development costs and development viability has not been quantified.

All 31 participating councils are now being asked to commit to Stage 2 of the Elevating ESD Targets project involving a joint Planning Scheme Amendment with all participating councils. An advocacy and awareness raising campaign is proposed prior to exhibition of the Amendment.

**RECOMMENDATION**

That Council:

1. As Planning Authority seek authorisation from the Minister for Planning under sections 8A and 8B of the *Planning and Environment Act 1987* to prepare and exhibit an Amendment to the Whitehorse Planning Scheme as shown in Attachment 1 to this report.
  2. Request that the Minister for Planning establish an advisory committee on the Elevating ESD Targets project in accordance with section 151 of the *Planning and Environment Act 1987*.
  3. Note the reports as shown in Attachments 2, 3 and 4 as supporting documents to this Amendment that outline the rationale and evidence to underpin the proposed Planning Scheme changes.
  4. Authorise the Director City Development to make minor changes to the Amendment documents, where the changes do not affect the purpose or intent of the Amendment, and to provide guidance to any advisory committee established by the Minister for Planning.
  5. Supports entering into a Memorandum of Understanding (MoU) with CASBE and the participating councils for the *Elevating ESD Targets Planning Policy Amendment* being Stage 2 of the project and authorise the Director City Development to sign the MoU.
  6. Via the Mayor and Deputy Mayor, join with participating councils to write to the Minister for Planning and Housing, Minister for Energy, Environment and Climate Change, and Minister for Local Government and Suburban Development:
    - a) Outlining the benefits to the community of introducing zero carbon focused and elevated ESD planning policy into the Planning Scheme
    - b) Recommending that this Amendment should be adopted as a part of the State Government's environmentally sustainable development planning reforms.
  7. Supports participation in community awareness raising activities led by the Council Alliance for a Sustainable Built Environment (CASBE) on behalf of the partner councils.
-

**11.1**  
(cont)

8. Commends the collaborative efforts of partner councils, CASBE, consultants and Council officers to strive for elevating ESD targets in the Planning Scheme.
- 

**KEY MATTERS**

The Planning Scheme provides an opportunity for councils to seek enforceable environmental outcomes that meet best practice standards. The Elevating ESD Targets project represents local government leadership in considering greenhouse gas emissions, climate resilience and risk minimisation and a pathway towards achieving zero carbon development.

The key features of the Elevating ESD Targets project are:

- Zero carbon operating requirements;
- Increased landscaping and green infrastructure;
- Increased bicycle parking and EV infrastructure;
- Updated circular economy standards;
- Increased water efficiency targets;
- New indoor environment quality standards.

In July 2021, Council signed up to the first stage of a two stage project, led by CASBE. Stage 1 is now complete and involved an assessment of ESD standards and objectives that councils and CASBE had developed. This work provides the evidence and basis for Stage 2, which is now commencing, and includes a Planning Scheme amendment process to implement the elevated ESD targets via a new Particular Provision in the Planning Scheme.

Following the completion of Stage 1, the Elevating ESD Targets Working Group is seeking confirmation from councils that intend on participating in Stage 2. The more councils that participate, the greater the cost savings will be across participating councils, as a shared costs approach is proposed. In order to proceed with Stage 2, Council is required to sign a Memorandum of Understanding (MoU) alongside other participating councils and the Municipal Association of Victoria on behalf of CASBE. The purpose of the MoU is to provide a framework for a collaborative and cooperative partnership between parties to Stage 2. The MoU provides governance for the project, including operational activities, financial contributions and the decision-making framework.

## 11.1 (cont)

A request for authorisation to prepare and exhibit the Amendment is proposed to be submitted to the Minister for Planning in June of this year. Advocacy will be required to the State Government and other stakeholders, as the project aims to introduce requirements that will go above those expected to be introduced state-wide through the previously announced ESD Roadmap, led by the Department of Environment, Land, Water and Planning (DELWP). It is noted that there have been significant delays in the delivery of this State government initiative.

Council must now consider whether to proceed with Stage 2 and sign the MoU to join the group Planning Scheme amendment phase. If Council decides not to proceed with the Stage 2 at this point in time, it is unlikely that there will an opportunity to join the group amendment at a later date.

If Council resolves to proceed with Stage 2, the next steps will involve:

- Signing the Stage 2 MoU and contributing the required funds to CASBE
- Seeking authorisation from the Minister for Planning to prepare and exhibit a Planning Scheme amendment to introduce the new Particular Provision
- Commencing an informal community awareness raising and advocacy campaign, centrally led by CASBE
- Undertaking further supporting analysis, as required, to support the Amendment including investigating the:
  - Financial impact on bottom line for developers
  - Financial impact of running cost of buildings
  - Economic impact of climate risk.

## STRATEGIC ALIGNMENT

The Elevating ESD Targets project reflects a number of key priorities under *Theme 5: Sustainable Climate and Environmental Care* of the *Whitehorse 2040 Community Vision*, including:

- 5.1: Take a leadership role in tackling climate change
- 5.2: Focus on the environment whilst also balancing the social and economic needs of Whitehorse
- 5.4: Enable the community to reduce, reuse, recycle using circular waste principles.

The project also implements various directions, objectives and strategies of the *Council Plan 2021-2025*, as set out below:

- Strategic Direction 4: Our Built Environment; Movement, and Public Places
  - Strategy 4.1.2: Prepare strategies and guidelines that set expectations for the quality of development and urban design outcomes for a place.



## 11.1

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- Strategic Direction 5: Sustainable Climate Change and Environmental Care
- Objective 5.1: Take a leadership role in tackling climate change
  - Strategy 5.1.1: We will adapt to climate change and build the resilience of our community, infrastructure and the built environment through relevant Council plans and policies.
  - Strategy 5.1.2: Advocate to State Government to lead state-wide vegetation strategies and reform regulation to more strongly discourage tree removal and increase canopy cover to create more shade and reduce urban heat island effect.
- Objective 5.3: Enable and build capacity for the community to reduce, reuse, and recycle using circular waste principles.
  - Strategy 5.3.2: Advocate to and work with State Government agencies and Councils on initiatives that promote and contribute to circular waste principles and State targets.

The Elevating ESD Targets Project is a significant step for Council in meeting the above key priorities, directions, objectives and strategies relating to sustainability and climate change adaptation. The project demonstrates collaborative local government leadership that pursues best practice and zero-carbon development outcomes.

The *Whitehorse Sustainability Strategy 2016-2022* (the Strategy) works towards long term sustainability and liveability for the Whitehorse community. The Strategy advocates for strong leadership and partnerships to deliver coordinated and secure sustainability outcomes. The Strategy is currently being reviewed and an updated Strategy will be prepared.

The Whitehorse *Interim Climate Response Plan 2020-2022* also provides guidance on a range of short to medium term activities that reduce emissions and support climate adaptation. A key theme includes Sustainable Buildings and Homes. The Interim Plan is currently being updated to consider broader actions and activities for Council and community benefit and implementation.

## Policy

ESD is already embedded in the Whitehorse Planning Scheme. The Planning Policy Framework at Section 10 of the Scheme includes an 'Energy and resource efficiency' policy at State level at Clause 15.02-1S, which seeks to:

- Encourage land use and development that is energy and resource efficient and minimises greenhouse gas emissions
- Improve energy, water and waste performance of buildings and subdivisions via ESD

## 11.1

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- Reduce the urban heat island effect through retention of existing vegetation, and additional vegetation and greening in urban areas
- Facilitate a greater use of renewable energy technologies.

The Local Planning Policy Framework also includes numerous references to ESD principles and sustainability, including at:

- Clause 21.05 (Environment) where reference is made to achieving best practice in ESD principles, enhancing tree canopy cover, reducing car dependence and encouraging sustainable modes of transport
- Clause 21.06 (Housing) which supports ESD and innovation in new housing development
- Clause 21.07 (Economic Development) which encourages environmentally sustainable industrial development
- Clause 22.10 (Environmentally Sustainable Development) which sets out ESD objectives, application requirements and decision guidelines for various development types.

The State and local policy framework in the Planning Scheme encourages ESD considerations at the planning permit application phase of a proposed development.

For the time being, this amendment will involve the retention of Clause 22.10. The status of Council's local ESD Policy will be subject for discussion at a future Planning Panel and/or Ministerial Advisory Committee, in relation to this Planning Scheme amendment. This may involve whether Council's local ESD Policy will be retained or superseded by the objectives and standards proposed as a part of the Amendment involving elevated ESD targets.

## BACKGROUND

Council first introduced ESD requirements into the Planning Scheme under Amendment C130 in November 2015. This amendment was undertaken in conjunction with five other councils (Banyule, Moreland, Yarra, Stonnington and Port Phillip). Since this amendment, Clause 22.10 has been guiding the assessment of ESD considerations for planning permit applications in Whitehorse.

From 2018 onwards, CASBE, which operates under the auspices of the Municipal Association of Victoria, has been reviewing how local government can elevate environmental targets to improve the sustainability of the built environment. This review has led to the current Elevating ESD Targets project which is the subject of this report.

## **11.1**

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31 councils, in conjunction with CASBE, have completed Stage 1 of a two-stage process that aims to build on the existing local ESD Policies held by numerous Victorian councils including Clause 22.10 of the Whitehorse Planning Scheme, and deliver revised and elevated ESD targets for new development, including targets for zero carbon development.

Consultants were engaged to independently review draft ESD planning policy objectives and standards. Fifteen case studies were selected from the project councils to inform the baseline and test the technical and development feasibility and economic implications of the elevated standards. The reports prepared for Stage 1 are as follows:

- Part A: Technical ESD and Development Feasibility, Hip v Hype, 28 March 2022 (Attachment 2)
- Part B: Planning Advice, Hansen Partnership, March 2022 (Attachment 3)
- Part C: Cost-Benefit Analysis, Frontier Economics, 28 March 2022 (Attachment 4)

Feedback was sought from the 31 participating councils on the reports, draft objectives and standards. This feedback has now been considered and amalgamated into a further refined set of objectives and standards. The Elevating ESD Targets Project Working Group (PWG) reviewed the proposed standards to frame them for inclusion in the proposed Particular Provision. The consultants updated their technical reports and provided final versions in March 2022 (Attachments 2, 3 and 4). A two-page summary of the key recommendations from these three technical reports is included at Attachment 5.

A webinar was held for senior staff and Councillors on the Stage 1 project outcomes on 16 March 2022. A number of Councillors and Council Officers attended this event which included presentations from the consortium.

These reports form a sound evidence base to underpin the proposed joint Planning Scheme amendment (Stage 2 of the project), as well as the advocacy to State government.

Amendment documentation (Attachment 1) has been prepared to support the participating councils with the Planning Scheme amendment.

## **SUPPORTING REPORT DETAILS**

### **Legislative and Risk Implications**

There are no legal or risk implications arising from the recommendation contained in this report.

**11.1**  
(cont)

The evidence base recommends that Council seek a single ESD Particular Provision in a new clause under Clause 53 of the Planning Scheme. A provision of this nature does not currently exist within the suite of the Victoria Planning Provisions (VPP), however, this is considered to be the most appropriate planning mechanism to implement the Elevated ESD objectives and standards.

Legal advice was sought to determine whether the 31 participating councils could seek to prepare and introduce a new Particular Provision into their planning schemes under section 8A(2) of the *Planning and Environment Act 1987* (the Act) without offending section 10(1) of the Act.

The relevant sections of the Act are as follows:

- s 8A(2): A municipal council must not prepare an amendment to the State standard provisions or the local provisions of a planning scheme in force in its municipal district unless it has applied to the Minister under this section and the Minister has authorised it to do so.
- s 10(1): The power given to a planning authority to prepare an amendment to the State standard provisions of a planning scheme extends only to the inclusion of a provision in or deletion of a provision from the State standard provisions of the planning scheme.
- s 10(2) A planning authority (including the Minister) that is given power to amend more than one planning scheme may prepare amendments to two or more of those schemes in the one instrument.

The legal advice confirmed that councils can seek to prepare and insert a new Particular Provision into their Planning Scheme, provided councils have authorisation from the Minister to do so.

The advice also suggested that if this is rejected by the Minister, participating councils could ask the Minister to be the Planning Authority for such an amendment.

The advice also referenced the opportunity for the Minister to appoint an Advisory Committee under section 151 of the Act, and to refer consideration of a draft amendment seeking to introduce a new Particular Provision to the Advisory Committee.

**Equity, Inclusion, and Human Rights Considerations**

The implications of the report have been assessed and are not considered likely to breach or infringe upon, the human rights contained in the *Victorian Charter of Human Rights and Responsibilities Act 2006*.

**11.1**  
(cont)

**Community Engagement**

Due to the number of Council's involved and the complexities associated with consultation processes across so many areas, no community engagement has been undertaken as part of Stage 1 of the project. It is noted that there was no legislative requirement to undertake community consultation as part of Stage 1, however part of the scope of Stage 1 was to prepare a draft advocacy and engagement plan. Further, Stage 1 primarily involved research to gather the evidence base for elevating ESD targets.

Affected residents and interested stakeholders will be able to make a submission to any future Planning Scheme amendment relating to introducing a requirement for zero carbon development and improved sustainability of built form into the Whitehorse Planning Scheme. Considering the importance, scale and complexity of this project, formal community consultation will occur as part of an extended exhibition period in the Planning Scheme amendment process. This will be formally requested of DELWP through the authorisation request.

Informal community awareness raising is proposed to occur following lodgement of the authorisation request (refer to Recommendation 7 of this report). This is indicated in an advocacy and engagement plan which also proposes an advocacy letter from the Mayor and Deputy Mayor of participating councils to relevant State Ministers regarding this amendment (as per Recommendation 6 of this report). This phase of engagement will occur prior to the formal exhibition phase for the Planning Scheme amendment.

**Financial and Resource Implications**

Costs for Stage 2 of the project will depend on the number of councils joining Stage 2. An Expression of Interest process at officer level in late March indicated that approximately 26 of the 31 councils are potentially interested in proceeding with Stage 2. The final number of councils involved as a part of Stage 2 will be confirmed by the Memorandum of Understanding (MoU) process once each council has formally advised of its decision whether to proceed to Stage 2.

The MoU for Stage 2 will be signed by all participating Councils to share the cost between municipalities for the Planning Scheme amendment. Undertaking the project collaboratively will offer significant financial savings by enabling costs associated with the amendment to be shared. The cost of Stage 2 is therefore dependent on the number of councils involved. The higher the number of councils involved, the lower the cost will be to each individual council. The figure for Stage 2 in the table below is based on at least 20 councils signing up. On this basis, it is anticipated that Whitehorse City Council would be required to contribute in the order of \$20,000 to Stage 2. Standard notification costs for exhibition of the amendment would be carried separately by each council.

## 11.1

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Funding is available in the strategic planning operational budget to join Stage 2 of the project to elevate ESD targets via a Planning Scheme amendment should Council decide to proceed.

| Item   | Estimated Budget<br>(excluding GST)   | Expenditure to<br>date (excluding<br>GST) |
|--|---------------------------------------|---|
| Stage 1 of the CASBE<br>Elevating ESD Targets<br>Project                                       | \$5,372.00                            | \$5,372.00                                |
| Stage 2 of the CASBE<br>Elevating ESD Targets<br>Project                                       | \$20,000.00                           |   |
| Direct notification of<br>amendment exhibition   | \$2,000.00                            |   |
| Government Gazette and<br>The Age notice   | \$4,400.00                            |   |
| Panel / Advisory<br>Committee fee  | Included within CASBE<br>Stage 2 fee. |   |
| Statutory fee for<br>consideration by the<br>Minister of a request to<br>approve the amendment | \$488.50                              |   |
| <b>Total</b>   | <b>\$32,260.50</b>                    | <b>\$5,372.00</b>                         |

The proposed Amendment may have some resource implications for Council if approved. It is expected that additional resources may be required to assist with the assessment of planning permit applications under the proposed Particular Provision and to govern the conditional requirements which include Sustainability Certificates at construction and operational stages. This may involve up to one day per week additional resource, however CASBE provides assistance to councils with implementation such as the roll out of tools and guidance material, of which Whitehorse is a member. The new control is likely to require greater scrutiny than the current policy to ensure that the series of objectives and standards are met.

To assist with the implementation of the elevated ESD requirements, the Project Working Group is developing a series of internal and external facing documents, including templates, examples and guidelines.

**11.1**  
(cont)

**Innovation and Continuous Improvement**

The Elevating ESD Targets Project is an innovative and collaborative project between a large number of councils that are striving for best practice ESD outcomes via the Planning Scheme. This joint initiative represents local government leadership and cooperation to further their local level aspirations, targets and agendas in relation to sustainable built form and climate resilience.

Based on planning advice, it was recommended that insertion of a Particular Provision in the VPPs would be the most appropriate mechanism to achieve the desired ESD outcomes. In this way, the Amendment will test a unique process, being the insertion of a new Particular Provision by a combined group of councils. The Amendment will also draw attention to the current shortcomings of the planning framework which only allows for broader objectives and strategies, but does not contain specific standards needed to deliver the intended outcomes.

**Collaboration**

The Elevating ESD Targets project is a collaborative project where CASBE and 31 councils are working together in the pursuit of sustainable development and zero carbon outcomes via the Planning Scheme.

The Project Working Group has engaged with various other stakeholders, including officers at DELWP and industry groups. Each council has also liaised internally with its relevant departments.

Undertaking the project collaboratively will offer significant financial savings by enabling shared costs associated with the amendment.

**Discussion and Options**

The 31 participating councils from Stage 1 are all required to determine whether they wish to proceed to Stage 2 of the project. Stage 2 is the Planning Scheme amendment phase where a joint request for authorisation to prepare and exhibit the amendment will be sought from the Minister for Planning. This stage will also involve a collaborative awareness raising and advocacy campaign to generate interest and understand community and industry sentiment for the proposed new requirements.

Whitehorse Council has the opportunity to continue its involvement in this leading project. The key environmental themes that are addressed via the amendment are summarised below.

- Operational energy – which entails development prioritising energy efficiency initiatives in line with the following hierarchy:
  - Thermal performance and passive design measures
  - Energy efficient systems (e.g. heating, cooling and ventilation) and appliances

## 11.1

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- Onsite renewable energy generation
- Offsite renewable energy purchasing and/or carbon offsets.

These measures address and aim to minimise a development's demand on the energy grid and peak energy, as well as, emissions to air through fossil fuel reduction which is attributed towards greenhouse gas emissions and climate change impacts.

- Embodied carbon – which entails the use and sourcing of materials and design techniques to reduce the amount of embodied carbon embedded in Victoria's buildings.
- Sustainable transport – which entails the adoption of sustainable transport and low emission vehicle measures such as electric vehicle infrastructure, as well as, an increase in active transport and end of trip facilities such as bicycle parking and storage spaces.
- Integrated water management – which includes water efficiency and potable water demand reduction as well as holistically addressing stormwater quantity and quality onsite prior to stormwater discharge from the development to local waterways.
- Climate resilience – which includes considering a development's risk to climate change impacts such as the urban heat island effect, flooding and the management of stormwater as well as peak energy and potable water demand.
- Green infrastructure – which involves the implementation of green infrastructure design measures, including tree canopy retention, amelioration and planting of appropriate species, to positively contribute towards the ecological value, biodiversity, health and public realm amenity of a development as well as societal and communal impacts.
- Indoor environment quality – which comprises thermal comfort and safety requirements, natural ventilation and access to clean, fresh air, with minimal exposure to harmful indoor air pollutants as well as ensuring that key areas of a development have access to daylight and sunlight to improve amenity, liveability and workability functions.
- Waste and resource recovery – which entails the consideration and selection of appropriate materials that have limited environmental and transportation impact as well as support the waste hierarchy through waste avoidance, minimisation, reuse, recycling and recovery.

The evidence base established during Stage 1 for the above themes and proposed objectives and standards involved the appointment of three technical consultants, each of which produced a report on their respective areas of expertise. Copies of these technical reports can be found at Attachments 2, 3 and 4 and there is a two page summary at Attachment 5.



## 11.1

(cont)

To inform the development of the technical reports, several development typologies were considered whereby the proposed objectives and standards were applied to such development. This was to gauge whether the objectives and standards are suitable from an operative, viability, functional, planning suitability, and economic perspective across a range of development contexts.

The typologies that were considered are detailed as follows having noted those of which are representative of typical development typologies within the City of Whitehorse.

| <b>Development Typology considered when Preparing the Technical Reports</b>          | <b>Representative of Typical Development within Whitehorse</b> |
|--|--|
| Residential: Large residential mixed-use development >50 apartments and small retail | ✓ (e.g. Box Hill and larger activity centres)                  |
| Non-Residential: Large non-residential >2,000 m2 GFA office development              | ✓ (e.g. Box Hill and larger activity centres)                  |
| Non-Residential: Large industrial >2,000 m2  | Uncommon   |
| Residential: Small multi-dwelling residential <3 dwellings                           | ✓  |
| Residential: Small multi-dwelling residential >5 dwellings but < 10 dwellings        | ✓  |
| Residential: Small residential apartment building >10 dwellings but <50 dwellings    | ✓  |
| Non-Residential: Small non-residential office and retail <2,000 m2                   | ✓  |
| Residential: Single dwelling and/or residential extensions greater than 50 m2        | ✓  |

A brief overview of the findings of each report is provided below.

### *Technical ESD and Development Feasibility (Hip v Hype)*

- Validated the performance standards developed and provided recommendations and suggested modifications to strengthen the content, which have been considered and incorporated into the final proposed controls.
- Confirmed that there were no technical barriers to achieving the proposed objectives and standards, but some further investigation on specific elements such as daylight performance is required, and some standards would be better suited as guidance.
- Recommended that additional guidance material to support the proposed control was necessary to assist end users.

## 11.1

(cont)

### *Planning Report (Hansen Partnership)*

- A new Particular Provision specifying a full suite of objectives and standards should be prepared and incorporated in the planning schemes of all councils pursuing the elevated ESD targets.
- Recommended a number of further actions to support the implementation of the new performance standards including a set of sustainability guidelines, definitions for specific terms, a practice note and application and assessment templates.

### *Cost-Benefit Analysis (Frontier Economics)*

- A range of benefits will likely result from the ESD themes, including reduced greenhouse gas emissions, reduced energy and potable water use and reduced waste.
- Future qualitative benefits, such as improved health outcomes enhanced productivity, and reduced urban heat related discomfort, could be realised for themes including green infrastructure and indoor environmental quality, where there were limitations in quantifying direct and tangible benefits.
- A breakeven analysis confirmed that the proposed requirements under the themes of urban ecology and indoor environmental quality may deliver value to the community when considered at a broader scale.

It was agreed by the participating councils that Stage 2 will include a financial analysis. Therefore at this point, the financial impact on development costs and development viability has not been quantified and will be of particular interest to councils, the community and development industry. This further work is proposed to be undertaken following lodgement of the request for authorisation to commence the amendment and prior to any Panel or Advisor Committee hearing. It is noted that this approach is similar to that undertaken during the original ESD amendment in 2014/15 where financial as well as additional technical analysis was prepared after the amendment was lodged and was ultimately accepted in those earlier amendments.

The draft Amendment documentation included at Attachment 1. The proposed Amendment comprises the following changes to the Whitehorse Planning Scheme:

- Modify Clause 21.05 Environment policy references to ESD as needed (this would be a minor change and is yet to be drafted)
- Insert a new Particular Provision at Clause 53.XX (Elevated Environmentally Sustainable Design) NB: the actual clause number is not yet allocated.
- List the Guidelines for Sustainable Building Design as a background document in the schedule to Clause 72.08 (Background Documents)

**11.1**  
(cont)

The eight themes noted above are to be addressed by a series of detailed objectives and standards that are set out in the proposed Particular Provision. The objectives describe the outcome to be met and are mandatory, whereas the standards contain the requirements to meet the objective, but may be varied.

The Particular Provision will apply to applications under a provision of a zone to construct a building, or construct or carry out works, with a few specified exemptions (including VicSmart applications, works associated with one dwelling on a lot and works associated with a relatively small floor area) as set out in the proposed Clause 53.XX-1. Applications lodged prior to the approval date of any amendment that introduces the provision would also be exempt.

It is proposed to retain Clause 22.10 (Environmentally Sustainable Development), subject to discussion at any future independent Planning Panel and/or Ministerial Advisory Committee for the Amendment so that the interplay between the proposed Particular Provision (with or without any resultant changes through the amendment process) and the existing local policy can be further explored. This recognises that the proposed Amendment could potentially result in the ultimate deletion of Council's existing local policy.

The Explanatory Report contained within Attachment 1 to this report provides a detailed response to the Strategic Assessment Guidelines for preparing and evaluating planning scheme amendments.

Stage 2 of the project will also involve advocacy to the State government as the project aims to introduce requirements that go above and beyond the requirements expected to be introduced via the State-wide ESD roadmap. Initial discussions with DELWP have already occurred and will continue throughout the course of the project.

A broader advocacy and awareness raising campaign will also proceed simultaneously. This process intends to build relationships with external stakeholders, generate interest and garner support and momentum for the project. A draft advocacy plan has been compiled by the Project Working Group and will be actioned following lodgement of the request for authorisation. Communications tools may include website pages, social media posts, letters to industry groups, media releases and public webinars.

A formal exhibition period will occur as part of the Planning Scheme amendment process. It is expected that a Ministerial Advisory Committee will be appointed to hear submissions from the community and other interested stakeholders.

**11.1**  
(cont)

***Other matters for consideration***

There are a range of ancillary matters that have been considered by the collective group of councils and CASBE to manage expectations and proceed with best endeavours to ensure the project's success.

A financial analysis is outstanding

- A cost benefit analysis has been prepared which includes a breakeven analysis. The analyses primarily focused on the direct implementation costs associated with addressing the standards at a broad scale and considering community, economy-wide, value. The breakeven analysis determined that further benefits may be realised for qualitative impacts and improvements that are associated with the inclusion of green infrastructure and the enhancement of indoor environment quality.
- A more detailed financial analysis will be undertaken as a part of the Stage 2 process. This approach is identical to that undertaken in 2014/15 with several other councils for the current ESD Policy in the Whitehorse Planning Scheme. In that instance, the financial analysis was previously prepared for the Ministerial Advisory Committee and Planning Panel.

The Guidelines for Sustainable Building Design document are outstanding

- The Guidelines are currently being developed with assistance from technical ESD personnel to ensure content and technical suitability. The Guidelines may be similar to the suite of Sustainable Design Assessment in the Planning Process (SDAPP) factsheets that currently assist the development community with ESD in planning. Council supported the SDAPP factsheets when pursuing the current ESD Policy within the Planning Scheme.
- The Guidelines will consist of case studies, templates, performance criteria, and expectations to ensure that the development community is able to address the objectives and standards outlined within the Amendment.
- The Guidelines will support better regulations and a consistent approach between councils. The intention is that the Guidelines will also reduce costs for certain development (i.e. small scale residential) minimising the need to consult with expert consultants in order for a development to demonstrate that it meets the objectives and standards detailed within the amendment.

**11.1**  
(cont)

Works undertaken by the State government (DELWP) in relation to ESD

- The Project Working Group has been informing DELWP of the project's progress since its inception. This includes the sharing of reports and deliverables and council officers participating in State orchestrated working group discussions. The approach has demonstrated an ongoing collaborative effort between councils and the State government to achieve mutual and shared outcomes.
- The State's proposed ESD Policy (Action 80 of Plan Melbourne 2050) was proposed for delivery in 2018. DELWP's *Environmentally sustainable development of buildings and subdivisions – A roadmap for Victoria's Planning System* ('ESD Roadmap') was released in January 2021, in support of Action 80. The ESD Roadmap outlined further milestones for the delivery of a DELWP-developed Planning Policy Framework (PPF) in April/May 2021 and Particular Provisions in September 2021, respectively. The outcomes are yet to be delivered and have been considerably delayed from the original timeframe to achieve a State ESD Policy in 2018.
- Given that there is significant interest from several councils across the State to pursue a Planning Scheme amendment, an option that the State government has available is to utilise the content of this elevating ESD Targets project (i.e. the Particular Provision) to serve as the State ESD Policy.

National Construction Code (NCC) 2022 proposed changes

- The Amendment supports the NCC 2022 proposed changes and the State government's position on such changes; particularly 7 star NatHERS, energy efficiency rated dwellings. It will also enable the planning framework to prepare for NCC 2022 requirements such as the need for certain development to provide solar photovoltaic systems as well as electric vehicle charging infrastructure.
- Additionally, when considering ESD, the NCC is focussed on a development's energy efficiency performance. That being, its thermal performance, mechanical systems, lighting, glazing, and to a degree, with proposed NCC 2022 changes, renewable energy systems and electric vehicle charging infrastructure.
- The Amendment, similar to Whitehorse's current ESD Policy (Clause 22.10), not only considers energy efficiency and all the particulars above, it also takes into consideration a development's response to integrated water management, indoor environment quality, transport, waste and materials (including embodied energy and carbon), urban ecology and greening, as well as, imperative matters such as, climate risk and adaptation. The NCC does not cover such matters, or cover such matters at length (i.e. the NCC covers mechanical ventilation and thermal comfort only).

## 11.1

(cont)

- However, the Amendment enables councils and the State government to deliver against legislative requirements outlined within the Climate Change Act 2017 (Vic) and council's obligations under the Local Government Act 2020 (Vic).

### Responding to local context

Consideration has been given to as to whether unique and specific standards that are appropriate to a particular municipality, are or can be implemented within the proposed Amendment or within the Planning Scheme at a future date.

- There has been several opportunities for officer level input to inform the objectives and standards, as well as collaborative input from the collective group of councils. There is also the possibility that the objectives and standards may be modified as a result of the Planning Panel and/or Ministerial Advisory Committee process.
- While there may be an opportunity in the future for a council to proceed with an amendment to add a Schedule to the Particular Provision to ensure local variation, this is not in the scope, purpose or objective of the joint process with councils as it goes against achieving uniformity and consistency across councils and throughout the State. Further, creating local variations does not assist the development community to familiarise and understand a consistent set of standards, requirements and expectations across councils and it does not serve the interests of DELWP seeking uniformity and consistency for planning across the State. A local variation unique to Whitehorse is therefore unlikely to be supported by DELWP (and/or the Minister) compared to the proposed joint Amendment.

If Council does not proceed with Stage 2, it may not have another opportunity to join the group amendment. If Council was then to decide to pursue the Amendment independently, at a later date, it will be a more costly and resource intensive process, as opposed to proceeding via a group amendment. These costs would increase further if Whitehorse wished to pursue a local variation and unique standards as independent expert reports would need to be commissioned to substantiate the local variation.

### **Conflict of Interest**

Council officers involved in the preparation of this report have no conflict of interest in this matter.

**11.1**  
(cont)

**Conclusion**

Whitehorse Council is one of 31 Victorian councils that has embarked on the first stage of a leading collaborative project that aims to facilitate best practice ESD measures and mandate zero-carbon development.

The evidence base established during Stage 1 and the revised objectives and standards for the Particular Provision provides a strategic framework in which to pursue Stage 2. Council must now determine whether to continue with this innovative and visionary project and proceed to the Planning Scheme amendment stage.

**ATTACHMENT**

- 1 Amendment Documents for Stage 2 Elevating ESD Targets
- 2 Technical ESD and Development Feasibility Report (Hip V Hype, 28 March 2022)
- 3 Elevating ESD Targets Planning Report (Hansen Partnership, March 2022)
- 4 Elevating ESD Targets Cost Benefit Analysis Report (Frontier Economics, 28 March 2022)
- 5 Summary of Stage 1 Elevating ESD Targets Technical Reports

**11.2 17-21 Market Street, Box Hill – Planning applications for Box Hill Central North Shopping Centre (Vicinity Centres)**

City Planning and Development  
Director, City Development  
FILE NUMBER: WH/2020/467  
ATTACHMENT

**SUMMARY**

This report assesses three planning applications for land known as the Box Hill Central North site (17-21 Market Street, Box Hill).

The applications described within the table below:

| <b>Application</b> | <b>Description</b>   |
|--------------------|--|
| WH/2020/467        | Buildings and works and alteration of access to a road in a Transport Zone 2   |
| WH/2020/466        | Buildings and works for a twenty-seven to twenty-eight storey building associated with office and retail and a reduction in the car parking requirements   |
| WH/2020/597        | The use of the land for accommodation, buildings and works for a fifty to fifty-one storey building associated with accommodation, office and retail and a reduction in the car parking requirements |

These applications comprise Stage 1 of a broader plan by Vicinity Centres to redevelop their shopping centre in Box Hill.

The applications were advertised to the adjoining and surrounding areas of the Box Hill central area, and a total of 40 objections were received. The objections raised issues with built form, amenity, traffic, parking and bicycle infrastructure and access.

A Consultation Forum was held on 07 September 2021 chaired by Councillor Liu, at which the issues were explored, however no resolution was reached between the parties. This report assesses the application against the relevant provisions of the Whitehorse Planning Scheme, as well as the objector concerns.

The applications are summarised below with assessment to follow.

**Summary of WH/2020/467 (Public Realm)**

This application proposes buildings and works which seek to substantially alter and improve the public realm within the Box Hill Metropolitan Activity Centre, and integrate in with the additional buildings proposed under Stage 1.



**11.2**  
(cont)

The extent of works includes the pedestrian extension of Main Street to Prospect Street, the road extension from of Clisby Court to Prospect Street and the necessary public realm upgrades within these areas to support pedestrian movement, activity and amenity. This includes a wind canopy and all-purpose weather shelter over the proposed urban plaza area, to enable year round access and recreational opportunities.

The proposed buildings and works will include a critical east-west connection and enable significantly improved connectivity between the relevant precincts, but also encouraging the uptake of walking and cycling as an alternative to the private vehicle.

The proposed buildings and works have also been designed with a pedestrian focus through the provision of improved landscaping, public realm treatments, and appropriate wayfinding measures. The buildings and works seek to integrate in with the design of the commercial and residential building under Stage 1, improving building access and transition.

The proposed buildings and works have been assessed against the relevant policy framework, and in consideration with objections received, the application will be recommended for approval, subject to conditions.

**Summary of WH/2020/466 (Commercial Building)**

This application proposes a part 27 to part 28 storey building used for the purposes of office and retail, resulting in a substantial net increase in commercial floor space and supporting employment growth and opportunity within the Box Hill Metropolitan Activity Centre.

The proposed building has been designed and sited to limit offsite impacts from both visual bulk and overshadowing and responds to the built form guidelines under the relevant policy framework supporting the buildings height and massing.

The proposal demonstrates a substantial net community benefit, with the land owner voluntarily agreeing to gift private land to the western edge of the site for a future north-south bicycle link, identified as a key north-south route within the *Box Hill Transit City Activity Centre Structure Plan 2007*.

Together with the reduced parking supply, this further supports the modal shift away from reliance on private motor vehicle usage and encourages the uptake of sustainable transportation. The building will be connected into the public realm improvements proposed under WH/2020/467, maintaining a pedestrian focus for the Centre.

The proposed buildings and works have been assessed against the relevant policy framework, and in consideration with objections received, the application will be recommended for approval, subject to planning permit conditions.

**11.2**  
(cont)

**Summary of WH/2020/597 (Residential Building)**

This application proposes a part 50 to part 51 storey building used for the purposes of accommodation, office and retail, resulting in additional and high quality housing supply employment opportunities that supports the expected population growth within the Box Hill Metropolitan Activity Centre.

The proposed building has been designed and sited to limit offsite impacts from both visual bulk and overshadowing and responds to the built form guidelines under the relevant policy framework supporting the buildings height and massing.

The proposal demonstrates a substantial net community benefit, through the voluntary supply of 6% of affordable housing dwellings within the building, which is consistent with the affordable housing objectives under Section 4 of the *Planning and Environment Act 1987*.

An Agreement for affordable housing has been executed and placed in escrow subject to an “acceptable planning permit” being issued. An acceptable planning permit is defined under the Agreement as a permit issued by Council which would not result in changes to the building envelope, loss of floor space, additional development contribution or any other items that materially impact the viability of the development. Changes which would affect the points above would afford the landowner an opportunity to renegotiate the offer of affordable housing.

The proposal seeks to reduce parking for the office, retail and accommodation land uses which further supports the modal shift away from reliance on private motor vehicle usage and encourages the uptake of sustainable transportation. The building will be connected into the public realm improvements proposed under WH/2020/467, maintaining a pedestrian focus for the Centre.

The proposed buildings and works have been assessed against the relevant policy framework, and in consideration with objections received, the application will be recommended for approval, subject to planning permit conditions.

**RECOMMENDATION**

That Council:

- A Being the Responsible Authority, having caused Application WH/2020/467 for 17-21 Market Street, BOX HILL to be advertised and having received and noted the objections is of the opinion that the granting of a Planning Permit for Buildings and works and alteration of access to a road in a road zone, category 1 is acceptable in response to the relevant policy framework and preferred outcomes for the Box Hill Metropolitan Activity Centre and should not unreasonably impact the amenity of adjacent properties.

**11.2**  
(cont)

- B Issue a Notice of Decision to Grant a Permit for Application WH/2020/467 under the Whitehorse Planning Scheme to the land described as 17-21 Market Street, BOX HILL for the Buildings and works and alteration of access to a road in a road zone, category 1, subject to the following conditions:

**Amended plans**

1. Before the development starts for a particular stage, but excluding early works detailed in the Early Works Plan, amended plans to the satisfaction of the Responsible Authority for that stage 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 generally in accordance with plans, all prepared by Lat 27° (Issue 03, dated 04/02/2021) and must be drawn to scale, with dimensions, and further modified to show:
  - (a) All areas of public realm outside of the approved envelopes of WH/2020/466 (commercial building) and WH/2020/597 (residential building) captured within this report.
  - (b) Detailed design drawings at a scale of 1:50 (or otherwise agreed with the Responsible Authority) of any street features, road and footpath areas through the extent of works proposed. The design and materials of all public realm treatments must be consistent with the Box Hill Urban Landscape Design Guidelines Urban Core Treatment as amended from time to time, with sectional diagrams prepared to demonstrate the construction methodology and showing no alteration to the existing public footpath levels, all to be approved to the satisfaction of the Responsible Authority.
  - (c) Detailed design drawings at a scale of 1:50 (or otherwise agreed with the Responsible Authority) of any proposed urban design details such as street furniture, seating, lighting, paving, tree grates, bin enclosures and the like including specifications and materiality.
  - (d) Detailed design drawings at a scale of 1:50 (or otherwise agreed with the Responsible Authority) of all wind canopy structures located within the public realm to demonstrate a high level of visual interest and solar amenity.
  - (e) A clear demarcation between the buildings and works approved under this permit and the surrounding Council and privately owned land.

**11.2**  
(cont)

- (f) Details of all proposed landscaping within the road and pedestrian accessway, building entries, communally accessible terraces and any other area of accessible open space.
- (g) 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.
- (h) Tree species capable of growth to maturity within confined planting conditions, including but not limited to those trees located within containerised planters or located beneath the approved wind canopy structure. All trees must be capable of withstanding the impact from wind.
- (i) Any existing street trees to be removed, lopped or pruned.
- (j) Any modifications required by the wind impact assessment under Condition 10.
- (k) Any modifications required by the Wayfinding Strategy under Condition 12.
- (l) Any modifications required by the Lighting Strategy under Condition 16.

All to the satisfaction of the Responsible Authority.

2. The layout of the site and the size, design and location of the buildings and works permitted must accord with the endorsed plans and must not be altered or modified (unless the Whitehorse Planning Scheme specifies that a permit is not required) without the further written consent of the Responsible Authority.

**Ongoing Architect and Landscape Architect Involvement**

3. Except with the consent of the Responsible Authority, Bates Smart Architects must be retained to complete the detailed development plans and to provide architectural oversight during construction of the detailed design, as shown in the endorsed plans façade strategy and the endorsed schedule of materials and finishes to the satisfaction of the Responsible Authority.
4. Except with the consent of the Responsible Authority, Lat27 must be retained to prepare the detailed landscape plans for the public realm, and to provide professional oversight during the construction of the landscaping and public realm works, as shown in the endorsed detailed landscape plans to the satisfaction of the Responsible Authority.

**11.2**  
(cont)

**Staging Plan**

5. Before the development starts, a Staging plan must be submitted to and be approved to the satisfaction of the Responsible Authority. The Staging Plan must include, but not limited to, plans and information detailing any public realm works, proposed temporary works, proposed temporary treatment and use of land. The development must proceed in order of the stages as shown on the endorsed plan(s), unless otherwise agreed to in writing by the responsible Authority.

**Landscaping Maintenance Plan**

6. Before the development is occupied a Landscaping Maintenance Plan to the satisfaction of the Responsible Authority and prepared by a suitably qualified consultant must be submitted to the Responsible Authority. Once approved, the Landscaping Maintenance Plan must be endorsed and will then form part of the permit. The Landscaping Maintenance Plan will include, but is not limited to:
  - (a) Details of the ongoing maintenance procedures to ensure that the garden areas, containerised planting and green walls 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.
  - (b) For green walls and above ground containerised planting, include the following details:
    - i. Plans and cross-sections of planting containers, and calculated soil volume per container.
    - ii. Structural engineering report and weight loading allowing for mature plant growth and potential flooding of containers.
    - iii. Irrigation frequency and delivery method.
    - iv. Drainage of planting containers.
    - v. Suitability for species selection in relation to nutrients and irrigation requirements.
    - vi. Mulch type, depth and weight.
    - vii. Anchoring of all containers and containerised plants above ground level to resist high winds.
    - viii. Assessment / specification of the microclimate and effect on plant health.

**11.2**  
(cont)

- ix. Maintenance procedures, including access for staff and equipment, and safety/anchoring measures required to access landscaping above ground level

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

- 7. The garden and recreation areas shown on the endorsed plan and schedule must only be used as gardens and recreational areas and must be maintained in a proper, healthy and orderly condition at all times to the satisfaction of the Responsible Authority. Should any trees or plants be removed or destroyed they must be replaced by similar trees or plants of similar size and variety.
- 8. Detailed design plans and specifications of the civil works within the site associated with the approved buildings and works are to be prepared by a suitably qualified engineer, and submitted to the Responsible Authority. Certification by the consulting engineer that the civil works have been completed in accordance with the design plans and specifications must be provided to the Responsible Authority.
- 9. The road reserve and all pedestrian accessways must be constructed and laid out in accordance with the endorsed Landscape and Public Realm Plan to the satisfaction of the Responsible Authority under Condition 6 of this permit.

**Wind Impact Assessment**

- 10. Before the development starts (excluding works undertaken in accordance with the approved Early Works Plan), the Addendum Report to Environmental Wind Speed Measurements (May 2021) must be consolidated with all previous revisions to the satisfaction of the responsible authority and submitted to and approved by the Responsible Authority. The consolidated report must confirm the previously tested outcomes for:
  - (a) The approved public realm works on Main Street, Prospect Street and Clisby Court, including any new pedestrian footpath areas.
  - (b) Any nearby and surrounding public footpaths, Council owned land, and privately owned land.
  - (c) Below and around the periphery of the approved wind canopy structure on Main Street.
- 11. Once approved, the amended Wind Impact Assessment Report will be endorsed and will form part of this permit. The provisions, recommendations and requirements of the endorsed Wind Impact Assessment Report must be implemented and complied with to the satisfaction of the Responsible Authority.

**11.2**  
(cont)

**Wayfinding Strategy**

12. Before the development starts (excluding works undertaken in accordance with the approved Early Works Plan) a Wayfinding Strategy must be prepared to the satisfaction of the Responsible Authority. When approved, the Wayfinding Strategy will be endorsed and will then form part of this permit. The Wayfinding Strategy must include, but not be limited to:
  - (a) Design detailing, wayfinding measures and any other urban design measures to improve:
    - i. Pedestrian and cyclist navigation through the site between the lower and upper ground levels.
    - ii. Pedestrian access to all primary, secondary and tenancy entries.
    - iii. Cyclist access to end-of-trip facilities.
    - iv. Pedestrian and cyclist access to DDA facilities.
    - v. Food and on-demand delivery access to the public realm and building entries.
  - (b) Design detailing, wayfinding measures and any other urban design measure to encourage:
  - (c) Short and long term stationary passive recreation within the nominated areas of urban open space.
  - (d) Location of any wayfinding signage, information or other wayfinding measures to ensure safe and efficient pedestrian access between the lower ground and upper ground levels of Main Street and Prospect Street. View lines through the site and publicly accessible areas must not be impeded by windscreens, containerized planting or any other public realm treatment.
  - (e) Location of any wayfinding signage, information or other wayfinding measures to ensure safe and efficient parking and access for food and on-demand delivery services.
13. Once approved, the Wayfinding Strategy will be endorsed and will form part of this permit. The provisions, recommendations and requirements of the endorsed Wayfinding Strategy must be implemented and complied with to the satisfaction of the Responsible Authority.

**11.2**

(cont)

14. Before the development starts (excluding works undertaken in accordance with the approved Early Works Plan the owner must commission a Disability Audit of the development and undertake any modifications to the development as required by the audit to the satisfaction of the Responsible Authority. In particular, the Disability Audit must address the pedestrian access to the buildings from Prospect Street and Main Street and the through-site pedestrian link to ensure appropriate DDA compliant access.
15. All works must be undertaken in accordance with the endorsed report to the satisfaction of the responsible authority. No alterations to the report may occur without the written consent of the responsible authority

**Lighting and Community Safety Strategies**

16. Before the development starts (excluding works undertaken in accordance with the approved 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 Main Street, Prospect Street and Clisby Court and throughout the pedestrian link and public realm, and must be prepared in accordance with the Urban Design Guidelines Victoria, Department of Environment, Land Water and Planning 2017, to the satisfaction of the Responsible Authority.
17. The lighting must be installed in accordance with the Lighting Strategy and maintained and operated for the life of the building. Lighting must be located, directed and shielded and of limited intensity so that no unreasonable loss of amenity is caused to any person within and beyond the site, to the satisfaction of the Responsible Authority.
18. Once approved, the Lighting Strategy will be endorsed and will form part of this permit. The provisions, recommendations and requirements of the endorsed Lighting Strategy must be implemented and complied with to the satisfaction of the Responsible Authority.
19. The Community Safety Strategy prepared by Lat 27° (Issue 03, dated 04/02/2021) will be endorsed and will form part of this permit. The provisions, recommendations and requirements of the endorsed Community Safety Strategy must be implemented and complied with to the satisfaction of the Responsible Authority.



**11.2**  
(cont)

**Public Art and Management Strategy**

20. If consented to by the land owner and Metro Trains Melbourne, within 6 months of commencement of the development, a Public Art and Management Strategy for the enclosing loading bay wall between the subject land and 1 Main Street (interfacing with the land at 17-21 Market Street) to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Public Art and Management Strategy will be endorsed and will then form part of this permit. The Public Art and Management Plan must include, but not be limited to:
- (a) Details of who is to manage the artwork;
  - (b) Funding arrangements to maintain the artwork;
  - (c) Frequency that the artwork is maintained;
  - (d) Ensure artworks achieves the following objectives:
  - (e) To activate and engage the public realm.
  - (f) To display appropriate content prepared by a local artist.
  - (g) In the event that an art curator is engaged, details of the creation process to include;
    - i. A brief to be developed and open for artists' submissions, or by invitation to a group of shortlisted artists;
    - ii. The concept design submissions will be assessed by Council's Review Committee (including an Arts Officer and Planning Officer) and one artist may be successfully selected to proceed to commission round; and
    - iii. The artist may be engaged for a further design stage or proceed straight to commission, however a fixed budget will be established and the artist contracted to deliver the project within this set fee.
21. Before the buildings within the stage that includes the public art are occupied, or by such later date as approved in writing by the Responsible Authority, the approved public art within the applicable stage must be completed. Once completed, the public art must be maintained in accordance with the endorsed Public Art and Management Strategy to the satisfaction of the Responsible Authority.

**11.2**  
(cont)

**General conditions**

22. The mechanical turntable must be routinely serviced and maintained to the satisfaction of the Responsible Authority to ensure satisfactory access to all loading and unloading areas and to prevent any adverse effect on adjoining land by the emission of noise.
23. Buildings or works must not be constructed over any easement or asset without the written consent of the relevant authorities.
24. Before the development is completed the car parking areas and all vehicle and pedestrian accessways as shown on the endorsed plans must be formed to such levels so that they may be used in accordance with the endorsed plans, and must be properly constructed, surfaced, drained and line-marked (where applicable) to the satisfaction of the Responsible Authority and maintained to the satisfaction of the Responsible Authority.
25. Except with the prior written consent of the Responsible Authority, council assets must not be altered in any way.
26. All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.
27. Existing street trees must not be removed or damaged except with the written consent of the Responsible Authority.
28. All stormwater drains and on-site detention systems must be connected to the legal point of discharge to the satisfaction of the Responsible Authority before the development is occupied. The requirement for on-site detention will be noted on your stormwater point of discharge report, or it might be required as part of the civil plans approval. The civil design must ensure that the landscape plans and drainage plans are compatible with each other. The stormwater drainage and on site detention system must be located outside the tree protection zone (TPZ) of any trees to be retained.
29. Before the development starts, a detailed stormwater drainage and/or civil design for the proposed development must be prepared by a suitably qualified civil engineer and submitted to and approved by the Responsible Authority. It must include calculations with all levels to Australian Height Datum (AHD). The engineering works must be carried out and completed to the satisfaction of the Responsible Authority.

**11.2**  
(cont)

30. Before the development starts, design plans for all proposed engineering works external to the site must be submitted to and approved to the satisfaction of the Responsible Authority. Once approved, the plans will be endorsed and will then form part of the permit. The engineering works must be carried out and completed to the satisfaction of the Responsible Authority before the development is occupied. Certification by the consulting engineer that the civil works have been completed in accordance with the design plans and specifications must be provided to the Responsible Authority.
31. Any reinstatement and/or alterations to Council or other Public Authority assets as a result of the development must be undertaken at no cost to the Responsible Authority. All relevant permits and consents from Council must be obtained at least 7 days before any works commence. Adequate protection must be provided to the satisfaction of the Responsible Authority before works start, and must be maintained during the construction process, to the satisfaction of the Responsible Authority.
32. 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 must not be at no cost to the Responsible Authority. An "Asset Protection Permit" must be obtained from Council at least 7 days before any works on the land start and before specific written approval for any works involving the alteration of Council or other Public Authority assets.

**Construction Management**

33. Before the development starts, excluding early works detailed in the Early Works Plan, a Construction Management Plan to the satisfaction of the Responsible Authority, detailing how the owner must address the environmental and construction issues associated with the development will be managed, must be submitted to and approved by Council.
34. The Construction Management Plan must be prepared and managed by a suitably qualified person who is experienced in preparing Construction Management Plans in accordance with the City of Whitehorse Construction Management Plan Guidelines, as amended from time to time.
35. When approved the Construction Management Plan will form part of this permit and must be complied with, to the satisfaction of the Responsible Authority. The provisions, recommendations and requirements of the endorsed Construction Management Plans must be implemented and complied with to the satisfaction of the Responsible Authority.

**11.2**  
(cont)

**Early Works**

36. Except with the prior written consent of the Responsible Authority, prior to the commencement of any buildings and works, an Early Works Plan must be prepared to the satisfaction of the Responsible Authority. The Early Works Plan must provide details of all works which comprise the 'early works', including but not limited to:
- (a) Piling works (Bored Piers), including Capping Beams.
  - (b) Retention system including structural columns, shotcrete walls and rock anchors.
  - (c) Bulk excavation.
  - (d) Detailed excavation.
  - (e) Excavation and pouring of pad footings, pile caps and basement slabs.
  - (f) Civil drainage retention system.
  - (g) Crane pad footing system.
37. Before the Early Works commence, an Early Works Construction Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. Once approved, the plan will be endorsed and will form part of this permit. The plan must include:
- (a) A pre-conditions survey (dilapidation report) of the land and all adjacent Council roads frontages and nearby road infrastructure.
  - (b) Containment of dust, dirt and mud within the land and method and frequency of clean up procedures to prevent the accumulation of dust, dirt and mud outside the land.
  - (c) Site security.
  - (d) Management of any environmental hazards including, but not limited to:
    - i. Contaminated soil.
    - ii. Materials and waste.
    - iii. Dust
    - iv. Stormwater contamination from run-off and wash-waters.
    - v. Sediment from the land on roads.
    - vi. Washing of concrete trucks and other vehicles and machinery; and spillage from refuelling cranes and other vehicles and machinery.

**11.2**  
(cont)

- vii. An emergency contact that is available for 24 hours per day for residents and the Responsible Authority in the event of relevant queries or problems experienced.
- (e) A Noise and Vibration Management Plan showing methods to minimise noise and vibration impacts on nearby properties and to demonstrate compliance with the *Noise Control Guidelines* (Publication 1254.2) issued by the Environment Protection Authority in May 2021, as amended from time to time. The Noise and Vibration Management Plan must be prepared to the satisfaction of the Responsible Authority. In preparing the Noise and Vibration Management Plan, consideration must be given to:
  - i. Using lower noise work practice and equipment.
  - ii. The suitability of the land for the use of an electric crane.
  - iii. Silencing all mechanical plant by the best practical means using current technology.
  - iv. Fitting pneumatic tools with an effective silencer.
  - v. Any other considerations

The development works must comply with the Early Works Construction Management Plan to the satisfaction of the Responsible Authority.

**Temporary Works Conditions**

- 38. In the event that the land remains vacant for more than 12 months after the completion of the demolition of the existing shopping centre, or demolition or construction activity ceases for a period of 12 months, or construction activity ceases for an aggregate of 12 months after commencement of the construction, the owner must construct temporary works on the land to the satisfaction of the Responsible Authority to ensure that an active street frontage, car parking and/or landscaping is provided to all site frontages.
- 39. Before the construction of temporary works start, details of the works must be submitted to and be to the satisfaction of the Responsible Authority. Temporary works may include:
  - (a) The construction of temporary buildings for short term community or commercial use. Such structures shall include the provision of active street frontage;
  - (b) Landscaping of the site or buildings and works for the purpose of public recreation and open space.

**11.2**  
(cont)

**Agreements**

40. Unless otherwise agreed by the Responsible Authority, prior to commencement of the development authorised by this permit, the owner (or another person in anticipation of becoming the owner) must enter into an agreement with the Responsible Authority under section 173 of the Planning and Environment Act 1987, to address the following matters:
- (a) Within 12 months of the completion of development approved under Permit WH/2020/467 (or an alternative time to the satisfaction of the Responsible Authority), the owner must at its own cost vest in or transfer to the Responsible Authority ownership of the new sections of Clisby Court and Prospect Street, including footpaths, shown within existing title boundaries in RFI Response Landscape Site Plan (19151\_BHN\_SK01, Revision D), and
  - (b) in respect of all buildings and works to be located on or under the land described in condition 39(a) (as applicable):
    - i. The design, construction, maintenance and decommissioning of those works;
    - ii. The support of the new sections of Clisby Court and Prospect Street described in condition 39(a), having regard to the specifications required by the coordinating road authority;
    - iii. The periodic inspection and engineering certification of the works;
    - iv. Liability for the works, and any liability incurred by reason of the works, including appropriate indemnities and releases;
    - v. Insurance;
    - vi. The Responsible Authority's right to access to the works;
    - vii. Any other matters reasonably required by the Responsible Authority; and

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.

41. Unless otherwise agreed by the Responsible Authority, prior to commencement of the development authorised by this permit, the owner (or another person in anticipation of becoming the owner) must enter into an agreement with the Responsible Authority under section 173 of the Planning and Environment Act 1987, which provides for the following:

**11.2**  
(cont)

- (a) Unless otherwise agreed by the Responsible Authority, the connections between Clisby Court and Prospect Street and Main Street shown in RFI Response Landscape Site Plan (19151\_BHN\_SK01, Revision D) and other public realm works authorised by this permit, must be substantially completed to the satisfaction of the Responsible Authority in accordance with the approved staging plan under Condition 5 of this permit;
- (b) The public realm works authorised by this permit which remain in the landowner's ownership, including the canopy, must be completed and maintained by the landowner in accordance with the Landscaping and Public Realm Plan, to the Satisfaction of the Responsible Authority;
- (c) Access through the Main Street extension, from Main Street to Clisby Court and Prospect Street, must be available to the public 24 hours a day without any restriction to access and egress.

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.

**Department of Transport and Supporting Conditions**

- 42. Unless otherwise agreed in writing by the Head, Transport for Victoria, prior to the commencement of 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 generally in accordance with the plans prepared by Lat 27° (Issue 03, dated 04/02/2021) but modified or annotated to show:
  - (a) The provision of DDA-compliant facilities to ensure appropriate and convenient accessibility for pedestrians and cyclists from Prospect Street to Main Street.
  - (b) Appropriate wayfinding strategy or signage to direct pedestrians and cyclists to and from transport hubs including the tram stop, bus interchange and Box Hill train station to the satisfaction of the Head, Transport for Victoria and the Responsible Authority.
- 43. Unless otherwise agreed in writing by the Head, Transport for Victoria, prior to the commencement of buildings and works, a Road Safety Audit must be submitted to and approved by the Head, Transport for Victoria. The Road Safety Audit must be undertaken by a suitably qualified road safety auditor, and must include the following:

**11.2**  
(cont)

- (a) An assessment of the Clisby Court/Whitehorse Road interface as it relates to the interaction with vehicular movements entering the Fairbank Lane service road.
  - (b) Recommended mitigation measures that may be required to address or minimise the safety risks identified, including but not limited to, the closure of Fairbank Lane.
44. Unless otherwise agreed in writing by the Head, Transport for Victoria, prior to the commencement of buildings and works, a Functional Layout Plan 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 generally in accordance with the plans date stamped 16 March 2020 (Drawing no. V1812610-03-02) but modified or annotated to show:
- (a) Key features at the Clisby Court/ Whitehorse Road and Fairbank Lane/Whitehorse Road interfaces including pavement, kerb/shoulders, line marking, power poles, trees and other road furniture.
  - (b) Pedestrian fencing along the eastern kerb line at Clisby Court to prevent pedestrians from crossing Whitehorse Road at that location.
  - (c) Raised pedestrian threshold treatment and associated signage at Clisby Court in accordance with AustRoads Guidelines.
  - (d) Appropriate measures to ensure adequate protection between cyclists, pedestrians and vehicles at the Clisby Court/Whitehorse Road interface.
  - (e) Provision of any other accepted mitigation measures as per the approved Road Safety Audit to the satisfaction of the Head, Transport for Victoria and the Responsible Authority.
45. Prior to the commencement of the use, the required roadworks as per the approved Functional Layout Plan must be completed at no cost to and to the satisfaction of the Head, Transport for Victoria and the Responsible Authority.
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.



## **11.2**

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47. Before the Development commences, unless otherwise agreed in writing with the Head Transport for Victoria, the permit holder must submit detailed plans (inclusive of materials and landscaping) to the satisfaction of the Head, Transport for Victoria (TfV), Vic Track and the Rail Operator (RO) showing the development interface improvements along Main St. being 'public realm works' on railway land. The plans must
- (a) Show lighting, landscaping, footpaths, bicycle parking, street furniture and associated infrastructure;
  - (b) Meet Rail Operator specifications and standards; and
  - (c) Demonstrate that the works are compliant with the Disability Standard for Accessible Public Transport 2002.
48. A construction control agreement must be in place between the Permit Holder and Rail Operator (RO) prior to commencement of the Public Realm Works on Rail Land.
49. The Public Realm Works outlined in the plans must be completed by the permit holder at their full cost and to the satisfaction of Head, Transport for Victoria (TfV), VicTrack and the Rail Operator (RO)

### **Expiry conditions**

50. This permit will expire if one of the following circumstances applies:
- (a) The development is not commenced within five (5) years from the date of issue of this permit;
  - (b) The development is not completed within ten (10) years from the date of this permit;
  - (c) The use does not start within two years of the completion of the development; or
  - (d) The use is discontinued for a period of two years.

The Responsible Authority may extend the periods referred to 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

### **Notes**

- Separate consent for works within the road reserve, including works within Prospect Street, and the specifications of these works may be required under the Road Management Act 2004. Please contact the Department of Transport and the Responsible Authority prior to commencing any works.

## 11.2

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- C Being the Responsible Authority, having caused Application WH/2020/466 for 17-21 Market Street, BOX HILL to be advertised and having received and noted the objections is of the opinion that the granting of a Planning Permit for buildings and works for a twenty-seven to twenty-eight storey building associated with office and retail and a reduction in the car parking requirements is acceptable in response to the relevant policy framework and preferred outcomes for the Box Hill Metropolitan Activity Centre and should not unreasonably impact the amenity of adjacent properties.
- D Issue a Notice of Decision to Grant a Permit for Application WH/2020/466 under the Whitehorse Planning Scheme to the land described as 17-21 Market Street, BOX HILL for the Buildings and works for a twenty-seven to twenty-eight storey building associated with office and retail and a reduction in the car parking requirements, subject to the following conditions:

### **Amended plans**

1. Before the development starts for a particular stage, but excluding early works detailed in the Early Works Plan, amended plans to the satisfaction of the Responsible Authority for that stage 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 generally in accordance with plans, all prepared by Bates Smart Architects (Revision 2, dated 08/02/2021) and must be drawn to scale, with dimensions, and further modified to show:
  - (a) Any modifications required by the Façade Strategy under Condition 10.
  - (b) Any modifications required by the Reflectivity Strategy under Condition 11.
  - (c) Any modifications required by the Sustainability Management Plan under Condition 12.
  - (d) Any modifications required by the Car Parking Management Plan under Condition 14.
  - (e) Any modifications required by the Wind Impact Assessment under Condition 15.
  - (f) Any modifications required by the Waste Management Plan under Condition 17.

All to the satisfaction of the Responsible Authority.

**11.2**  
(cont)

2. The layout of the site and the size, design and location of the buildings and works permitted must accord with the endorsed plans and must not be altered or modified (unless the Whitehorse Planning Scheme specifies that a permit is not required) without the further written consent of the Responsible Authority.

**Ongoing Architect Involvement**

3. Except with the consent of the Responsible Authority, Bates Smart Architects must be retained to complete the detailed development plans and to provide architectural oversight during construction of the detailed design, as shown in the endorsed plans façade strategy and the endorsed schedule of materials and finishes to the satisfaction of the Responsible Authority.
4. Except with the consent of the Responsible Authority, Lat 27° must be retained to prepare the detailed landscape plans for the public realm, and to provide professional oversight during the construction of the landscaping and public realm works, as shown in the endorsed detailed landscape plans to the satisfaction of the Responsible Authority.

**Staging Plan**

5. Before the development starts, a Staging plan must be submitted to and be approved to the satisfaction of the Responsible Authority. The Staging Plan must include, but is not limited to, plans and information detailing any public realm works, proposed temporary treatment and use of land. The development must proceed in order of the stages as shown on the endorsed plan(s), unless otherwise agreed to in writing by the Responsible Authority.

**Landscaping report**

6. Before the development starts for a particular stage, but excluding early works detailed in the Early Works Plan, an amended Landscape Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority in a digital format. Once approved, the amended Landscape Report will be endorsed and will then form part of the permit. The amended Landscape Report must be generally in accordance with the Report all prepared by Lat 27° (Issue 02, dated 04/02/2021) and must be drawn to scale, with dimensions, and further modified to show:
  - (a) Any changes required to meet requirements under Condition 1 of this permit.
  - (b) Details of all proposed landscaping within the buildings communal terraces and upper levels.

**11.2**  
(cont)

- (c) A planting schedule of all proposed vegetation (trees, shrubs and ground covers) which includes, botanical names, common names, pot size, mature size and total quantities of each plant.
  - (d) Tree species capable of growth to maturity within confined planting conditions, including but not limited to those trees located within containerised planters.
- 7. Before the development is occupied, a Landscaping Maintenance Plan to the satisfaction of the Responsible Authority and prepared by a suitably qualified consultant must be submitted to the Responsible Authority. Once approved, the Landscaping Maintenance Plan must be endorsed and will then form part of the permit. The Landscaping Maintenance Plan will include, but is not limited to:
  - (a) Details of the ongoing maintenance procedures to ensure that the garden areas, containerised planting and green walls 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.
  - (b) For above ground containerised planting, include the following details:
    - i. Plans and cross-sections of planting containers, and calculated soil volume per container.
    - ii. Structural engineering report and weight loading allowing for mature plant growth and potential flooding of containers.
    - iii. Irrigation frequency and delivery method.
    - iv. Drainage of planting containers.
    - v. Suitability for species selection in relation to nutrients and irrigation requirements.
    - vi. Mulch type, depth and weight.
    - vii. Anchoring of all containers and containerised plants above ground level to resist high winds.
    - viii. Assessment / specification of the microclimate and effect on plant health.

**11.2**  
(cont)

- ix. Maintenance procedures, including access for staff and equipment, and safety/anchoring measures required to access landscaping above ground level

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

- 8. The garden and recreation areas shown on the endorsed plan and schedule must only be used as gardens and recreational areas and must be maintained in a proper, healthy and orderly condition at all times to the satisfaction of the Responsible Authority. Should any trees or plants be removed or destroyed they must be replaced by similar trees or plants of similar size and variety.
- 9. Before the development is occupied, the relevant section of the road reserve along Main Street and Prospect Street required to provide vehicle and pedestrian access to the site as shown on the staging plan required under Condition 5 must be constructed and laid out in accordance with the endorsed Landscaping and Public Realm Plan under Planning Permit WH/2020/467 to the satisfaction of the Responsible Authority.

**Façade Strategy**

- 10. Before plans are endorsed under condition 1 of this permit, a Façade Strategy must be submitted to and be approved 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) A concise description of the building design and the mechanics of the façade construction by the author of the plans;
  - (b) 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/electronic sample board with clear coding.
  - (c) Elevation details generally at a scale of 1:50 illustrating typical podium details, entries and doors, typical privacy screening and utilities, typical tower detail, glazing, soffits, window detail and any special features which are important to the building's presentation.
  - (d) 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.

**11.2**  
(cont)

- (e) Cross sections or other method of demonstrating a high quality design response for all street interfacing service cupboards, ensuring integration with the buildings design concept and quality of materials used.
- (f) Information about how the façade will be accessed and maintained and cleaned, including planting where proposed.
- (g) Example prototypes and/or precedents that demonstrate the intended design outcome indicated on plans and perspective images to produce a high quality built outcome in accordance with the design concept.
- (h) Details of the west and south walls, which are to be treated with finishes, textures or other design elements to provide a high quality finish.

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

**Reflectivity Conditions**

11. Before plans are endorsed under condition 1 of this permit, a Reflectivity Strategy must be submitted to and be approved to the satisfaction of the Responsible Authority. When approved this will form part of the endorsed plans. The Reflectivity Strategy must detail the external building materials and finishes. Except with the consent of the Responsible Authority, all external materials must be of a type that must not result in hazardous or unreasonable glint or glare to pedestrians, public transport operators and commuters, motorists, aircraft, or occupants of surrounding buildings and public spaces, to the satisfaction of the Responsible Authority.

The provisions, recommendations and requirements of the endorsed Reflectivity Strategy will be implemented and complied with to the satisfaction of the Responsible Authority.

**Sustainability Management Plan**

12. Before plans are endorsed under condition 1 of this permit, an amended Sustainability Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. Once approved, the amended Sustainability Management Plan will be endorsed and will form part of this permit. The amended Sustainability Management Plan must be generally in accordance with the Sustainable Management Plan prepared by Cundall (Revision E, dated 15/05/2020) , but modified to include, show or address:

**11.2**  
(cont)

- (a) 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.
- (b) Appropriate access indicated to maintain and service integrated water management systems demonstrated on Development Plans.
- (c) 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.
- (d) A minimum 150 kilowatt solar photovoltaic system for the development.
- (e) Evidence to the satisfaction of the Responsible Authority that demonstrates the development is registered to obtain a minimum 5 Star Green Star Design and As-Built v1.2 rating with the Green Building Council of Australia.

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

13. Within 12 months of occupation of the building, or by such a later date as approved by the Responsible Authority, certification must be submitted to the satisfaction of the Responsible Authority that demonstrates that the development has achieved a minimum 5 Star Green Star Design and As-Built v 1.2 rating. A copy of the certification and an updated SMP must be provided to the Responsible Authority including endorsed documentation by the Green Building Council of Australia affirming the 5 Star Green Star Design and As Built v 1.2 rating.

**Car Park Management Plan**

14. Before the development is occupied, a Car Park Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Car Park Management Plan will be endorsed and will form part of this permit. The Car Park Management Plan must address, but not be limited to, the following:
- (a) Allocation of parking for office land uses.
  - (b) Strategies to minimise the potential for conflict between pedestrians and vehicles through the basement and on the pedestrian footpaths.

**11.2**  
(cont)

- (c) Details of way-finding, cleaning and security of the end of trip bicycle facilities.
- (d) Any signage associated with allocated parking, public parking and directional wayfinding signage.
- (e) Management of loading/unloading of vehicles associated with the building and how these areas will be secured.

The provisions, recommendations and requirements of the endorsed Car Park Management Plan may be amended with the written consent of the Responsible Authority, and must be implemented and complied with to the satisfaction of the Responsible Authority.

**Wind Impact Assessment**

15. Before the development starts (excluding works undertaken in accordance with the approved Early Works Plan), the Addendum Report to Environmental Wind Speed Measurements (May 2021) must be consolidated with all previous revisions to the satisfaction of the responsible authority and submitted to and approved by the Responsible Authority. The consolidated report must confirm the previously tested outcomes for:
  - (a) The approved buildings entries, building frontages, communal open spaces and upper level terraces.
16. The amended Wind Impact Assessment Report will be endorsed and will form part of this permit. The provisions, recommendations and requirements of the endorsed Wind Impact Assessment Report must be implemented and complied with to the satisfaction of the Responsible Authority.

**Waste Management Plan**

17. Before the development starts, starts (excluding works undertaken in accordance with the approved 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. Once 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 Waste Tech Services (dated 08/02/2021), but modified to include, show or address:



**11.2**  
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- (a) Building tenancies to be clearly identified with corresponding waste generation rates and waste bin volume amended accordingly.

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

**Use Conditions**

- 18. The amenity of the area must not be detrimentally affected, to the satisfaction of the Responsible Authority, by the use or 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.
  - (d) The presence of vermin.
- 19. The land uses must comply at all times with the *Noise Limit and Assessment Protocol for the Control of Noise from Commercial, Industrial and Trade Premise and Entertainment Venues* (Publication 1826.4, Environment Protection Authority, May 2021) as amended from time to time, to the satisfaction of the Responsible Authority.

**General Conditions**

- 20. Buildings or works must not be constructed over any easement or easements without the written consent of the relevant Authorities.
- 21. Before the development is occupied, all building plant and equipment on the roofs, terraces areas, common areas and in the public thoroughfares must be concealed to the satisfaction of the Responsible Authority and remain concealed. 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.
- 22. Before the development is occupied, all mechanical exhaust systems for the car park approved must be located and sound attenuated to prevent noise and unreasonable amenity to the occupants of the surrounding properties, to the satisfaction of the Responsible Authority and must be maintained to the satisfaction of the Responsible Authority.

**11.2**

(cont)

23. Before the development is occupied, all pipes, fixtures, fittings and building services servicing any building on the land must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority and must be maintained to the satisfaction of the Responsible Authority.
24. Before the development is occupied, the car parking areas and accessways as shown on the endorsed plans must be formed to such levels so that they may be used in accordance with the endorsed plans, and must be properly constructed, surfaced, drained and line-marked (where applicable) to the satisfaction of the Responsible Authority and maintained to the satisfaction of the Responsible Authority.
25. Except with the prior written consent of the Responsible Authority, council assets must not be altered in any way.
26. All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.
27. Existing street trees must not be removed or damaged except with the written consent of the Responsible Authority.
28. All stormwater drains and on-site detention systems must be connected to the legal point of discharge to the satisfaction of the Responsible Authority before the development is occupied. The requirement for on-site detention will be noted on your stormwater point of discharge report, or it might be required as part of the civil plans approval. The civil design must ensure that the landscape plans and drainage plans are compatible with each other.
29. Before the development starts, a detailed stormwater drainage and/or civil design for the proposed development must be prepared by a suitably qualified civil engineer and submitted to and approved by the Responsible Authority. It must include calculations with all levels to Australian Height Datum (AHD). The engineering works must be carried out and completed to the satisfaction of the Responsible Authority before the development is occupied.
30. Before the development starts, starts (excluding works undertaken in accordance with the approved Early Works Plan) design plans for all proposed engineering works external to the site must be submitted to and approved to the satisfaction of the Responsible Authority. Once approved, the plans will be endorsed and will then form part of the permit. The engineering works must be carried out and completed to the satisfaction of the Responsible Authority before the development is occupied. Certification by the consulting engineer that the civil works have been completed in accordance with the design plans and specifications must be provided to the Responsible Authority.

**11.2**  
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31. Any reinstatement and/or alterations to Council or other Public Authority assets as a result of the development must be undertaken at no cost to the Responsible Authority. All relevant permits and consents from Council must be obtained at least 7 days before any works commence. Adequate protection must be provided to the satisfaction of the Responsible Authority before works start, and must be maintained during the construction process, to the satisfaction of the Responsible Authority.
32. 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 must not be at no cost to the Responsible Authority. An "Asset Protection Permit" must be obtained from Council at least 7 days before any works on the land start and before specific written approval for any works involving the alteration of Council or other Public Authority assets.
33. Before the development is occupied, all boundary walls must be constructed, cleaned and finished to the satisfaction of the Responsible Authority.

**Construction Management**

34. Before the development starts, excluding early works detailed in the Early Works Plan, a Construction Management Plan to the satisfaction of the Responsible Authority, detailing how the owner must address the environmental and construction issues associated with the development will be managed, must be submitted to and approved by Council.

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

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

**Early Works**

36. Except with the prior written consent of the Responsible Authority, prior to the commencement of any buildings and works, an Early Works Plan must be prepared to the satisfaction of the Responsible Authority. The

**11.2**  
(cont)

Early Works Plan must provide details of all works which comprise the 'early works', including but not limited to:

- (a) Piling works (Bored Piers), including Capping Beams.
- (b) Retention system including structural columns, shotcrete walls and rock anchors.
- (c) Bulk excavation.
- (d) Detailed excavation.
- (e) Excavation and pouring of pad footings, pile caps and basement slabs.
- (f) Civil drainage retention system.
- (g) Crane pad footing system.

37. Before the Early Works commence, an Early Works Construction Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. Once approved, the plan will be endorsed and will form part of this permit. The plan must include:

- (a) A pre-conditions survey (dilapidation report) of the land and all adjacent Council roads frontages and nearby road infrastructure.
- (b) Containment of dust, dirt and mud within the land and method and frequency of clean up procedures to prevent the accumulation of dust, dirt and mud outside the land.
- (c) Site security.
- (d) Management of any environmental hazards including, but not limited to:
  - i. Contaminated soil.
  - ii. Materials and waste.
  - iii. Dust
  - iv. Stormwater contamination from run-off and wash-waters.
  - v. Sediment from the land on roads.
  - vi. Washing of concrete trucks and other vehicles and machinery; and spillage from refuelling cranes and other vehicles and machinery.
  - vii. An emergency contact that is available for 24 hours per day for residents and the Responsible Authority in the event of relevant queries or problems experienced.
- (e) A Noise and Vibration Management Plan showing methods to minimise noise and vibration impacts on nearby properties and to

**11.2**  
(cont)

demonstrate compliance with the *Noise Control Guidelines* (Publication 1254.2) issued by the Environment Protection Authority in May 2021, as amended from time to time. The Noise and Vibration Management Plan must be prepared to the satisfaction of the Responsible Authority. In preparing the Noise and Vibration Management Plan, consideration must be given to:

- i. Using lower noise work practice and equipment.
- ii. The suitability of the land for the use of an electric crane.
- iii. Silencing all mechanical plant by the best practical means using current technology.
- iv. Fitting pneumatic tools with an effective silencer.
- v. Any other considerations

The development works must comply with the Early Works Construction Management Plan to the satisfaction of the Responsible Authority.

**Temporary Works Conditions**

- 38. In the event that the land remains vacant for more than 12 months after the completion of the demolition of the existing shopping centre, or demolition or construction activity ceases for a period of 12 months, or construction activity ceases for an aggregate of 12 months after commencement of the construction, the owner must construct temporary works on the land to the satisfaction of the Responsible Authority to ensure that an active street frontage and/or landscaping is provided to all site frontages.
- 39. Before the construction of temporary works start, details of the works must be submitted to and be to the satisfaction of the Responsible Authority. Temporary works may include:
  - (a) The construction of temporary buildings for short term community or commercial use. Such structures shall include the provision of active street frontage;
  - (b) Landscaping of the site or buildings and works for the purpose of public recreation and open space.

**Agreements**

- 40. Unless otherwise agreed by the Responsible Authority, prior to the occupation of the development authorised by this permit, the owner (or another person in anticipation of becoming the owner) must enter into an agreement with the Responsible Authority under section 173 of the Planning and Environment Act 1987, which provides for the following:

**11.2**  
(cont)

- (a) The public lifts from Prospect Street to ground level at Main Street must be maintained in good order and provide for 24 hour operation to the satisfaction of the Responsible Authority.

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.

41. Unless otherwise agreed by the Responsible Authority, prior to the occupation of the development authorised by this permit, the owner (or another person in anticipation of becoming the owner) must enter into an agreement with the Responsible Authority under section 173 of the Planning and Environment Act 1987, to address matters including, but not limited to, the following in respect of any buildings and improvements overhanging land owned by or to be vested in the Responsible Authority:

- (a) The grant of a licence for the airspace occupied by the buildings and improvements;
- (b) The design, construction, maintenance and decommissioning of the buildings and improvements;
- (c) Liability for the buildings and improvements, and any liability incurred by reason of the buildings and improvements, including appropriate indemnities and releases;
- (d) Insurance;
- (e) The Responsible Authority's right to access the buildings and improvements; and

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.

42. Unless otherwise agreed by the Responsible Authority, prior to commencement of the development authorised by this permit, the owner (or another person in anticipation of becoming the owner) must enter into an agreement with the Responsible Authority under section 173 of the Planning and Environment Act 1987, to address the following matters:

- (a) Prior to the commencement of construction of any development works which involve the demolition and redevelopment of the multi-deck car park shown in Site Plan Demolition Plan (TP-01.01, Revision 1) (excluding the works authorised by permits

**11.2**  
(cont)

WH/2020/466, WH/2020/467 and WH/2020/597, demolition works described below or such other minor works as agreed to by the Responsible Authority) on the land 17-21 Market Street (the Subject Site), the owner must at its own cost:

- i. Demolish the multi-deck carpark or any other works within the 5.7 metre VCX row shown on Feasibility Study, Nelson-Thurston Shared Use Path, Preferred Option, Schematic concept plan (Arup, February 2022), or such part of the land described in condition no. 42(a) as agreed by the Responsible Authority;
- ii. Remove all rubbish and rubble from the Overpass Land described in condition 42(a);
- iii. Remediate the Overpass Land described in condition 42(a), to the standard required for the land to be developed as an overpass and in a condition acceptable to the Responsible Authority; and
- iv. Vest or transfer the Overpass Land described in condition 42(a) to the ownership of the Responsible Authority.

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.

**Department of Transport and Supporting Conditions**

43. 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 prepared by Bates Smart Architects (Revision 2, dated 08/02/2021) but modified to show:
  - (a) Illegal trespass of people onto railway land is prevented.
  - (b) The designs prevent items from being thrown or falling onto railway land from any part of the building development.
  - (c) 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.

**11.2**  
(cont)

- (d) The development does not cause reflected sunlight to interfere with train driver visibility or interpretation of rail signals.
  - (e) The development does not reflect or refract artificial light such that it interferes with train driver visibility or interpretation of rail signals.
  - (f) The development exterior avoids excessive 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.
  - (l) Any buildings and works that relate to the retention of the upper level bridge that connects the upper level car park of the existing building on the development site with the shopping centre to the south of the rail corridor, including its associated supports.
  - (m) Changes to the internal layout of Level 1 of the Building to accommodate any form of integration with the upper level bridge
  - (n) The provision of details of any new connection of the retained upper level bridge with the shopping centre to the south of the rail corridor into the building, including details of staged construction
44. Prior to the commencement of work on site detailed construction / engineering plans and structural computations must be submitted to and approved by the Head, Department of Transport and VicTrack for the protection of the upper level bridge link, railway corridor, and all associated infrastructure. The plans must detail all structural engineering and retention works to the satisfaction of Head, Department of Transport and VicTrack.



**11.2**

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45. Unless otherwise agreed in writing by the Head, Transport for Victoria, prior to the occupation of the development, all works associated with the road connection of Prospect Street and Clisby Court must be completed to the satisfaction of the Head, Transport for Victoria and the Responsible Authority.

46. Unless otherwise agreed in writing by 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, shall:

- (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.
- (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.

Any windows doors and balconies that are set back from, and generally facing the railway land title boundary shall:

- (g) Be designed to prevent items from being thrown or falling onto railway land.
  - (h) Not require people to access onto railway land for the purposes of cleaning, replacement, inspection and maintenance.
  - (i) Not cause reflected sunlight to interfere with train driver visibility or interpretation of rail signals.
  - (j) Not reflect or refract artificial light such that it interferes with train driver visibility or interpretation of rail signals.
47. Prior to the commencement of works, detailed construction/engineering plans and structural computations for any construction work 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 excavations and retention system design and controls of the site adjacent to the railway corridor having any impact on railway land. The design plans must also ensure compliance with:
- (a) The relevant Rail Transport Operator's engineering standard for minimum structural gauge clearances.

**11.2**  
(cont)

- (b) The relevant Rail Transport Operator's engineering standard for minimum clearances to all existing and planned future electrical assets, and procedures for works adjacent. Clearances required include for safe working, fire life safety design, electromagnetic interference and earthing, bonding and electrolysis mitigation design.
  - (c) Energy Safe Victoria (ESV) requirements for clearances to electrical assets and Australian Standards AS2067, AS7000 and Electricity Safety (Installations) Regulations 2009 S.R. No. 164/2009 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 impact loadings and collision protection measures for the building supports adjacent the rail tracks in accordance with AS5100.1 – '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'.
48. Prior to the commencement of work on site detailed construction / engineering plans and structural computations must be submitted to and approved by Public Transport Victoria and VicTrack for the protection of the upper level bridge link, railway corridor, and all associated infrastructure. The plans must detail all structural engineering and retention works to the satisfaction of Public Transport Victoria and VicTrack.
49. Prior to the commencement of works (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.
50. Unless otherwise agreed in writing by the Head, Transport for Victoria, prior to 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.
51. Prior to the commencement of works (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:

**11.2**  
(cont)

- (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.

52. Prior to the commencement of works (including demolition and bulk excavation), a Demolition and Construction Management Plan must be submitted to and approved by the Head, Transport for Victoria. 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/ 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;
- (d) Arrangements for any hoarding associated with the construction of the development that encroaches onto or overhangs railway land;
- (e) Arrangements for piling excavation, shoring, stabilising, anchoring, filling, earthworks or construction associated with the development occurring on or next to the boundary of the railway land;
- (f) Proposals to deposit or store of waste, fill material or other materials associated with the development on the railway land;
- (g) Arrangements for air and dust management;
- (h) Site operating hours;

**11.2**  
(cont)

- (i) Site noise and vibration controls;
- (j) Arrangements for 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.

- 53. 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 the Head, Transport for Victoria. Any boundary fencing adjacent to electrified zones, shall be non-conductive.
- 54. No drainage, effluent, waste. Soil or other materials must not be directed to railway land or stored or deposited on railway land.
- 55. 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 relevant Rail Transport Operator(s) at the full cost to the permit holder.
- 56. Access to railway assets by rail staff for the purposes of inspection, cleaning, maintenance and repair shall be maintained at all times. Existing access routes to railway land shall not be closed, diverted or modified without prior agreement with the by the Head, Transport for Victoria and the relevant Rail Transport Operator(s).

**Expiry**

- 57. This permit will expire if one of the following circumstances applies:
  - (a) The development is not commenced within five (5) years from the date of issue of this permit;
  - (b) The development is not completed within ten (10) years from the date of this permit;
  - (c) The use does not start within two years of the completion of the development; or
  - (d) The use is discontinued for a period of two years.

**11.2**  
(cont)

The Responsible Authority may extend the periods referred to 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

- E Being the Responsible Authority, having caused Application WH/2020/597 for 17-21 Market Street, BOX HILL to be advertised and having received and noted the objections is of the opinion that the granting of a Planning Permit for the The use of the land for accommodation, buildings and works for a fifty to fifty-one storey building associated with accommodation, office and retail and a reduction in the car parking requirements is acceptable and should not unreasonably impact the amenity of adjacent properties.
- Issue a Notice of Decision to Grant a Permit for Application WH/2020/597 under the Whitehorse Planning Scheme to the land described as 17-21 Market Street, BOX HILL for the The use of the land for accommodation, buildings and works for a fifty to fifty-one storey building associated with accommodation, office and retail and a reduction in the car parking requirements, subject to the following conditions:

**Amended plans**

1. Before the development starts for a particular stage, but excluding early works detailed in the Early Works Plan, amended plans to the satisfaction of the Responsible Authority for that stage 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 generally in accordance with plans, all prepared by Bates Smart Architects (Revision 2, 21/01/2021), dated and must be drawn to scale, with dimensions, and further modified to show:
  - (a) Setbacks to the eastern podium walls from levels 1 to 5 in accordance with TP-03.R.01 (Revision 2 dated 09/03/2021) and prepared by Bates Smart Architects.
  - (b) All affordable housing dwellings required under Condition 41 to be clearly identified.
  - (c) The location of wind canopy structures on Market Street generally in accordance with Market Street Wind Mitigation Shelter Option 3 prepared by Bates Smart (dated 31/08/2021).
  - (d) Any modifications required by the Façade Strategy under Condition 10.

**11.2**  
(cont)

- (e) Any modifications required by the Reflectivity Strategy under Condition 11.
- (f) Any modifications required by the Sustainability Management Plan under Condition 12.
- (g) Any modifications required by the Car Park Management Plan under Condition 13.
- (h) Any modifications required by the Wind Impact Assessment under Condition 14.

All to the satisfaction of the Responsible Authority.

- 2. The layout of the site and the size, design and location of the buildings and works permitted must accord with the endorsed plans and must not be altered or modified (unless the Whitehorse Planning Scheme specifies that a permit is not required) without the further written consent of the Responsible Authority.

**Ongoing Architect Involvement**

- 3. Except with the consent of the Responsible Authority, Bates Smart Architects must be retained to complete the detailed development plans and to provide architectural oversight during construction of the detailed design, as shown in the endorsed plans façade strategy and the endorsed schedule of materials and finishes to the satisfaction of the Responsible Authority.
- 4. Except with the consent of the Responsible Authority, Lat 27° must be retained to prepare the detailed landscape plans for the public realm, and to provide professional oversight during the construction of the landscaping and public realm works, as shown in the endorsed detailed landscape plans to the satisfaction of the Responsible Authority.

**Staging Plan**

- 5. Before the development starts, a Staging plan must be submitted to and be approved to the satisfaction of the Responsible Authority. The Staging Plan must include, but not limited to, plans and information detailing any public realm works, proposed temporary treatment and use of land. The development must proceed in order of the stages as shown on the endorsed plan(s), unless otherwise agreed to in writing by the responsible Authority.

**Landscaping Report**

- 6. Before the development starts for a particular stage, but excluding early works detailed in the Early Works Plan, an amended Landscape Report to the satisfaction of the Responsible Authority must be submitted to

**11.2**  
(cont)

and approved by the Responsible Authority in a digital format. Once approved, the amended Landscape Report will be endorsed and will then form part of the permit. The amended Landscape Report must be generally in accordance with plans, all prepared by Lat 27° (Issue 03, dated 08/03/2021) and must be drawn to scale, with dimensions, and further modified to show:

- (a) Any changes required to meet requirements under Condition 1 of this permit.
  - (b) Details of all proposed landscaping within the buildings communal terraces and upper levels.
  - (c) A planting schedule of all proposed vegetation (trees, shrubs and ground covers) which includes, botanical names, common names, pot size, mature size and total quantities of each plant.
  - (d) Tree species capable of growth to maturity within confined planting conditions, including but not limited to those trees located within containerised planters.
7. Before the development is occupied, a Landscaping Maintenance Plan to the satisfaction of the Responsible Authority and prepared by a suitably qualified consultant must be submitted to the Responsible Authority. Once approved, the Landscaping Maintenance Plan must be endorsed and will then form part of the permit. The Landscaping Maintenance Plan will include, but is not limited to:
- (a) Details of the ongoing maintenance procedures to ensure that the garden areas, containerised planting and green walls 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.
  - (b) For above ground containerised planting, include the following details:
    - i. Plans and cross-sections of planting containers, and calculated soil volume per container.
    - ii. Structural engineering report and weight loading allowing for mature plant growth and potential flooding of containers.
    - iii. Irrigation frequency and delivery method.
    - iv. Drainage of planting containers.
    - v. Suitability for species selection in relation to nutrients and irrigation requirements.

**11.2**  
(cont)

- vi. Mulch type, depth and weight.
- vii. Anchoring of all containers and containerised plants above ground level to resist high winds.
- viii. Assessment / specification of the microclimate and effect on plant health.
- ix. Maintenance procedures, including access for staff and equipment, and safety/anchoring measures required to access landscaping above ground level

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

- 8. The garden and recreation areas shown on the endorsed plan and schedule must only be used as gardens and recreational areas and must be maintained in a proper, healthy and orderly condition at all times to the satisfaction of the Responsible Authority. Should any trees or plants be removed or destroyed they must be replaced by similar trees or plants of similar size and variety.
- 9. Before the development is occupied, the relevant section of the road reserve along Main Street and Clisby Court required to provide vehicle and pedestrian access to the site as shown on the staging plan required under Condition 5 must be constructed and laid out in accordance with the endorsed Landscaping and Public Realm Plan under Planning Permit WH/2020/467 to the satisfaction of the Responsible Authority.

**Façade Strategy**

- 10. Before plans are endorsed under condition 1 of this permit, a Façade Strategy must be submitted to and be approved 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) A concise description of the building design and the mechanics of the façade construction by the author of the plans;
  - (b) 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/electronic sample board with clear coding.



**11.2**  
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- (c) Elevation details generally at a scale of 1:50 illustrating typical podium details, entries and doors, typical privacy screening and utilities, typical tower detail, glazing, soffits, window detail and any special features which are important to the building's presentation.
- (d) 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.
- (e) Cross sections or other method of demonstrating a high quality design response for all street interfacing service cupboards, ensuring integration with the buildings design concept and quality of materials used.
- (f) Information about how the façade will be accessed and maintained and cleaned, including planting where proposed.
- (g) Example prototypes and/or precedents that demonstrate the intended design outcome indicated on plans and perspective images to produce a high quality built outcome in accordance with the design concept.
- (h) Details of the north and east on-boundary walls, which are to be treated with finishes, textures or other design elements to provide a high quality finish.

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

**Reflectivity Conditions**

11. Before plans are endorsed under condition 1 of this permit, a Reflectivity Strategy must be submitted to and be approved to the satisfaction of the Responsible Authority. When approved this will form part of the endorsed plans. The Reflectivity Strategy must detail the external building materials and finishes which must not result in hazardous or unreasonable glint or glare to pedestrians, public transport operators and commuters, motorists, aircraft, or occupants of surrounding buildings and public spaces, to the satisfaction of the Responsible Authority.

The provisions, recommendations and requirements of the endorsed Reflectivity Strategy will be implemented and complied with to the satisfaction of the Responsible Authority.

**11.2**  
(cont)

**Sustainability Management Plan**

12. Before plans are endorsed under condition 1 of this permit, an amended Sustainability Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. Once approved, the amended Sustainability Management Plan will be endorsed and will form part of this permit. The amended Sustainability Management Plan must be generally in accordance with the Sustainable Management Plan prepared by Cundall (Revision G, dated 14/08/2020) but modified to include, show or address:
- (a) A Green Star Design and As Built v 1.2 Scorecard that exceeds an acceptable overall score of 45 points. Supporting assessments and calculations that pertain to credits claimed associated with 'Energy', 'Water', 'Daylight' and 'Stormwater' criteria must be provided to the satisfaction of the Responsible Authority.
  - (b) 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.
  - (c) Appropriate access indicated to maintain and service integrated water management systems demonstrated on Development Plans.
  - (d) 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.
  - (e) The amount of toilet services and irrigation areas that the rainwater tanks will facilitate annotated on Development Plans.
  - (f) Other stormwater treatment systems to manage stormwater quality from trafficable areas.
  - (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 6 star WELS urinals.
  - (h) Natural ventilation with all operable windows, doors, terrace openings and vents provided in elevation drawings.
  - (i) 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. Dwellings must

**11.2**  
(cont)

demonstrate that the development will generally 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.

- (j) That prior to the commencement of development and works, a BCA Section J or JV3 Energy Efficiency Assessment with documentation status detailed as Issued for Tender. Any changes to the Issued for Tender BCA Section J or JV3 Energy Efficiency Assessment documentation must be approved, to the satisfaction of the Responsible Authority. The BCA Section J or JV3 Assessment will pertain to non-residential areas indicating energy efficiency performance with respect to the development's reference/base case. The assessment is required to exceed, as a minimum, the National Construction Code 2016 Building Code of Australia requirements in excess of 10% and include indicative commitments towards thermal performance (i.e. R-values), artificial lighting and glazing (i.e. U- and SHGC- values) for non-residential areas.
- (k) LED light fittings used to provide artificial lighting and designed to exceed National Construction Code 2016 Building Code of Australia requirements.
- (l) Energy efficient heating, cooling and hot water systems indicating the associated COP and EER values or energy efficiency star ratings.
- (m) Exterior building services equipment including any heating, cooling, ventilation and hot water systems on Development Plans.
- (n) A solar photovoltaic system sized to the satisfaction of the Responsible Authority.
- (o) Double glazing for all external windows.
- (p) Car park ventilation fitted with CO sensors.
- (q) All common, external, service and lift area lighting fitted with sensors or timers.
- (r) Common, service and lift area ventilation fitted with sensors or timers.
- (s) Shading fixtures and devices annotated on elevation drawings.

**11.2**  
(cont)

- (t) The location of alternative transport facilities including residential, employee and visitor secure bicycle spaces, showers, and changing facilities demonstrated on Development Plans.
- (u) A minimum of 5% of car spaces provided with electric vehicle charging infrastructure.
- (v) A commitment to divert at least 80% of construction and demolition waste from landfill.
- (w) Use of low Volatile Organic Compound (VOC) and formaldehyde products.
- (x) 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.
- (y) 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.).

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

**Car Park Management Plan**

13. Before the development is occupied a Car Park Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Car Park Management Plan will be endorsed and will form part of this permit. The Car Park Management Plan must address, but not be limited to, the following:
- (a) Allocation of residential parking.
  - (b) Allocation of accessible parking.
  - (c) Strategies to minimise the potential for conflict between pedestrians and vehicles through the basement and on the pedestrian footpaths.
  - (d) Details of way-finding, cleaning and security of the end of trip bicycle facilities.

**11.2**  
(cont)

- (e) Any signage associated with allocated parking, public parking and directional wayfinding signage.
- (f) Management of loading/unloading of vehicles associated with the buildings and how these areas will be secured.

The provisions, recommendations and requirements of the endorsed Car Park Management Plan may be amended with the written consent of the Responsible Authority, and must be implemented and complied with to the satisfaction of the Responsible Authority.

**Wind Impact Assessment**

14. Before the development starts (excluding works undertaken in accordance with the approved Early Works Plan), the Addendum Report to Environmental Wind Speed Measurements (May 2021) must be consolidated with all previous revisions to the satisfaction of the responsible authority and submitted to and approved by the Responsible Authority.

The consolidated report must confirm the previously tested outcomes for:

- (a) The approved buildings entries, building frontages, adjoining laneway, communal open spaces and upper level terraces.
- (b) Market Street.

And provide additional wind speed testing:

- (c) Generally achieving sitting comfort criteria under wind canopy structures located on Market Street generally in accordance with Market Street Wind Mitigation Shelter Option 3 prepared by Bates Smart (dated 31/08/2021).
15. The amended Wind Impact Assessment Report will be endorsed and will form part of this permit. The provisions, recommendations and requirements of the endorsed Wind Impact Assessment Report must be implemented and complied with to the satisfaction of the Responsible Authority.
  16. Within 2 months of the substantial completion of the development authorised by this permit or at an earlier date to the satisfaction of the Responsible Authority, the permit holder is to submit a Market Street Wind Assessment Report to the satisfaction of the Responsible Authority.

**11.2**  
(cont)

- (a) The Market Street Wind Assessment Report must be undertaken by a suitably qualified person, for the purpose of assessing whether the wind conditions on Market Street affected by the development authorised by this permit (taking account of existing site and surrounding conditions, including new or proposed built form, at the time the Wind Assessment Report is undertaken) indicate whether mitigation measures are required to be provided in the general area identified in the Whitehorse Council market Street Wind Mitigation Structure Location Plan (dated 04/11/2021).
- (b) If the Market Street Wind Assessment Report recommends wind mitigation measures are required in accordance with condition 16 (a) then:
  - i. The permit holder is to construct wind structures generally in accordance with the Market Street Wind Mitigation Shelter Option 3 prepared by Bates Smart (dated 31/08/2021) and the general area identified in the Whitehorse Council market Street Wind Mitigation Structure Location Plan (dated 04/11/2021), to the satisfaction of the Responsible Authority
  - ii. The detailed design of the wind mitigation structures is to be approved by the Responsible Authority prior to the commencement of construction;
  - iii. The construction of the wind mitigation structures to be completed within a reasonable timeframe to the satisfaction of the Responsible Authority;
  - iv. The full cost of construction of the wind mitigation measures (inclusive of delivery) is to be borne by the permit holder, unless otherwise agreed by the Responsible Authority.

**Waste Management Plan**

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

**Use conditions**

- 18. The amenity of the area must not be detrimentally affected, to the satisfaction of the Responsible Authority, by the use or 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.

**11.2**  
(cont)

19. The presence of vermin. The land uses must comply at all times with the *Noise Limit and Assessment Protocol for the Control of Noise from Commercial, Industrial and Trade Premise and Entertainment Venues* (Publication 1826.4, Environment Protection Authority, May 2021) as amended from time to time, to the satisfaction of the Responsible Authority.

**Easement condition**

20. Before occupation of the development authorised by this permit, the permit holder must procure registration of an easement over the north-south laneway between Whitehorse Road and Main Street as shown on TP-03.R.00 and TP-03.R.00A for the benefit of lots associated with addresses as 23 Market Street, 25 Market Street, 27 Market Street and 42-50 Main Street, Box Hill. All to the satisfaction of the responsible authority.

**General conditions**

21. Buildings or works must not be constructed over any easement or easements without the written consent of the relevant Authorities.
22. Before the development is occupied, all building plant and equipment on the roofs, terraces areas, common areas and in the public thoroughfares must be concealed to the satisfaction of the Responsible Authority and remain concealed. 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.
23. Before the development is occupied, all mechanical exhaust systems for the car park approved must be located and sound attenuated to prevent noise and unreasonable amenity to the occupants of the surrounding properties, to the satisfaction of the Responsible Authority and must be maintained to the satisfaction of the Responsible Authority.
24. Before the development is occupied, all pipes, fixtures, fittings and building services servicing any building on the land must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority and must be maintained to the satisfaction of the Responsible Authority.
25. Before the development is occupied, the car parking areas and accessways as shown on the endorsed plans must be formed to such levels so that they may be used in accordance with the endorsed plans, and must be properly constructed, surfaced, drained and line-marked (where applicable) to the satisfaction of the Responsible Authority and maintained to the satisfaction of the Responsible Authority.

**11.2**

(cont)

26. Except with the prior written consent of the Responsible Authority, council assets must not be altered in any way.
27. All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.
28. Existing street trees must not be removed or damaged except with the written consent of the Responsible Authority.
29. All stormwater drains and on-site detention systems must be connected to the legal point of discharge to the satisfaction of the Responsible Authority before the development is occupied. The requirement for on-site detention will be noted on your stormwater point of discharge report, or it might be required as part of the civil plans approval. The civil design must ensure that the landscape plans and drainage plans are compatible with each other. The stormwater drainage and on site detention system must be located outside the tree protection zone (TPZ) of any trees to be retained.
30. Before the development starts, a detailed stormwater drainage and/or civil design for the proposed development must be prepared by a suitably qualified civil engineer and submitted to and approved by the Responsible Authority. It must include calculations with all levels to Australian Height Datum (AHD). The engineering works must be carried out and completed to the satisfaction of the Responsible Authority before the development is occupied.
31. Before the development starts, design plans for all proposed engineering works external to the site must be submitted to and approved to the satisfaction of the Responsible Authority. Once approved, the plans will be endorsed and will then form part of the permit. The engineering works must be carried out and completed to the satisfaction of the Responsible Authority before the development is occupied. Certification by the consulting engineer that the civil works have been completed in accordance with the design plans and specifications must be provided to the Responsible Authority.
32. Any reinstatement and/or alterations to Council or other Public Authority assets as a result of the development must be undertaken at no cost to the Responsible Authority. All relevant permits and consents from Council must be obtained at least 7 days before any works commence. Adequate protection must be provided to the satisfaction of the Responsible Authority before works start, and must be maintained during the construction process, to the satisfaction of the Responsible Authority.



**11.2**  
(cont)

33. 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 must not be at no cost to the Responsible Authority. An "Asset Protection Permit" must be obtained from Council at least 7 days before any works on the land start and before specific written approval for any works involving the alteration of Council or other Public Authority assets.
34. Before the development is occupied, all boundary walls must be constructed, cleaned and finished to the satisfaction of the Responsible Authority.

**Construction Management**

35. Before the development starts, excluding early works detailed in the Early Works Plan, a Construction Management Plan to the satisfaction of the Responsible Authority, detailing how the owner must address the environmental and construction issues associated with the development will be managed, must be submitted to and approved by Council.
36. The Construction Management Plan must be prepared and managed by a suitably qualified person who is experienced in preparing Construction Management Plans in accordance with the City of Whitehorse Construction Management Plan Guidelines, as amended from time to time.
37. When approved the Construction Management Plan will form part of this permit and must be complied with, to the satisfaction of the Responsible Authority. The provisions, recommendations and requirements of the endorsed Construction Management Plans must be implemented and complied with to the satisfaction of the Responsible Authority.

**Early Works**

38. Except with the prior written consent of the Responsible Authority, prior to the commencement of any buildings and works, an Early Works Plan must be prepared to the satisfaction of the Responsible Authority. The Early Works Plan must provide details of all works which comprise the 'early works', including but not limited to:
- (a) Piling works (Bored Piers), including Capping Beams.
  - (b) Retention system including structural columns, shotcrete walls and rock anchors.
  - (c) Bulk excavation.
  - (d) Detailed excavation.
  - (e) Excavation and pouring of pad footings, pile caps and basement slabs.

**11.2**  
(cont)

- (f) Civil drainage retention system.
  - (g) Crane pad footing system.
39. Before the Early Works commence, an Early Works Construction Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. Once approved, the plan will be endorsed and will form part of this permit. The plan must include:
- (a) A pre-conditions survey (dilapidation report) of the land and all adjacent Council roads frontages and nearby road infrastructure.
  - (b) Containment of dust, dirt and mud within the land and method and frequency of clean up procedures to prevent the accumulation of dust, dirt and mud outside the land.
  - (c) Site security.
  - (d) Management of any environmental hazards including, but not limited to:
    - i. Contaminated soil.
    - ii. Materials and waste.
    - iii. Dust
    - iv. Stormwater contamination from run-off and wash-waters.
    - v. Sediment from the land on roads.
    - vi. Washing of concrete trucks and other vehicles and machinery; and spillage from refuelling cranes and other vehicles and machinery.
    - vii. An emergency contact that is available for 24 hours per day for residents and the Responsible Authority in the event of relevant queries or problems experienced.
  - (e) A Noise and Vibration Management Plan showing methods to minimise noise and vibration impacts on nearby properties and to demonstrate compliance with the *Noise Control Guidelines* (Publication 1254.2) issued by the Environment Protection Authority in May 2021, as amended from time to time. The Noise and Vibration Management Plan must be prepared to the satisfaction of the Responsible Authority. In preparing the Noise and Vibration Management Plan, consideration must be given to:
    - i. Using lower noise work practice and equipment.
    - ii. The suitability of the land for the use of an electric crane.
    - iii. Silencing all mechanical plant by the best practical means using current technology.
    - iv. Fitting pneumatic tools with an effective silencer.

**11.2**  
(cont)

v. Any other considerations

The development works must comply with the Early Works Construction Management Plan to the satisfaction of the Responsible Authority.

**Temporary Works Conditions**

40. In the event that the land remains vacant for more than 12 months after the completion of the demolition of the existing shopping centre, or demolition or construction activity ceases for a period of 12 months, or construction activity ceases for an aggregate of 12 months after commencement of the construction, the owner must construct temporary works on the land to the satisfaction of the Responsible Authority to ensure that an active street frontage and/or landscaping is provided to all site frontages.
41. Before the construction of temporary works start, details of the works must be submitted to and be to the satisfaction of the Responsible Authority. Temporary works may include:
- (a) The construction of temporary buildings for short term community or commercial use. Such structures shall include the provision of active street frontage;
  - (b) Landscaping of the site or buildings and works for the purpose of public recreation and open space.

**Agreements**

42. Prior to commencement of the development authorised by this permit, the owner of the land must enter into an agreement under section 173 of the Planning and Environment Act 1987 with the responsible authority to address the following matters:
- (a) 6% of the number of dwellings constructed on the land in accordance with this permit must be used as 'Affordable Housing' (as that term is defined in section 3AA of the Planning and Environment Act 1987) (Affordable Housing Dwellings) for a period of not less than 30 years from the date of issue of an occupancy permit for the Affordable Housing Dwellings under the Building Act 1983;

**11.2**  
(cont)

- (b) Unless otherwise approved by the responsible authority, within 2.5 years after the commencement of the development authorised by this permit, the owner must enter into an agreement with a housing provider or housing association registered with Victoria's Registrar for Housing Agencies for the purposes of the Housing Act 1983 (Registered Agency) or other organisation proposed by the owner, which must have demonstrated experience in managing Affordable Housing Dwellings and at least \$10 million of property value under ownership or management, and approved to the satisfaction of the responsible authority (Other Organisation) or is a member of the Vicinity Centres Group (Vicinity) provided Vicinity is the landowner of an interest in the land, which provides for:
- i. The sale of the Affordable Housing Dwellings to a single Registered Agency or Other Organisation for use for Affordable Housing; or
  - ii. The lease to, or management of the Affordable Housing Dwellings by, a single Registered Agency or Other Organisation for the purposes of Affordable Housing;
- (c) in the case of lease or management of the Affordable Housing Dwellings pursuant to paragraph ii, if there is a continuous period of greater than 6 months, or a cumulative period of greater than 6 months in any 2 year period, that any of the Affordable Housing Dwellings are not under a lease or management agreement with a Registered Agency or Other Organisation during the 30 year period referred to in paragraph (a), then the 30 year period for those particular Affordable Housing Dwellings shall be extended by such period for which they are not under a lease or management agreement,

On terms and conditions which are satisfactory to the responsible authority.

The owner must pay the responsible authority's reasonable costs and expenses (including legal expenses) of and incidental to the preparation, execution, registration on title, enforcement and ending of the agreement.

For the purposes of this condition:

- Vicinity Centres Group means the stapled entity known (at the date of this agreement but which may change from time to time) as Vicinity Centres which is comprised of Vicinity Limited ACN 114 757 783 and Vicinity Centres RE Ltd ACN 149 781 322 as responsible entity for Vicinity Centres Trust ARSN 104 931 928, and any relate body corporate or Related Entity of any member of the preceding; and

**11.2**  
(cont)

- Related Entity means in relation to an entity (which includes a fund, managed investment scheme or trust), means any entity, directly or indirectly, managed, owned, controlled, or under common control by such an entity or a fund or trust of which such an entity or a related bodies corporate is the trustee, manager or responsible entity

43. Unless otherwise agreed by the Responsible Authority, prior to occupation of the development authorised by this permit, the owner (or another person in anticipation of becoming the owner) must enter into an agreement with the Responsible Authority under section 173 of the Planning and Environment Act 1987, which provides for the following:

- (a) The public lifts from Clisby Court to ground level at Main Street must be maintained in good order and provide for 24 hour operation to the satisfaction of the Responsible Authority.

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.

**Department of Transport Conditions**

44. Prior to the commencement of works, 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. The plans must be generally in accordance with the plans submitted with the application prepared by Bates Smart Architects (Revision 2, 21/01/2021) but modified to show:

- (a) The development does not cause reflected sunlight to interfere with train driver visibility or interpretation of rail signals.
- (b) The development does not reflect or refract artificial light such that it interferes with train driver visibility or interpretation of rail signals.
- (c) The development exterior avoids excessive use of red, green or yellow colour schemes that may interfere with driver operations.
- (d) That any temporary or permanent ground anchors, soil nails, reinforced earth straps or other ground stabilising devices, do not penetrate onto railway land.
- (e) 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.

**11.2**  
(cont)

45. Unless otherwise agreed in writing by the Head, Transport for Victoria, prior to the occupation of the development, all works associated with the road connection of Prospect Street and Clisby Court must be completed to the satisfaction of the Head, Transport for Victoria and the Responsible Authority.

**Expiry**

46. This permit will expire if one of the following circumstances applies:
- (a) The development is not commenced within five (5) years from the date of issue of this permit;
  - (b) The development is not completed within ten (10) years from the date of this permit;
  - (c) The use does not start within two years of the completion of the development; or
  - (d) The use is discontinued for a period of two years.

The Responsible Authority may extend the periods referred to 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

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

## 11.2

(cont)

### MELWAYS REFERENCE 75A E4

|                   |   |
|-------------------|---|
| Applicant:        | Vicinity Centres PM Pty Ltd                 |
| Zoning:           | Clause 34.01 Commercial 1 Zone              |
| Overlays:         | Clause 45.09 Parking Overlay – Schedule 1   |
| Relevant Clauses: |   |
| Clause 11.03-1S   | Activity Centres                            |
| Clause 15.01-1S   | Urban Design                                |
| Clause 15.01-2S   | Building Design                             |
| Clause 15.01-4S   | Healthy Neighbourhoods                      |
| Clause 15.02-1S   | Energy and Resource Efficiency              |
| Clause 16.01-1S   | Housing Supply                              |
| Clause 16.01-2S   | Housing Affordability                       |
| Clause 17.01-1S   | Diversified Economy                         |
| Clause 17.02-1S   | Business                                    |
| Clause 18.02-1S   | Walking                                     |
| Clause 18.02-2S   | Cycling                                     |
| Clause 18.02-3S   | Public Transport                            |
| Clause 18.02-4S   | Roads                                       |
| Clause 21.03      | A Vision for the City of Whitehorse         |
| Clause 21.05      | Environment                                 |
| Clause 21.07      | Economic Development                        |
| Clause 22.07      | Box Hill Metropolitan Activity Centre       |
| Clause 22.10      | Environmentally Sustainable Development     |
| Clause 52.29      | Land Adjacent to the Principal Road Network |
| Ward:             | Sparks                                      |

## BACKGROUND OF APPLICATIONS

### History

The applications were submitted on 22 May 2020 and 23 June 2020, pertaining to the Stage 1 redevelopment of 17-21 Market Street.

The three (3) applications are described as follows:

- WH/2020/466: Buildings and works for a twenty-seven to twenty-eight storey building associated with office and retail and a reduction in the car parking requirements.
- WH/2020/467: Buildings and works and alteration of access to a road in a Transport Zone 2.
- WH/2020/597: The use of the land for accommodation, buildings and works for a fifty to fifty-one storey building associated with accommodation, office and retail and a reduction in the car parking requirements.

The remainder of the land, which will form Stage 2 of the redevelopment has been set aside within a Master Plan and submitted to the Department of Environment, Land, Water and Planning (DELWP) as a Planning Scheme Amendment through their Development Facilitation Program.

**11.2**  
(cont)

The program seeks to identify and manage development projects with the potential to deliver investment into the Victorian Economy. All projects within the program are required to meet the necessary eligibility criteria to qualify for accelerated assessment and determination.

The Master Plan would seek to provide overarching development principles, with Council to consider future development applications as the responsible authority.

**Without Prejudice Plans**

Through the application process and in subsequent meetings with Council's urban designer, without prejudice amended plans (Revision 2, 09/03/2021) were received for Permit Application WH/2020/597 on 10/03/2021 to address issues of equitable development to the eastern interface.

The plans increased the setback of the eastern podium upper levels an additional 1.5 metres from the centreline of the laneway, ensuring equitable development and amenity outcomes for future development. These plans were not formally amended into the advertised set, and did not require further notice.

A condition of any permit issued will recommend that they be adopted into the final set of plans under Condition 1.

**The Site and Surrounds**

Site

The site is formally identified as Land in Plan of Consolidation 102909, and is currently occupied by the Box Hill Central North Shopping Centre at 17-21 Market Street, Box Hill. The site maintains primary access from its Market Street and Prospect Street frontages with additional secondary access located at Main Street.

The site includes a number of existing parking structures, including a multi-storey structure within the centre and a ground level structure at the corner of Nelson Road and Prospect Street. The total number of parking spaces available for the site at Box Hill Central North is 882 spaces.

The site is not encumbered by any easements, however several sewerage assets are positioned through the site. The land has a substantial level change of approximately 5 metres from Main Street to Prospect Street. Covenant 2044944 is registered to the certificate of title, and does not allow or permit the use of a medical centre practice.

The directly adjoining sites and key areas of interest are nominated as follows:

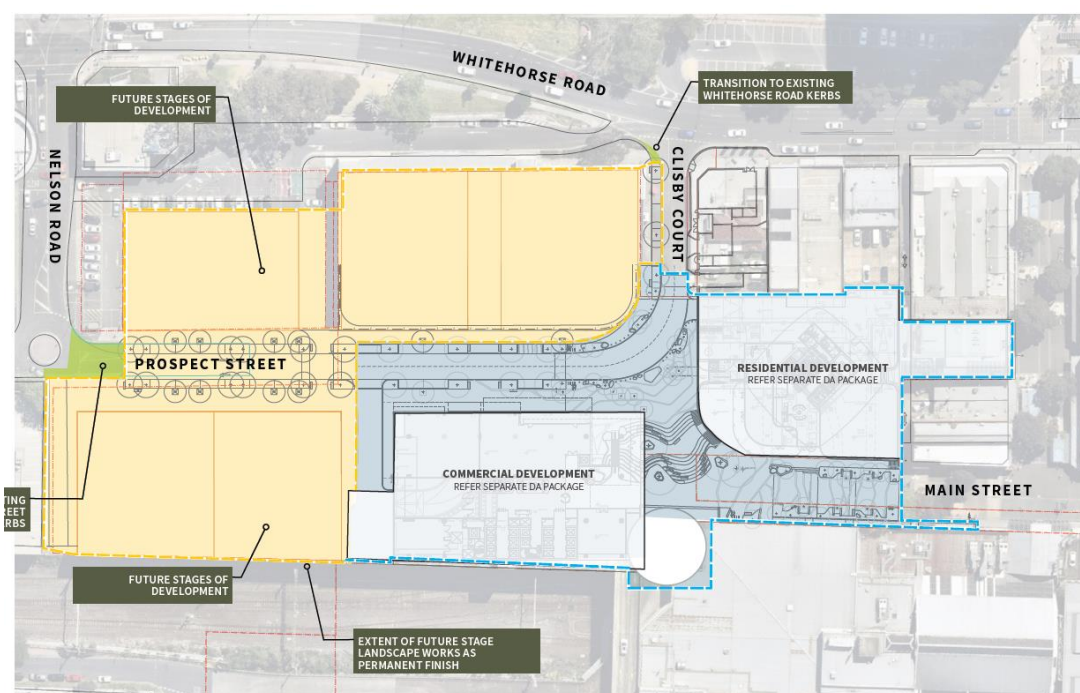
- To the north east, a number of fine-grain, commercial properties (874 to 918 Whitehorse Road) front onto Whitehorse Road, running between Clisby Court to the west and Market Street to the east.



**11.2**  
(cont)

- To the north, the site adjoins a slip road that is accessed from Whitehorse Road and provides access to the Shopping Centre's basement car park, ground level car park and medical centre to the west. The slip road also includes a number of on-street parking spaces, and further north includes an area of Council owned public open space.
- To the east, the site extends to Market Street, and has an abuttal to a number of fine grain commercial properties.
- To the south, the site extends to the rail carriageway, and has an abuttal to Main Street. Main Street maintains multiple functions as a key east-west pedestrian route, providing access to Station Street to the east as well as entries into both the North and South shopping centres.
- The western end of Main Street is also utilised for the purposes of loading and unloading for both North and South shopping centres and terminates at a dead-end. Access into the loading and unloading area is currently provided from Hopetoun Parade, to the southern side of the rail carriageway.
- To the west, the site has a direct abuttal to Prospect Street and a number of commercial car parks.

As part of the Stage 1 redevelopment of the site, the shopping centre is proposed to be demolished and redeveloped in accordance with the submitted applications identified above. Figure 1 below identifies (in blue) the extent of works proposed under Stage 1, with the areas in yellow forming part of the subject site and future Stage 2 redevelopment, but excluded under this application:



**A** Figure 1: Extent of Stage 1 works

**11.2**  
(cont)

The buildings and works (as described below) are proposed on land currently occupied by a retail centre, and adjoining road and pedestrian walkways. It involves a substantial area of privately owned land as well as some existing road reserve that is owned by either Council or VicTrack.

Surrounds

The site is located centrally within the Box Hill Metropolitan Activity Centre (MAC), providing access to a range of commercial, retail and community facilities.

The Box Hill MAC has experienced significant growth over the last decade, with the approval and construction of a number of mixed-use developments in the order of 25-36 storeys at the core of the activity centre and along Whitehorse Road.

The subject site is located within Built Form Precinct F of the *Box Hill Transit City Activity Centre Structure Plan, 2007*, allowing for taller buildings at increased densities.

The site maintains excellent access to public transportation, owing to its proximity to the Box Hill Railway Station, Box Hill Bus Interchange and the Tram Route 109 terminus. In addition to the existing public transport network, the Suburban Rail Loop (SRL) has been announced which proposes a new station within the Box Hill transport hub, directly connecting the MAC to adjacent middle suburban regions and activity centres. The proposed alignment of the SRL, as demonstrated within the exhibited plans demonstrates that there is no physical impact on the subject land. However, at present, no weight can be given to the environmental effects statement as it is not a seriously entertained document.

The site maintains a direct connection to Market Street and Main Street, being prominent civic spaces within the MAC, and providing improved access to other services and community facilities within the Activity Centre, including the education and hospital precinct to the north-west.

**11.2**  
(cont)

**REPORT FOR WH/2020/467 (PUBLIC REALM)**

**Planning Controls**

Zone

The site is located within Clause 34.01 Commercial 1 Zone, the relevant purposes of which are:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses.
- To provide for residential uses at densities complementary to the role and scale of the commercial centre

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

Overlays

The site is located within Clause 45.09 Parking Overlay (Schedule 1), which specifies car parking rates for dwelling and office land uses, reduced from the statutory requirements prescribed under Clause 52.06-5 of the Planning Scheme. Any other use not listed under Clause 45.09 should accord with Column B of Table 1 of Clause 52.06-5.

As no land uses are proposed under this particular application and no additional floor area is being created, the provisions of Clause 45.09 or Clause 52.06 do not apply.

Particular Provisions

The particular provision of Clause 52.29 Land Adjacent to the Principal Road network applies, the relevant purposes of which are:

- To ensure appropriate access to the Principal Road Network or land planned to form part of the Principal Road Network.
- To ensure appropriate subdivision of land adjacent to Principal Road Network or land planned to form part of the Principal Road Network.

This clause applies to land adjacent to a road in the Transport Zone 2, and a permit is required pursuant to Clause 52.29-2 to create or alter access to a road in a Transport Zone 2.

As the proposal seeks to extend and alter Clisby Court, a permit is required pursuant to Clause 52.29. Pursuant to Clause 52.29-4, an application must be referred under Section 55 of the Act to the Department of Transport. This has been undertaken with their response reflected below.

**11.2**  
(cont)

**PROPOSAL**

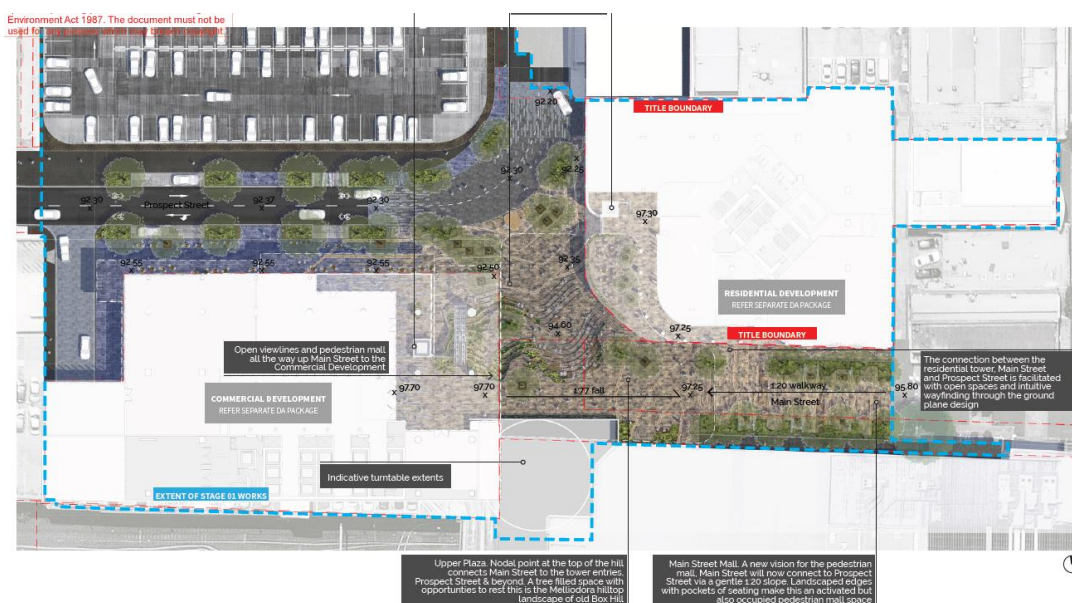
The proposal is for the construction and carrying out of buildings and works on and adjoining the land at 17-21 Market Street, which results in:

- The extension of the existing Clisby Court road carriageway, with a new road connection into Prospect Street.
- The extension of the existing Main Street pedestrian thoroughfare west through to Prospect Street, with a new east-west pedestrian connection into Prospect Street.

The proposed buildings and works are demonstrated within Figure 2 below, and involve an area in the order of approximately 4,725sqm. Whilst the land ownership across this area is mixed between Vicinity, VicTrack and Council; the applicant has indicated that all buildings and works are to be funded by the developer and permit applicant Vicinity Centres.

Key features of the proposed buildings and works are nominated as follows  
Main Street extension

- The addition of a new east-west pedestrian connection (approx. 2,004sqm), extending from the western end of Main Street, and connecting to the eastern end of Prospect Street.
- The central portion of the pedestrian thoroughfare, located diagonally between the two buildings (under applications WH/2020/466 and WH/2020/597) features a tiered plaza connected by terraced staircases, which are required as a result of the substantial level change between Main Street and Prospect Street.
- Access between the lower and upper levels is also proposed through a lift and escalator.



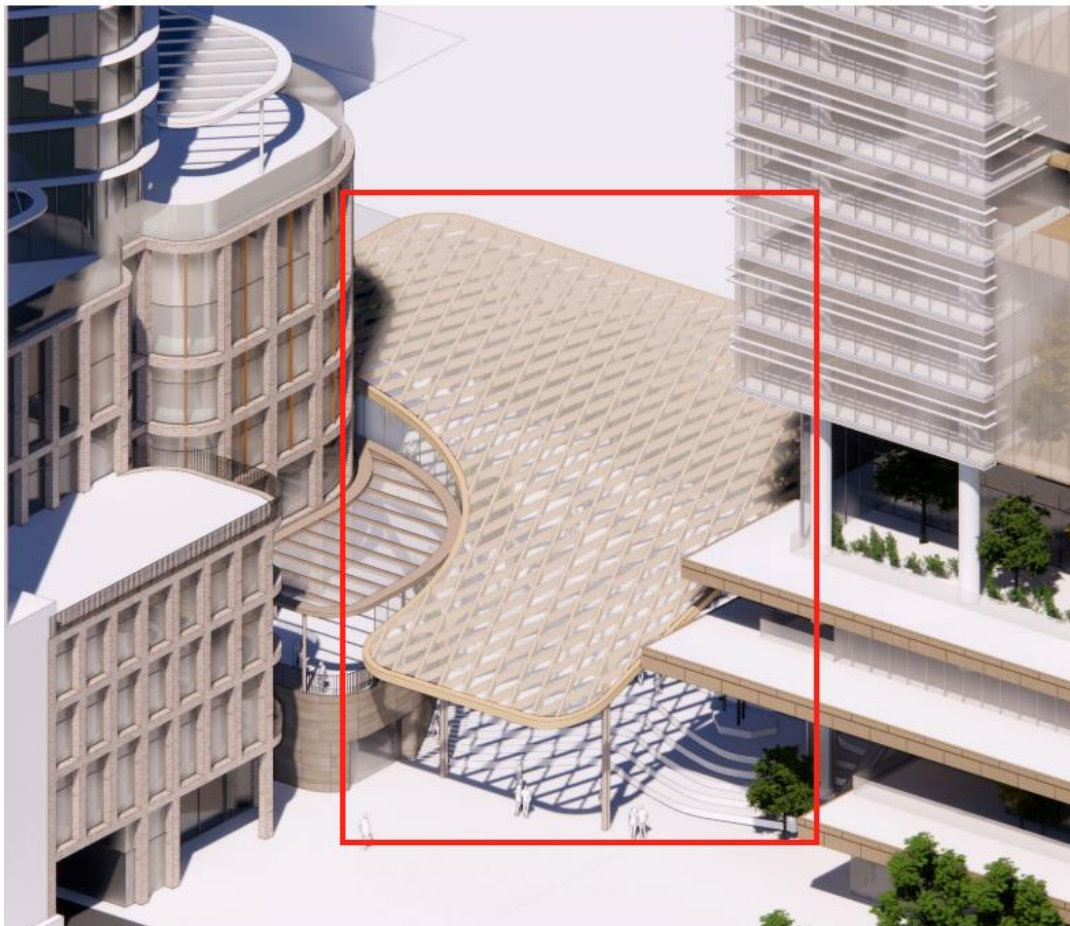
**B** Figure 2: Proposed buildings and works



**11.2**  
(cont)

Wind canopy structure

- The provision of a wind canopy structure, extending over the urban plaza. Figure 3 below demonstrates the extent and design of the canopy structure.
- The canopy structure has been architecturally designed, with a mixture of high quality and permeable materials, with a typical height of approximately 8 metres above the pedestrian thoroughfare.



*c Figure 3: Wind canopy structure on Main Street extension*

Clisby Court extension

- The addition of a new section of road reserve extending Clisby Court to the south, and connecting to Prospect Street which currently terminates further to the west.
- At the junction of the road and pedestrian thoroughfare, the application proposes a raised pedestrian crossing, to assist with pedestrian movement across the road network.

**11.2**  
(cont)

Public realm treatments

- The upgrading of existing street and site infrastructure, including footpaths, street furniture and landscaping treatments.

Relocation of loading bay

- The relocation of the Box Hill Central South Shopping Centre loading and unloading area from the western side of Main Street, to the adjoining land to the south, and the enclosing of the pedestrian thoroughfare.

Temporary car park use

- The upgrade of the existing multi-deck shopping centre car park facilities, to the direct abuttal of the railway line, continuing their temporary use prior to future stages of development.

**CONSULTATION**

**Public Notice and Consultation**

The application was advertised by mail to the adjacent and nearby property owners and occupiers. Following the advertising period six (6) objections were received.

A Consultation Forum was held online via Zoom on 7<sup>th</sup> September 2021 chaired by Councillor Liu. The forum was held for the broader Stage 1 redevelopment due to the integrated nature of the works and the total objections received (a total of 40 objections received for Stage 1).

**Objections**

The issues raised are summarised as follows:

- Traffic congestion.
- Wind comfort.
- Limited open space.
- Response (or lack thereof) to Victorian Cycling Strategy.
- Response (or lack thereof) to the north/south rail overpass.
- Closure of informal cycling network through Main Street.
- Limitations on bicycle movement within the pedestrian link.

## 11.2

(cont)

A response to each issue is provided within the table below:

| Objector concern                                  | Planning Officer Response   |
|---|---|
| Traffic congestion                                | This proposal does not result in any traffic increase due to the nature of works. The applicant has submitted a number of traffic impact assessments which demonstrate an acceptable traffic response for the broader Stage 1 redevelopment, which have been further considered under applications WH/2020/466 and WH/2020/597  |
| Wind comfort                                      | The applicant has submitted a number of environmental wind assessments which demonstrate a variety of comfort conditions commensurate to the use of the proposed thoroughfare. As such, the proposal responds to the amenity outcomes sought within the policy at Clause 22.07  |
| Limited open space                                | The proposal results in a substantial net increase in areas for pedestrian activity and passive recreation through the creation of a substantial urban plaza area. As such, the proposal provides sufficient areas of open space and responds to the open space outcomes sought within the policy at Clause 22.07   |
| Lack of response to Victorian Cycling Strategy.   | The proposal results in a substantially improved east-west connection through the MAC which supports walking and cycling opportunities. The proposal is not required to create connections to the cycling network, beyond those nominated within the Structure Plan framework (such as the north/south rail overpass). The applicant has committed to the gifting of land along the western side of the allotment (Nelson Street laneway) to ensure that any future north/south pedestrian and cycling overpass can be accommodated. As such, the proposal responds to the broader strategies pertaining to cycling |
| Lack of response to the north/south rail overpass | The applicant has committed to the gifting of land along the western side of the allotment (Nelson Street laneway) to ensure that any future north/south pedestrian and cycling overpass can be accommodated. The feasibility report received by Council in relation to these works confirms that the space being gifted is   |

**11.2**

(cont)

| Objector concern   | Planning Officer Response   |
|--|---|
|  | sufficient in dimension to future proof this outcome  |
| Closure of informal cycling network through Main Street    | <p>The closure of Main Street as part of the proposed works is at the discretion of the landowner. This has been reviewed by VicTrack with no further concerns raised.</p> <p>Whilst this will temporarily limit east-west access from the southern side of the rail line, there are other routes available into the centre, until such time that the necessary overpass infrastructure is provided.</p>  |
| Limitations on bicycle movement within the pedestrian link | <p>Due to the substantial topographical constraints of the site, the proposal includes the provision of lifts, to support access through the level change for those with limited mobility, or bicycle movements. A ramp within the space would be an unacceptable urban design outcome.</p> <p>As noted above, the applicant has committed to the gifting of land along the western side of the allotment (Nelson Street laneway) to ensure that any future north/south pedestrian and cycling overpass can be accommodated.</p> <p>It is not solely the land owner's responsibility to solve bicycle issues within the MAC, rather it requires a combination of land parcels and various government intervention to achieve a successful long-term solution. The proposal seeks to contribute to and assist with improvements to bicycle infrastructure within the immediate area.</p> |

**Additional Submissions**

A submission under Section 52 of the *Planning and Environment Act 1987* was received by Council from VicTrack on 28/08/2020, who did not raise concern with the application subject to planning permit conditions.



**11.2**  
(cont)

**EXTERNAL AND INTERNAL REFERRALS**

**External**

| <b>Referral Authority</b> | <b>Type</b>              | <b>Response</b>                                     |
|---------------------------|--------------------------|---|
| Department of Transport   | Section 55 (determining) | No objection, subject to planning permit conditions |

**Internal**

| <b>Internal Department</b>         | <b>Response</b>   |
|------------------------------------|---|
| Transport                          | Concerns with the proposed traffic response. To be discussed further below.   |
| Asset                              | Concerns with the proposed engineering response. To be discussed further below.   |
| Design and Construct               | A number of comments received in relation to the design of the proposed buildings and works. These are addressed further below, or via permit conditions. |
| City Works                         | A number of comments received in relation to the design of the proposed buildings and works. These are addressed further below, or via permit conditions. |
| Parks and Natural Environment      | A number of comments received in relation to the design of the proposed buildings and works. These are addressed further below, or via permit conditions. |
| Strategic Planning and Landscaping | A number of comments received in relation to the design of the proposed buildings and works. These are addressed further below, or via permit conditions. |

## 11.2

(cont)

### Other External Advice

Council has also referred the application material to both MGS Architects and Vipac Engineers for independent advice on urban design and environmental wind respectively. The table below summarises their response:

| External Referral | Response   |
|-------------------|--|
| MGS Architects    | <p>Summary:</p> <ul style="list-style-type: none"><li>• Generally supportive of the proposed buildings and works and public realm treatments subject to a number of recommendations, specific to the other applications under Stage 1.</li><li>• These recommendations will be further discussed in the associated application reports under WH/2020/466 and WH/2020/597.</li></ul>  |
| Vipac Engineers   | <p>Summary:</p> <ul style="list-style-type: none"><li>• Vipac have reviewed the environmental wind assessment and conclude that Mel Consultants (for the applicant) have used the proper analysis and methodology to measure the wind effects on the pedestrian level surrounding the proposed development.</li><li>• Where exceedances of the recommended wind criteria have been found, appropriate recommendations have been made to mitigate and improve wind comfort.</li></ul> |

### DISCUSSION

The proposed buildings and works, together with the broader redevelopment of the site under Stage 1 will play a critical role in Box Hill's evolution as a vibrant and integrated centre that will allow for the delivery of residential growth, within the MAC.

Specifically, the proposed buildings and works, would substantially improve the east-west pedestrian connection through the MAC, as well as facilitating a high-quality and accessible public realm for passive recreation.

The assessment below will demonstrate that the proposed buildings and works are an acceptable response for the site, as well as the broader Stage 1 applications, and demonstrate a significant net community benefit for the municipality.

**11.2**  
(cont)

**Response to Policy Framework**

The proposed buildings and works are consistent with the policy framework outlined under the Whitehorse Planning Scheme.

Planning Policy Framework

The proposal responds to the relevant Victorian policies applicable to the site.

The proposal responds to the objective of Clause 11.03-1S for Activity Centres by improving connectivity to retail, residential, commercial and associated activity centre land uses within the MAC.

The proposal responds to the objective of Clause 15.01-1S for Urban Design by creating an enjoyable urban environment, that supports safe access, improved pedestrian amenity and encourages walking and cycling through the MAC.

The proposal responds to the objectives of Clause 15.01-4S Healthy Neighbourhoods by improving the east-west connection through the MAC, and supporting walking, cycling and safe and convenient access between precincts.

The proposal responds to the objectives of Clause 18.02-1S for Walking and 18.02-2S for Cycling by providing a new east-west connection that provides improved access to various precincts and land uses within the MAC, reducing reliance on the private vehicle. The applicant has also committed to the gifting of land to the western side of the wider site to future proof plans for pedestrian and cycling access across the railway line, which is nominated as a key north-south link within Council's strategic framework for the MAC.

The proposal responds to the objective of Clause 18.02-3S for Public Transport by improving pedestrian access to and the uptake of public transportation within the MAC.

The proposal responds to the objective of Clause 18.02-4S for Roads by facilitating a new road connection within the MAC that continues to accommodate pedestrian movement.

Local Planning Policy Framework

The proposal responds to the relevant local policies applicable to the site.

The proposal responds to the objectives of Clause 21.03 for A Vision for the City of Whitehorse by seeking to improve and enhance the built environment and public open space within the Box Hill MAC.

**11.2**  
(cont)

The proposal responds to the objectives of Clause 21.05 for Environment through the provision of substantial canopy tree planting and additional understorey soft landscaping opportunities within the pedestrian connection and public realm offering and by encouraging the uptake of sustainable transport through improved pedestrian connections and access to the centres public transport interchanges.

The proposal responds to the objectives of Clause 22.07 for the Box Hill Metropolitan Activity Centre by substantially improving precinct connectivity, including a new direct link between existing public transport interchanges and the Prospect Street office precinct; encouraging and supporting walking and pedestrian movement and the uptake of alternative sustainable transport; and enhancing the provision of public space for social interaction, passive recreation and community engagement.

Whilst Clause 22.15 for Public Open Space Contribution identifies the site where a land contribution may be sought, the policy indicates that land will be requested as accepted at Council's discretion, and this will be further considered within the subdivision. At present, it is the view of planning officers that the proposed area of urban plaza would not be suitable for land contribution due to the costs associated with maintenance.

**Pedestrian Amenity**

The proposed buildings and works, together with the necessary public realm treatments (street furniture, soft landscaping) will ensure that the urban space is maintained with excellent pedestrian amenity.

Overshadowing

The policy at Clause 22.07, and under the header 'Built Form' seeks to protect 'key open space' from overshadowing cast from new developments. The nominated 'key open space' areas are identified within the *Box Hill Transit City Activity Centre Structure Plan 2007* ('the Structure Plan').

Within the Structure Plan, this policy outcome is further reinforced through built form controls that seek to protect key open space from overshadowing, between 11:00am and 2:00pm at the June solstice.

Whilst the proposal itself would not result in any overshadowing impacts, the resultant works would create a highly accessible east-west connection between Main Street and Prospect Street, functioning in part as an urban plaza.

Furthermore, whilst the area of works proposed is not identified as a 'key open space', the Structure Plan seeks to enhance streets as public spaces, and beyond the substantial physical improvements being made, maintaining solar amenity is critical in achieving this objective.

**11.2**  
(cont)

As such, given that the proposal seeks to enhance the public realm for the purposes of pedestrian connectivity and open space, planning officers consider it appropriate to apply the same overshadowing standards as nominated above for the purposes of this discussion.

The shadow diagrams prepared and submitted with this application, demonstrate that the proposed pedestrian link and core area of open space (nominated as 'the Hill' in the submissions) will receive adequate solar amenity primarily between 12:00pm and 2:00pm at the Solstice, with the land being overshadowed outside of these times by the proposed buildings. The overshadowing will be further compounded by the Stage 2 works, which will need to be considered separately.

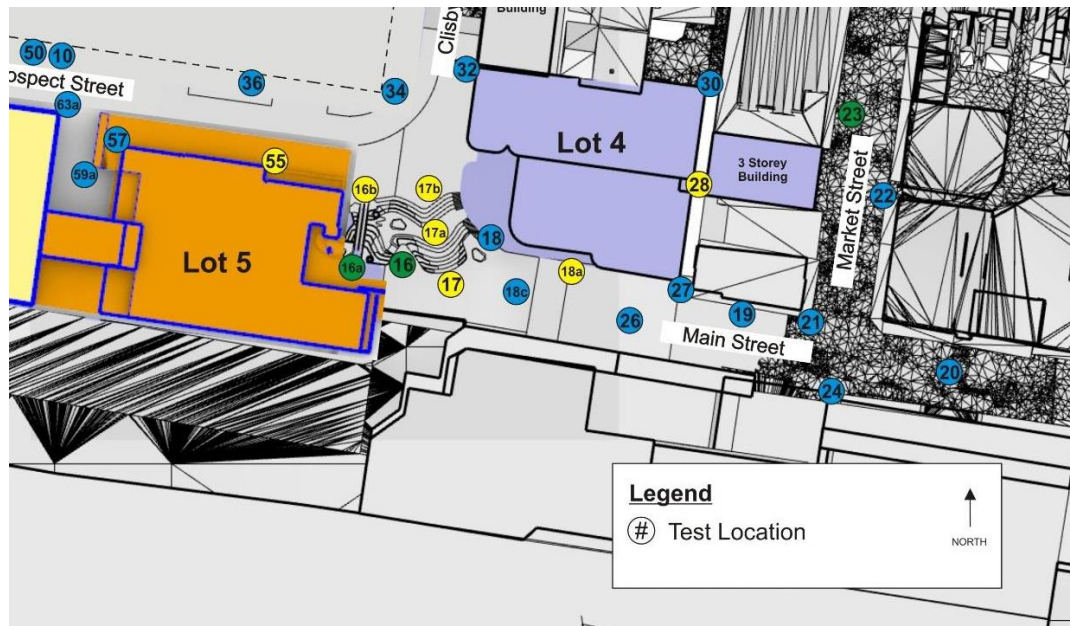
This is an acceptable response for the proposal, particularly since there are no applicable overshadowing controls that apply to this area of land within the policy or Structure Plan, and that the loss of solar amenity between 11am and 12pm is offset by the substantial net benefit of the additional east-west connection, and upgrading of public realm.

Further analysis of overshadowing impact as a result of the proposed buildings under WH/2020/466 and WH/2020/597 will be discussed separately.

Wind Comfort

The Environmental Wind Speeds Measures report prepared by MEL Consultants (11/02/21) and subsequent addendum report prepared by MEL Consultants (02/06/21) and submitted with this application demonstrates that wind comfort within the proposed extent of works is generally acceptable for a mix of walking, standing and sitting. Figure 4 below demonstrates the wind comfort results within the extent of works:

**11.2**  
(cont)



**D** Figure 4: Wind comfort outcomes. Blue: Walking / Yellow: Standing / Green: Sitting

The image above demonstrates that under the proposed configuration (which includes the proposed works under Stage 1 and other approved projects):

- The extended length of Main Street into Prospect Street achieves the walking comfort criteria (blue markers), which is suitable for a pedestrian thoroughfare.
- The amphitheatre between Main and Prospect Street (which includes an overhead wind canopy) achieves the sitting (green marker) and standing (yellow marker) comfort criteria for short and long duration stays. This is suitable for an urban plaza that also serves as an east-west pedestrian thoroughfare, allowing for movement and passive recreation.
- The building entry into Lot 4 from Main Street meets the standing comfort criteria (yellow marker), which is suitable for a building entry.
- The building entry into Lot 5 from Main Street meets the sitting comfort criteria (green marker), which is suitable for a building entry.
- The building entries into Lot 5 from Prospect Street meets the standing comfort criteria (yellow marker), which is suitable for building entries.

The above results are all acceptable in their locational context. Further analysis of wind impact as a result of the proposed buildings under WH/2020/466 and WH/2020/597 will be discussed separately under their respective applications.

**11.2**  
(cont)

Wind Canopy Structure

The proposed canopy structure (beyond its function for wind mitigation), has also been considered on its architectural merit, ensuring that it demonstrates an acceptable urban design outcome within the proposed public realm.

The canopy is designed with a 'weaved' form, finished in a warm metal structured with masonry cladding to the columns. The structure includes translucent roofing that would provide protection from wind and rain, whilst retaining solar amenity into the thoroughfare and amphitheatre at the mouth of Prospect Street.

The canopy has been designed to match the topography of the land, improving both wayfinding opportunities, and a defined point of entry along the length of the thoroughfare and between the level changes. The height of the canopy at approximately 8 metres ensures that the structure maintains a sense of openness, allowing for improved passive recreation and landscaping outcomes. The design of the canopy structure has been resolved through a series of meetings with Council's Urban Designer, who has accepted the design and intent.

The canopy maintains a contemporary and visually interesting design that integrates with the detailing to the Stage 1 office and residential buildings. The structure, on urban design grounds is supported.

Landscaping

The policy outcomes sought under Clause 22.07 seek to improve and enhance the public realm, improve pedestrian access and promote sustainable design and building works. This is further encouraged within Section 4.8.F of the Structure Plan which states that *designs should aim to improve landscaping and consider increased use of indigenous vegetation, which consume less water than many of the existing exotic species in the area.*

The application material is supported by a Design Report which demonstrates the landscaping and public realm treatments within the area of buildings and works proposed, and includes a number of medium to large canopy trees, medium to large shrubs, small shrubs and ground covers. These are primarily of an indigenous and native variety and generally consistent with the selected planting outcomes sought under the Box Hill Urban Realm Treatment Guidelines. The species selection is supported.

**11.2**  
(cont)

The planting is proposed through the upper (Main Street) and lower (Prospect Street) network, softening the extent of hard stand on the site. Specifically, planting is proposed primarily to the edges of the pedestrian accessway and to building entrances, improving pedestrian movement and visibility through the site, whilst softening the extent of hard stand proposed. Given that this space is identified as part of the priority pedestrian network within the Structure Plan, the proposed location of landscaping and canopy density is supported.

Further consideration will need to be given to planting height and growth conditions for trees and shrubbery under the canopy structure, which can be readily resolved through conditions for a detailed landscape plan. This plan would also provide further details on the proposed planter boxes, green walls and climbers, irrigation and maintenance.

Together with the public realm treatments (such as seating, lighting, bins and the like), the proposed landscaping outcomes are consistent with the policy outcomes under Clause 22.07, and will substantially improve the landscaping along this proposed east-west connection and more broadly within the Activity Centre.

**Accessibility, Safety and Movement**

The proposed east-west connection provides a new pedestrian and bicycle link between Prospect Street and Main Street. This is a crucial link through the MAC, connecting the public transport interchanges directly with the office, health and education precincts as well as their associated services and facilities within the centre.

These are identified as critical infrastructure works which will substantially improve pedestrian and public realm amenity and connectivity within the MAC, directly aligning with the relevant local policy framework as well as the broader strategies under Clause 18.02-1S for Walking which seeks to develop high amenity pedestrian networks for local areas that link with the transport system and encourage a modal shift away from the private vehicle.

The proposed buildings and works and pedestrian connection includes two (2) lifts for both the residential and commercial buildings as well as additional escalator services within the commercial building, to improve access through the substantial level change, supporting equitable movement through the site. Whilst these will be privately maintained by the land owner, a condition of permit will require that these be accessible to the public on a 24/7 basis, and maintained in working order at all times.

The proposed buildings and works and pedestrian connection has been designed to integrate and interface with the proposed residential and commercial buildings that have been lodged as part of the wider Stage 1 redevelopment, improving passive surveillance and activation to the streetscape.



**11.2**  
(cont)

The proposed buildings and works will transform the currently underutilised areas of Clisby Court and Main Street (west), into an enhanced public realm offering, improving site safety through improved surveillance, activation and lighting. This is a substantial net benefit to the MAC, with the broader policy framework recognising the importance of safe public spaces.

**Traffic, Loading and Unloading**

Traffic

The proposed extension of Clisby Court to Prospect Street connects the two existing no through roads, providing improved vehicular circulation through the centre, and enabling access into the relevant buildings under both Stage 1 and the future Stage 2.

The road extension is supported through the Transport Impact Assessment (18/08/20) prepared by GTA Consultants, and subsequent advice notes prepared by GTA Consultants (18/08/20 and 20/08/20) and submitted with the application, which demonstrates that the proposed works would not result in further detriment to the surrounding road network.

This is supported by the substantial net reduction of parking as a result of the demolition works occurring to the Box Hill Central North centre, and the reduced parking rates under the broader Stage 1 works. The Transport Impact Assessment prepared by GTA Consultants indicates that the existing provision of parking at Box Hill Central North generates approximately 565 vehicle movements in the PM peak hour and 800 movements in a Saturday peak hour. At the completion of Stage 1 (including the commercial and residential building), the total traffic generation would decrease across the critical peak periods by -115 and -295 respectively.

Assuming a consistent parking provision (which was adopted in the post-construction scenario by GTA Consultants), traffic generation is then further decreased at the completion of the Stage 2 works, as the additional land uses proposed will continue to generate less traffic than the existing car parking structures on the site. It is expected that the Saturday peak will decrease by approximately 75% due to the change in land use, demonstrating a substantial shift away from the private vehicle, and improving the traffic conditions from the existing land uses.

**11.2**  
(cont)

This is also further supported by SIDRA intersection analysis which forms part of the Transport Impact Assessment prepared by GTA, which indicates that there are currently moderate to high levels of existing congestion within Box Hill, and whilst these are likely to marginally worsen with continued development in the area, the modelling demonstrates that the nearby intersection of Nelson Road / Whitehorse Road would still operate within acceptable limits during the PM peak hour. Given the substantial reduction in traffic generation across both Stage 1 and 2, the proposed road connection is unlikely to result in any further intensification of the wider road network, and this has been supported through the referral response received by the Department of Transport.

The application material has also been considered by the Department of Transport, who have not objected to the proposal subject to permit conditions, with the following noted from their response:

*Given this proposal is anticipated to intensify movements (vehicular as well as pedestrian/cyclist movements) at the Clisby Court/Whitehorse Road interface through its connection with Prospect Street and the public plaza, the impact of this connection as it relates to its proximity with the Fairbank Lane service road entry needs to be managed and mitigated appropriately. The application documents currently do not specify any mitigating works/measures to be implemented at the Clisby Court/Whitehorse Road interface.*

*As such, the Department considers it appropriate to include as conditions on permit requirements to investigate road safety risks at this location through a Road Safety Audit and to ensure appropriate mitigation is explored as it relates to all road users particularly pedestrians and cyclists who may be attracted to travel through this area after the opening of the public plaza between Prospect Street and Main Street.*

These conditions will form part of any recommendation made, and primarily relate to active transport movement and safety.

The proposed road connection has also been designed to include a raised pedestrian north-south crossing to improve safe movement across Prospect Street and into the east-west pedestrian thoroughfare, as well as a number of visitor bicycle hoops to promote active transportation. A number of short-term parking and loading spaces have been proposed to service the future land uses through the broader stages of development.

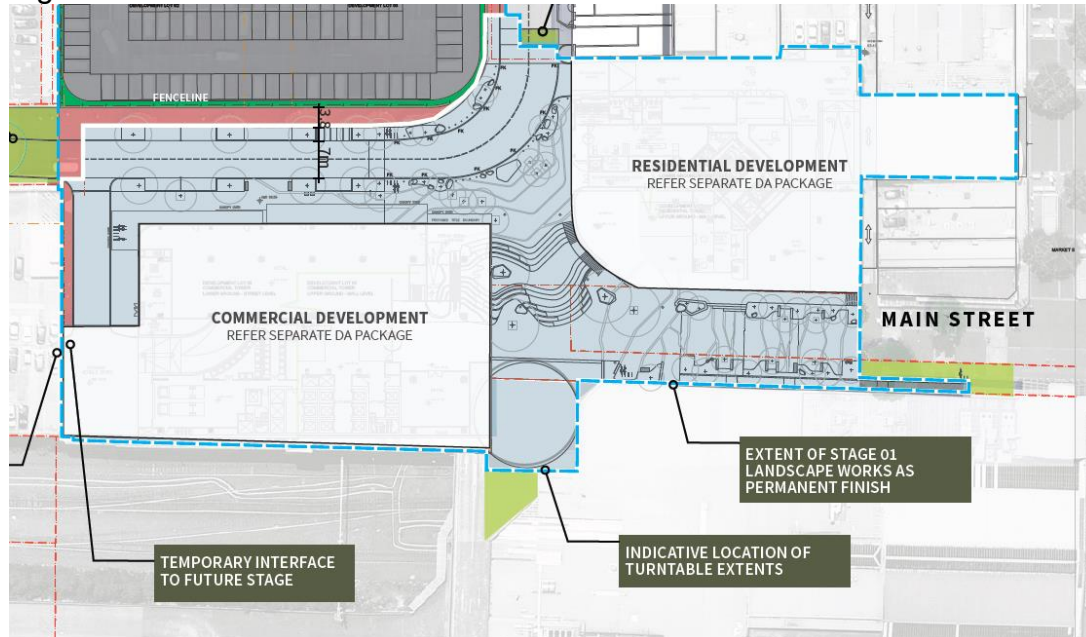
Overall, the road connection is an acceptable response for the site and can be recommended for support.

**11.2**  
(cont)

Loading and Unloading

The application seeks to enclose the proposed Main Street thoroughfare, and relocate the existing loading and unloading further south, abutting the Box Hill Central South shopping centre. The loading and unloading area will be supported by a turntable system, allowing commercial vehicles to enter and exit the site to and from Thurston Street in a forwards direction.

Figure 5 below shows the location of the Main Street closure and turntable.



**E** *Figure 5: Location of turntable and enclosure of Main Street*

The relocation of these facilities and enclosure of Main Street is supported as part of the substantial net benefit to the public realm, and opportunity for a dedicated east-west pedestrian connection through the Activity Centre. The turntable would provide an effective solution for loading and unloading for Box Hill Central South. A condition will require that this is maintained in good working order in perpetuity.

A number of sites to the south-western side of Market Street also rely on the existing loading and unloading facilities on Main Street, as access is provided to the rear of these properties through the rear laneway, which can only be accessed from the Main Street end. The enclosure and relocation of the loading and unloading facilities would be detrimental to these sites. As such, to ensure that ongoing commercial access is facilitated, a condition of permit will require the creation of an easement through the length of laneway owned by Vicinity and accessed from Whitehorse Road. This would be required through condition, prior to the enclosure of Main Street to ensure no loss of commercial access.

**11.2**  
(cont)

**Engineering Response**

The application was referred to Council's Asset, Design and Construct and City Services departments, who have raised a number of issues in relation to the proposed buildings and works, including but not limited to:

- The ownership of the land;
- The cost of maintenance;
- Private structures under public roads;
- Civil engineering and design.

With regards to land ownership and cost of maintenance, these matters will be settled through any future process for subdivision of the land. This application has not considered any public open space contribution, and this will be at Council's discretion under Clause 22.15-3.

With regards to the location of basement under the proposed Clisby Court road extension, these matters will be dealt with through permit conditions for a Section 173 Agreement which seeks to protect Council from any liability and ensure the works are appropriately engineered.

With regards to civil engineering and design, these matters will be dealt with through conditions, requiring detailed civil / drainage plans to demonstrate acceptable engineering, stormwater and flooding outcomes. All to the satisfaction of Council.

**CONCLUSION**

The application has been considered against and responds to the relevant objectives within the Planning and Local Planning Policy Framework.

The proposed buildings and works will provide an essential east-west connection through the Activity Centre, enabling connectivity between the relevant precincts, but also encouraging the uptake of walking and cycling as an alternative to the private vehicle.

The proposed buildings and works have also been designed with a pedestrian focus, through the provision of improved landscaping, public realm treatments, and appropriate wayfinding. The extent of works will maintain acceptable amenity standards for movement and passive recreation.

A total of six (6) 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, and a Notice of Decision to Grant a Planning Permit be issued.

**11.2**  
(cont)

**REPORT FOR WH/2020/466 (COMMERCIAL BUILDING)**

**Planning Controls**

Zone

The site is located within Clause 34.01 Commercial 1 Zone. Pursuant to Clause 34.01-4, a planning permit is required to construct a building or construct or carry out works.

Overlays

The site is located within Clause 45.09 Parking Overlay (Schedule 1), which specifies car parking rates for dwelling and offices land uses, reduced from the statutory requirements prescribed under Clause 52.06-5 of the Planning Scheme. Where a car parking rate is not specified, the rates outlined under Clause 52.06-5 of the Planning Scheme apply.

The table below demonstrates the following statutory parking requirements for the proposed building:

| Description             | Size      | Statutory Rate                   | Parking Requirement | Parking Provision |
|-------------------------|-----------|----------------------------------|---------------------|-------------------|
| Office                  | 41,525sqm | 2 spaces to each 100sqm NFA      | 830 spaces          | 202 spaces        |
| Food and drink premises | 1,318     | 3.5 spaces to each 100sqm of LFA | 46 spaces           | 0 spaces          |
| Total                   |           |                                  | 876 spaces          | 202 spaces        |

A total of 202 car parking spaces is proposed and a planning permit is required to reduce the car parking requirements by 674 spaces.

**PROPOSAL**

The proposal is for the construction of a part 27 and part 28 storey building at 17-21 Market Street, comprising of office and retail floor space. The building is positioned to the western edge of Main Street and the southern side of Prospect Street.

The key features of the proposed building are as follows:

- The provision of 42,843sqm of office floor space within the podium and tower levels.
- The provision of 1,317sqm of retail floor space at both the lower and upper ground levels within the podium.
- The provision of 202 car parking spaces located within four (4) levels of basement.
- The provision of 408 bicycle parking spaces and associated end-of-trip-facilities within the lower ground level and lower ground mezzanine.

**11.2**  
(cont)

Key features of the proposed buildings and works are nominated as follows:

Podium

The application includes a three storey podium that interfaces with Prospect Street on the lower ground level and Main Street on the upper ground level.

At the lower ground level, the podium includes a number of retail premises interfacing with the Prospect Street as well elevator access to the upper level of Main Street. Vehicular access is located to the western side of the building via a proposed laneway leading into the basement levels and back of house areas.

At the upper ground level, the podium includes the primary building entry from the western side of Main Street which provides lift access to the office levels above. The upper level also includes a number of retail and commercial tenancies that are accessed from the street or internal to the building.

The upper levels of the podium are all accessible via the lift core, and include a series of office tenancies, tenant amenities and plant and services. The buildings podium has been designed to integrate in with the proposed buildings and works proposed under WH/2020/467, which provide improved pedestrian connectivity, landscaping and public realm works.

Tower

Above the podium levels, the application proposes an upper level tower, with a total height of 27 storeys from Main Street (maximum height of 108.85 metres) and 28 storeys from Prospect Street (maximum height of 115 metres).

The tower maintains a generally consistent massing through its height with consistent side and rear setbacks. The tower incorporates recessed balcony / tenancy zones spanning the length of the building. Each floor plate is accessed via the lift core and used for the purposes of office and inclusive of tenant amenities.

Figure 2 below demonstrates a mid-level indentation to the west, away from the Main Street termination. The upper levels of the tower continue to align with the lower ground podium forms. At the upper level, the footprint is further eroded with north-western terraces and a recessed upper level footprint. The roof levels include a number of building services and equipment which would be screened by vertical metal louvres.

**11.2**  
(cont)



**F** Figure 6: Commercial Building Full Height

Design Detail and Materials

The podium and tower is primarily clad with a glazed curtain wall, with protruding horizontal masonry and metal bandings as depicted in Figure 2 above.

**11.2**  
(cont)

Vehicle Access, Parking and Loading

A total of 202 car parking spaces would be provided for employee use within four (4) levels of basement. The basement is accessible via a new laneway proposed to the western side of the building that intersects with Prospect Street. The car parking spaces are proposed to be managed by an external operator, with underutilised spaces made available to the general public. Two (2) on-site commercial vehicle bays are proposed to the rear of the building at the lower ground level, providing access for loading and unloading and waste collection.

A total of 398 bicycle parking spaces are provided within the lower ground end-of-trip facilities, accessible from Prospect Street. An additional ten (10) spaces provided for public use on Prospect Street, beyond the site's boundaries.

End-of-trip facilities include 39 showers, male and female communal change rooms and access to 389 lockers for bicycle users and are accessible from the lower ground level, with lift access to the lower ground mezzanine.

**CONSULTATION**

**Public Notice and Consultation**

The application was advertised by mail to the adjacent and nearby property owners and occupiers. Following the advertising period nine (9) objections were received.

A Consultation Forum was held on 07 September 2021 chaired by Councillor Liu. The forum was held for the broader Stage 1 redevelopment due to the integrated nature of the works and the total objections received (a total of 40 objections received for Stage 1).

**Objections**

The issues raised are summarised as follows:

- Overdevelopment.
- Bulk and massing.
- Traffic congestion.
- Wind comfort.
- Reflectivity.
- Limited open space.
- Construction impacts.



**11.2**  
(cont)

A response to each issue is provided within the table below:

| <b>Objector concern</b> | <b>Planning Officer Response</b>   |
|-------------------------|--|
| Overdevelopment         | The subject site is located within the Major Development Precinct F, anticipating substantial intensification of the land. The proposed building responds to its policy setting.   |
| Bulk and massing        | <p>The subject site is located within the Major Development Precinct F, anticipating substantial intensification of the land.</p> <p>The building has been designed in accordance with the relevant built form guidelines of the Structure Plan and provides a level of detail and architectural merit to eliminate bulk and massing.</p> <p>The design response has also been considered by an independent urban design expert who generally supports the proposed built form. The proposal is therefore acceptable against the relevant built form outcomes.</p> |
| Traffic congestion      | <p>The post-construction outcomes under Stage 1 demonstrate a reduced number of car parking spaces when compared to the existing buildings on the land, resulting in reduced traffic generation from the site.</p> <p>The reduced rate of car parking seeks to limit demand into the centre and achieve a significant modal shift away from the private vehicle.</p> <p>The proposal is therefore considered to meet the relevant policy outcomes sought for land use and car parking.</p>   |
| Wind comfort            | The applicant has submitted a number of environmental wind assessments which demonstrate a variety of comfort conditions that would be acceptable for the building's entries and adjoining pedestrian footpath.  |

## 11.2

(cont)

| Objector concern     | Planning Officer Response   |
|----------------------|---|
| Reflectivity         | <p>The applicant has submitted a desktop reflectivity assessment, which demonstrates that glint and glare impacts will be managed through the design detail phase of construction.</p> <p>A condition of permit will require a reflectivity assessment to demonstrate that the proposal will not result in unreasonable glint and glare to any sensitive receptors.</p>         |
| Limited open space   | <p>There is no requirement for office buildings to provide communal open space. Nonetheless, the building proposes communal terraces for office tenancies, improving employee amenity.</p> <p>In addition, the proposal is designed to integrate in with the public realm improvement works made under WH/2020/467 which will provide additional areas of urban open space.</p> |
| Construction impacts | <p>A permit condition will recommend a construction management plan which will seek to manage any offsite construction impacts during the construction period.</p>  |

### Additional Submissions

A submission under Section 52 of the *Planning and Environment Act 1987* was received by Council from VicTrack on 28/08/2020, who did not raise concern with the application subject to planning permit conditions.

### EXTERNAL AND INTERNAL REFERRALS

#### External

| Referral Authority      | Type                     | Response  |
|-------------------------|--------------------------|---|
| Department of Transport | Section 55 (determining) | No objection, subject to planning permit conditions |

#### Internal

| Internal Department  | Response  |
|----------------------|---|
| Transport            | Concerns with the proposed traffic response and basement layout. To be discussed further below.                                       |
| Assets               | Concerns with the proposed engineering response, subject to permit conditions. To be discussed further below.                         |
| Design and Construct | A number of comments received in relation to the broader public renewal works. These have primarily been addressed under WH/2020/467. |

## 11.2

(cont)

| Internal Department           | Response  |
|-------------------------------|---|
| City Works                    | A number of comments received in relation to the broader public renewal works. These have primarily been addressed under WH/2020/467.                     |
| Parks and Natural Environment | A number of comments received in relation to the broader public renewal works. These have primarily been addressed under WH/2020/467.                     |
| Strategic and Landscaping     | A number of comments received in relation to the design of the proposed buildings and works. These are addressed further below, or via permit conditions. |
| ESD                           | ESD expectations met, subject to permit conditions  |
| Waste                         | Concerns with waste generation / bin requirements, to be further confirmed once tenancies are finalised   |

### Other External Advice

Council has also referred the application material externally to both MGS Architects and Vipac Engineers for independent advice on urban design and environmental wind respectively.

The table below summarises their response:

| External Referral | Response   |
|-------------------|--|
| MGS Architects    | <p>Summary:</p> <p><i>With modest refinements as proposed in Recommendations 1 to 3 I am satisfied that in urban design terms the proposed commercial building is acceptable delivering a well specified, thoughtfully configured and contextually responsive workspace building with appropriate supporting and activation retail street levels and interconnections that deliver much needed interconnection between the western Prospect Street Commercial Street and Northern Health and education Precincts and the retail and Public transport core.</i></p> <p>The recommendations made by MGS will be discussed further below.</p> |

**11.2**  
(cont)

| External Referral | Response   |
|-------------------|--|
| Vipac Engineers   | <p>Summary:</p> <ul style="list-style-type: none"><li>• Vipac have reviewed the environmental wind assessment and conclude that Mel Consultants have used the proper analysis and methodology to measure the wind effects on the pedestrian level surrounding the proposed development.</li><li>• Where exceedances of the recommended wind criteria have been found, appropriate recommendations have been made to mitigate and improve wind comfort.</li></ul> |

**DISCUSSION**

The proposed building, together with the broader redevelopment of the site under Stage 1 will play a critical role in Box Hill's evolution as a vibrant and integrated centre that will allow for the delivery of employment growth within the Metropolitan Activity Centre (MAC) as envisaged under Clause 22.07.

Specifically, the proposed building will result in a substantial net increase of approximately 43,000sqm of office floor space, facilitating employment growth and supporting the commercial viability of the MAC. The proposed building represents an architectural outcome that is consistent with the built form outcomes of the relevant policy and *Box Hill Transit City Activity Centre Structure Plan 2007* ("the Structure Plan"), and seeks to enhance the built environment and immediate public realm, in association with the broader works and landscaping outcomes proposed under Stage 1.

The assessment below demonstrates that the proposed buildings and works provide both an acceptable design response for the site, as well as the broader Stage 1 applications, and demonstrate a significant net community benefit for the municipality, generally in line with the policy direction under the Whitehorse Planning Scheme.

**Policy Framework**

Planning Policy Framework (PPF)

The proposal responds to the objective of Clause 11.03-1S for Activity Centres which seeks to encourage the concentration of various land uses into highly accessible activity centres through a substantial net increase in office and retail floor space, supporting the role and function of the MAC.

The proposal responds to the objective of Clause 15.01-1S for Urban Design and Clause 15.01-2S for Building Design through a site responsive design that positively contributes to and enhances the built form and public realm character of the Box Hill MAC.

**11.2**  
(cont)

The proposal responds to the objective of Clause 15.02-1S Energy and Resource Efficiency by formally registering to achieve a '5 Star Green Star Design' and 'As Built rating', conforming to Council's ESD expectations under Clause 22.10.

The proposal responds to the objectives of Clause 15.01-4S Healthy Neighbourhoods by proposing a development that contributes excellent connection opportunities to the nearby walking, cycling and public transit routes, promoting opportunity for regular and healthy activity to and from the site by encourage the uptake of alternative and sustainable transportation.

The proposal responds to the objectives of Clause 17.01-1S for Diversified Economy and Clause 17.02-1S for Business by supporting employment growth and access to jobs within the MAC through the provision of approximately 43,000sqm of office floor space and 1,400sqm of retail floor space.

The proposal responds to the objectives of Clause 18.02-1S for Walking and 18.02-2S for Cycling by supporting the uptake of these modes of transport through a substantial increase in bicycle parking that is easily accessible from the primary pedestrian network with excellent amenities for staff and visitors.

The proposal responds to the objective of Clause 18.02-3S for Public Transport by substantially reducing the reliance on the private vehicle and supporting the uptake of the multitude of nearby public transport options.

Local Planning Policy Framework (LPPF)

The proposal responds to the vision for Whitehorse outlined under Clause 21.03 for *A Vision for the City of Whitehorse* which seeks to maintain and enhance the built environment to ensure a liveable and sustainable city by seeking to substantially improve the built environment within the Box Hill MAC and providing a substantial net increase in office floor space that supports the local economy.

The proposal responds to the objectives of Clause 21.05 for *Environment* through the development of an environmentally sustainable building (5 Star Green Star Rating) and by encouraging the uptake of sustainable transportation through reduced on-site car parking, enhanced bicycle facilities and improved connections that substantially improve direct pedestrian access to the Box Hill public transport interchange.

The proposal responds to the objectives of Clause 21.07 for Economic Development by facilitating a substantial investment in high quality office space within the MAC, housed within a contemporary and attractive built environment.

## 11.2

(cont)

The subject site is located within the 'Prospect Street' activity precinct and the 'Major Development' built form precinct which together seek to support taller buildings primarily for office and employment purposes. The proposal responds to the objectives of Clause 22.07 for the Box Hill Metropolitan Activity Centre through the provision of approximately 43,000sqm of additional office floor space, facilitating employment growth and access and strengthening the role of the MAC as a major commercial hub. In addition, the proposed building has been designed to respond to its immediate surrounds, with substantial improvements to the built and the pedestrian environments.

The proposed development also seeks to enhance the pedestrian experience of Box Hill with activate frontages, and together with the broader public realm works will seek to make substantial public realm improvements to the Box Hill MAC, consistent with the policy objectives of Clause 22.07.

### Urban Design

#### Urban Design Advice

Council have received independent urban design advice from MGS Architects for the proposed building, which offers a number of key recommendations seeking to improve the urban design outcomes of the building. These are outlined in the table below, with planning officer responses:

| Urban Designer Recommendation   | Planning Officer Response   |
|---|---|
| <b>Recommendation 1:</b><br><i>Provide wind speed mitigation measures including through landscape measures and balustrade heights to ensure that the areas 33 a to 33 d described above achieve a wind speed comfort level for sitting to support their underlying role within the project and centre and the objectives in local and state policy and the proposed Structure Plan and UDF.</i> | <p>The applicant has responded to this recommendation through the application process having provided revised wind assessment reports which demonstrate acceptable wind comfort levels in the identified areas.</p> <p>This is discussed further below under 'amenity'.</p> |

**11.2**  
(cont)

| <b>Urban Designer Recommendation</b>   | <b>Planning Officer Response</b>   |
|--|--|
| <p><b>Recommendation 2:</b><br/><i>Provide landscaping treatments and an updated Landscape plan showing revised tree planting and understorey planting and screening measures as proposed in the Wind Consultant report to include the planting of mature tree planting as follows:</i></p> <ul style="list-style-type: none"><li>• Close spaced large evergreen trees (8m high x 6m wide dense [70% solidity] canopies) and under planting up to the underside of the tree canopies and;</li><li>• Wind break screens, to the satisfaction of the responsible authority or alternatively invest the façade with additional articulation and setbacks to reduce the impacts arising from the proposal to achieve similar outcomes.</li></ul> | <p>The applicant has indirectly responded to this recommendation through revised wind assessment reports which demonstrate acceptable wind comfort levels in the identified areas.</p> <p>This is discussed further below under ‘amenity’. It is noted that in improving wind comfort, additional landscaping has not been required.</p> |
| <p><b>Recommendation 3:</b><br/><i>Modify the scale and setbacks of the proposed plant areas and upper floors at the western end of the tower to ensure the western footpath of Thurston Street is not overshadowed at 11am at the September 22nd Equinox to the satisfaction of the Council</i></p>   | <p>The applicant has responded to this recommendation through an updated overshadowing analysis which demonstrates that the western footpath of Thurston Street is not overshadowed at 11am on the September 22<sup>nd</sup> equinox.</p> <p>This is discussed further below under the building height header.</p>                       |

No further recommendations were made, with Council’s urban designer finding that the proposed building height and massing were responsive to the site and surrounds.

**Building Height and Overshadowing**

Building heights within the Box Hill MAC are primarily guided by two urban design principles established within the Structure Plan (2007), namely that built form appropriately transitions to the surrounding residential areas at the edges of the Activity Centre, and that new development does not cast shadows to Key Public Spaces, peripheral Residential Precincts or residential areas outside the Activity Centre between 11am and 2pm on 22 June.

**11.2**  
(cont)

In addition to the above, the Structure Plan also seeks to maintain and improve pedestrian amenity and enhance streets as public spaces to support and cultivate a range of activity. This is further supported within the built form guidelines of the Major Development Precinct under Clause 5.2.F which identifies the need to protect the amenity (including access to sunlight) of streetscapes.

In assessing the appropriateness of the proposed building height, planning officers refer to the decision guidelines of the Zone, and the objectives of the Policy Framework and Structure Plan.

*Building Height*

In determining that the proposed 27-28 storey building height is an acceptable response to the precinct's vision and built form characteristics, it is first important to understand the context of the site and surrounding area. The following developments have been constructed or approved in the immediately surrounding area and are deemed relevant to the context of the subject land:

- 9-11 Prospect Street: 25 storeys (under construction)
- 22-24 Prospect Street: 25 storeys (approved)
- 25-29 Prospect Street: 23 storeys (approved)
- 26-28 Prospect Street: 30 storeys (approved)
- 31-35 Prospect Street: 23 storeys (approved)
- 34-36 Prospect Street: 30 storeys (approved)

The above developments demonstrate the emerging height characteristics along the east-west alignment of Prospect Street, all of which are located within major development precinct F (permitting taller building). These approvals / developments have also been designed in a manner that seeks transition to the residential periphery beyond the railway corridor particularly from the taller Whitehorse Road built form to the north, either through a raking of form, or a reduced building height when compared against the buildings on Whitehorse Road.

The subject site shares similar locational characteristics to the above developments listed, being:

- Located within built form precinct F, which supports taller buildings;
- Positioned to the northern side of the railway corridor and on the same east-west alignment; and
- Maintains an interface to the residential periphery to the south-east.

These locational characteristics, together with the policy applicable to the site establish a clear expectation for intensification on the land, which would support the proposed height of the building at 27-28 storeys.



## 11.2

(cont)

The proposed construction of a 27-28 storey building is consistent in the context of Prospect Street, respecting the existing and emerging height characteristics to the west.

### *Overshadowing*

As noted above, building heights along Prospect Street have partially been derived/limited as a result of the impact of overshadowing to the adjoining residential areas south of Hopetoun Parade.

The current policy objectives within the Whitehorse Planning Scheme that are specific to overshadowing are as follows:

- Built form policy at Clause 22.07 (Box Hill Metropolitan Activity Centre) encourages development that protects key open spaces from overshadowing.
- 5.2.F of the Structure Plan for the Major Development Precinct encourages development to avoid overshadowing of Key Public Spaces, Peripheral Residential Precincts or residential areas outside the Activity Centre between 11am and 2pm on 22 June, beyond what would result from an 11m building over the full extent of the site
- 5.2.F of the Structure Plan for the Major Development Precinct seeks to protect the amenity (including access to sunlight) of streetscapes and Key Public Spaces.

Whilst the Structure Plan does not include an overshadowing test for the pedestrian network within the MAC, adopting 11am to 2pm at the Equinox is considered to be a balanced assessment approach that is consistent with a number of Council approved permits on Prospect Street and further supported by Council's urban design advice received on the application.

The table below outlines the relevant areas for protection and the associated overshadowing tests:

| Location  | Overshadowing test         | Response  |
|---|----------------------------|---|
| Market Street and Main Street (east) civic plaza (Key public space within the <i>Structure Plan</i> , 2007) | June solstice, 11am to 2pm | No shadow impact from the building to Market Street or Main Street east between 11am and 2pm at the Solstice  |
| Carrington Road (Key public space within the <i>Structure Plan</i> , 2007)                                  | June Solstice, 11am to 2pm | No additional shadow impact from the residential building to Carrington Road between 11am and 2pm at the equinox, beyond what would result from an 11m building over the full extent of the Box Hill Central South site |

**11.2**

(cont)

| Location  | Overshadowing test             | Response  |
|---|--------------------------------|---|
| Hopetoun Parade pedestrian footpath (southern side)   | September equinox, 11am to 2pm | No shadow impact from the building to the southern side of the Hopetoun Parade footpath between 11am and 2pm at the Equinox |
| Thurston Street pedestrian footpath (western side)  | September equinox, 11am to 2pm | No shadow impact from the building to the western side of the Thurston Street footpath between 11am and 2pm at the Equinox  |
| Residential periphery private property (southern side of Hopetoun Parade / western side of Thurston Street) | September equinox, 11am to 2pm | No shadow impact from the building to residential periphery between 11am and 2pm at the Equinox                             |

The table above demonstrates that the height of the proposed building would not result in any overshadowing impact to these spaces between 11am and 2pm at either the Winter Solstice or September Equinox. Where the proposed building results in shadowing to the Carrington Road 'Key Public Space' between 11am and 2pm at the Winter Solstice, the shadow diagrams demonstrate that this space would already be overshadowed by an 11 metre building over the full extent of the site (meeting the guidance under the Structure Plan).

The proposed building has been designed to respond to the immediate context, with the building height not resulting in any unacceptable overshadowing impact to the existing public realm). This is consistent with the relevant policy objectives and outcomes applicable to the site, and demonstrates an outcome that continues to maintain the solar amenity of the surrounding public open spaces and priority pedestrian network, supported by the policy outcomes under Clause 22.07 as well as the guidelines of the Structure Plan (2007).

In addition to the above, the height of the proposed building at 27-28 storeys (as described above) is consistent with the immediate surrounds, noting a number of approvals and recently completed developments on Prospect Street, which would also result in similar shadow outcomes between 9am and 10am at the Winter Solstice. Planning officers utilised a consistent approach in determining building height for those Prospect Street applications, using the September Equinox as the primary test between 11am and 2pm, and not accepting overshadowing to the southern side of Hopetoun Parade pedestrian footpath.

**11.2**  
(cont)

The expectation of amenity for dwellings within the residential periphery must be balanced with the increased density being achieved and anticipated within the MAC consistent with the strategic direction for the land. In this instance, the areas of private open space that are likely to be overshadowed will still receive solar amenity during the day beyond 9am or 10am and the extent of shadowing from the building to the residential periphery is acceptable when balanced against the strategic intent for the site and the excellent built form outcomes for the Box Hill MAC.

**Built Form**

The proposed building design is responsive to the built form objectives of the Major Development Precinct outlined within the Structure Plan, and supported by the relevant objectives of Clause 22.07 for the Box Hill Metropolitan Activity Centre.

The built form outcomes sought for development under Clause 22.07 and the Precinct F built form guidelines of the Structure Plan are summarised as follows:

- Articulated building facades and high quality building materials, demonstrating design excellence and visually interesting built form.
- Podium-tower building formats, with upper levels recessed to provide ample spacing between high-rise buildings.
- Active street level frontages to enhance the public realm at ground levels and improve pedestrian permeability.
- Active land uses within the podium to support opportunities for passive surveillance.

The following sections of the report will assess the buildings form and architectural arrangements of the building.

***Building Setbacks***

The built form guidelines of Precinct F encourage upper level building (tower) setbacks above 12 metres (from Main Street) and 16 metres (from other streets), and seeks to ensure that setbacks between buildings are sufficient to allow equitable development outcomes.

The building proposes the following upper level setbacks above the podium at each interface:

- North (front): tower setbacks between 3.175m and 5.775m
- East: tower setbacks between 1m and 3.4m
- South (rear): tower setbacks between 1.005m and 3.185m
- West: tower setbacks between 0m, 14.88m and 16.68m

## 11.2

(cont)

The proposed upper level setbacks accord with the built form guidelines of Precinct F. In addition, the proposed setbacks are generally consistent with those adopted in recent approvals, including a number on the east-west alignment of Prospect Street which typically adopt setbacks of 4.5 metres through the tower form. This demonstrates that the proposed building has been designed to maintain consistency with the emerging built form and massing outcomes within the MAC and specifically buildings within Major Development Precinct F.

Furthermore, the proposed setbacks of 14.88m and 16.68m to the future Lot 6, would allow for equitable development opportunities for any Stage 2 buildings, including access to daylight and an appropriate outlook.

The proposed building's massing is therefore acceptable in its context, respecting the existing and emerging built form outcomes in the immediate area, and responding to the policy outcomes sought under the Major Development Precinct F.

### *Architectural Expression*

The proposed development adopts a highly refined design that presents as visually interesting when experienced in the pedestrian realm and from afar. This responds to the policy objectives of Clause 22.07 which encourages design excellence.

The podium levels feature a layered design response with overlapping horizontal bands that articulate the building form, and provide a distinct building base, separate to the tower above. The layered design allows for improved landscape opportunities, and incorporates substantial clear glazing for streetscape activation and passive surveillance opportunities. The podium adopts a number of vertical concrete elements spaced evenly along its length to maintain a finer grain streetscape rhythm that is consistent with the broader Box Hill built form, but also to break down the continuous extent of form and improve the pedestrian experience. This is supported by Council's urban design advice.

At the upper levels, the tower adopts a more formalised appearance through the use of glazed curtain wall and horizontal metal bandings that span across each level. The tower form shifts from east to west at level 12, providing substantial articulation and visual interest to the overall building form. The tower adopts a central tenancy zone, in the form of either a balcony or void that further breaks down the width of the building through a clear central recession. The tower includes an upper level services screen with vertical louvres which serves as a building cap. This is supported by Council's urban design advice.

**11.2**  
(cont)

The proposed design response is well considered, demonstrating architectural excellence that is consistent with the built form policy outcomes sought under Clause 22.07. Planning officers have recommended a condition that requires the permit holder to retain the project architect (or architect of equivalent experience), to ensure that the design quality is maintained throughout the design and construction process.

*Public Realm*

The majority of the public realm improvements associated with the Stage 1 redevelopment are the subject of Planning Permit Application WH/2020/467 (for the public works) and have been designed to integrate in with and compliment the proposed building.

The public realm works would provide a new pedestrian connection between Main Street through to Prospect Street and Clisby Court, substantially improving pedestrian movement and permeability and provide greater opportunity for passive recreation.

The western end of Main Street currently terminates at a loading bay associated with the Woolworths Supermarket, and has limited foot traffic due to the back of house function of this interface. The proposed public realm works associated with this building would activate the currently underutilised area at the western end of Main Street, providing activated tenancies oriented to both Main Street and extending down to Prospect Street, resulting in significant amenity improvements. This further supports the east-west connection proposed under WH/2020/467, providing high-amenity pedestrian access between the public transport interchanges directly to the Prospect Street office precinct.

The proposed podium also includes an extended canopy, providing shelter from rain and wind, and providing a transitional forecourt space between the building entrance, Main Street and Prospect Street on the lower ground level. The proposed tenancies adopt high levels of clear glazing to provide a visual connection to the streetscape and provide opportunity for passive surveillance which is currently lacking under the existing conditions. Figures 3 and 4 below demonstrate the existing Main Street interface and compares it to the proposed outcomes and compares it to the proposed public realm outcomes.

**11.2**  
(cont)



**G** Figure 7: Existing Main Street west interface



**H** Figure 8: Proposed Main Street west interface

*Pedestrian Amenity*

The proposal seeks to enhance the pedestrian environment through substantive public realm improvements associated with the Stage 1 redevelopment of the site. These have been discussed above.

As part of these improvements, the proposal ensures that the pedestrian environment maintains high levels of amenity by way of sunlight, wind comfort (discussed below) and high levels of clear glazing to provide visual connection and surveillance into the street.

The proposed public realm also makes substantial visual improvements to what is currently a back of house area and car park to the western end of Main Street and eastern end of Prospect Street through the use of high quality materials, increased landscaping opportunities and improved street furniture that seeks to enhance the space for improved passive recreation and to serve as a genuine urban plaza.

**11.2**  
(cont)

Overall, the proposed areas of public realm maintain excellent amenity for the pedestrian environment, enhancing the space for its enjoyment and use.

**Wind Comfort**

The Environmental Wind Speed Assessment prepared by MEL Consultants demonstrates acceptable wind outcomes for the building's entry, lower ground pedestrian footpath and upper level terraces.

The upper ground building entry and surrounding transitional space on Main Street (test locations 16 and 16a under Figure 7b of the Environmental Wind Speed Assessment) demonstrates sitting comfort. This exceeds the expected wind comfort criteria for building entries, in which standing comfort would be typically sought.

The lower ground pedestrian footpath (and retail interface) to the northern side of the building, including the access to the lower ground escalators at test locations 16b and 55 demonstrates standing comfort. This meets the expected wind comfort criteria for building entries, and would allow for safe and comfortable access onto the escalator as a transitory space between lower and upper ground floors.

The upper level (level 2) terraces to the north-eastern side of the building at test locations P5 and P6 demonstrate standing (west) and sitting (east) comfort. This meets the expected comfort criteria for communal terraces in a non-residential setting and would provide acceptable comfort for short-term passive recreation (suitable for terrace space associated with an office building).

The ground level, north-western side, at the corner of Prospect Street and the proposed side road for vehicular access at test locations 57, 59a and 63a demonstrate walking comfort. This is suitable for the pedestrian footpath.

The remaining test locations either remain unchanged (from the existing wind conditions) as a result of the development, or result in reductions that would be acceptable in their locational context (i.e. footpath, other building entries). These can be further addressed and considered within Stage 2 that would require further mitigation mechanisms.

As such, the proposed wind outcomes resulting from the building are acceptable.

**Landscaping**

Landscaping external to the building envelope and within the immediate surrounds has been further considered and assessed under Planning Application WH/2020/467 for the public realm works. It is noted that within this assessment, the landscaping outcomes within the proposed public realm (urban plaza and street/road extensions) are generous and result in a net increase in canopy density and soft landscaping, consistent with the policy expectations under Clause 21.05 for *Environment*.

**11.2**  
(cont)

**Traffic, Car and Bicycle Parking and Loading and Unloading**

Car Parking

The table below demonstrates the following statutory car parking rates for the building:

| Description                      | Size      | Statutory Rate                   | Parking Requirement |
|----------------------------------|-----------|----------------------------------|---------------------|
| Office                           | 41,525sqm | 2 spaces to each 100sqm NFA      | 830 spaces          |
| Retail (food and drink premises) | 1,318     | 3.5 spaces to each 100sqm of LFA | 46 spaces           |
| Total                            |           |                                  | 876 spaces          |

A total of 202 car parking spaces are provided, and therefore a reduction of 674 car parking spaces is sought. This equates to a rate of 0.48 spaces per 100sqm for offices and 0 spaces for the retail (food and drink) premises.

Council's Transport Engineering team acknowledges the strategic intent to provide less parking on the site, but suggests that the reduction is too substantial without further specific justification.

Through the application process, Planning Officers however have reviewed the traffic analysis as well as the broader policy framework for the site and wider MAC, and consider the reduction to be acceptable for the land use. This is based primarily on the following factors:

- The policy framework for parking within the Box Hill Metropolitan Activity Centre.
- The use of the land for retail and office and the type of demand generated;
- The opportunity to improve and increase pedestrian and alternative modes of transportation through the provision of the Main Street extension through to Prospect Street and the availability of land for future bicycle connectivity;
- The opportunity to reduce parking and vehicle movements into the retail core; and

*Policy Framework*

The car parking objectives of Clause 45.09 Parking Overlay – Schedule 1 for the Box Hill Activity Centre seek to encourage the use of active and sustainable travel modes rather than increase private vehicle travel as well as locate and manage car parking so as to minimise traffic generated by the search for a parking space. Whilst minimum parking rates are specified for office land uses within the Parking Overlay, there is an opportunity to reduce the parking provided for a land use should the car parking objectives be achieved. As noted in the following assessments, the reduced rate continues to respond to the objectives of the Overlay.



**11.2**  
(cont)

The PPF and LPPF both support reduced parking rates within Activity Centres and specifically the Box Hill Metropolitan Activity Centre. Within the PPF, Clause 18.01-3S (Sustainable and Safe Transport) includes strategies that seek to design development to promote walking, cycling and the use of public transport, in that order, and minimise car dependency. Similarly, both Clause 18.02-1S (Walking) and Clause 18.02-2S (Cycling) seek to increase the uptake of walking and cycling through the provision of priority networks that link in with nearby public transportation links and interchanges.

Within the LPPF, Clause 22.07 (Box Hill Metropolitan Activity Centre) includes objectives which seek to encourage walking, cycling and the uptake of public transport in favour of reduced private vehicle usage as well as managing parking supply to support choice of travel mode, and a balance between access, sustainable transport and land use needs within the Centre. The proposed land use and car parking arrangement is supported by the above policy objectives through the location of the site, its proximity to transportation, the limited parking supply and the quality of bicycle facilities.

The proposal responds to these policy outcomes by seeking to reduce the rate of parking for the commercial land uses, and by extension reducing private vehicle demand and trips within the core retail precinct. The proposal also seeks to substantially improve the pedestrian network through the construction of an east-west priority pedestrian connection that links the enterprise precinct of Prospect Street directly to the Box Hill public transport interchanges, substantially encouraging and increasing the uptake of alternative travel modes. Whilst no additional bicycle infrastructure is proposed, the broader set of works seeks to include the necessary area and dimensions for the north-south overpass to Nelson Road, to ensure a future connection into the strategic cycling network.

*Reduced Reliance on the Private Vehicle*

The Integrated Transport Strategy (adopted by Council 21 September 2020) identifies a number of critical transport issues within the MAC and opportunities available for improvements. Relevant to this application are the following:

- The car parking requirements for new developments are not sustainable within the anticipated population and employment growth.
- Active transport participation amongst residents, workers and visitors is very low.

Expanding on the above points, the Strategy indicates that the allocation of road space is inefficient and a key factor in the congestion on the road network, with resulting adverse economic, environment and social impacts to the community. This is linked to the issue of low active transport participation within the MAC, through limited allocated of road reserve to the private vehicle in lieu of walking and cycling links.

**11.2**  
(cont)

The proposal responds to and seeks to alleviate the above issues by proposing a substantial reduction in parking (both from the proposed office use and the demolition of the existing retail parking), which results in substantially less private car movements into the MAC and specifically the retail core as a result of the development.

Furthermore, the proposal also seeks to expand the priority pedestrian network and contribute to the provision of bicycle infrastructure through the provision of a new east-west connection between Main Street and Prospect Street, as well as allocating land for the future construction of a north-south rail overpass. This seeks to reallocate existing land within the MAC for dedicated pedestrian activity and provides an opportunity for improved active transport amongst residents by connecting the residential peripheries into the Centre. Both outcomes result in reduced reliance of the private vehicle for the site and proposal, but continue to facilitate a change in approach for future transport planning within the MAC.

*Land Use*

The proposal seeks to use the land for office and retail and reduces the rate of parking for both. It is an established planning principle (see *KM Tram Enterprise Pty Ltd v Boroondara CC [2018] VCAT 1237*) that (office) staff parking demands are typically a function of supply, and in locations where on-street parking is constrained by time restrictions or limited parking availabilities, staff elect to utilise alternate transport modes where available. The reduced rate of parking provided for the proposed office and commercial uses seek to facilitate a modal shift away from the private vehicle, and to encourage staff to utilise the excellent offering of public transportation within the MAC. This is supported by the objectives of Clause 22.07 and Section 4.4.E of the Structure Plan.

Empirical evidence provided within the Transport Impact Assessment, prepared by GTA Consultants (February 2021) further supports the reduced parking rate for office land uses, demonstrating an average parking rate of 0.77 spaces per 100sqm.

In this instance, officers support a further reduced rate of 0.48 for office and 0 spaces for retail on the basis that:

- The reduced supply of parking encourages the uptake of public transport for office and retail land uses;
- The proximity of the building to the numerous public transport options within retail core supports the above proposition;
- The substantially improved east-west connection from the station directly into the office precinct supports greater pedestrian activity; and
- The parking reductions support a sustainable mode shift that supports reduced vehicle movements within the centre.

**11.2**  
(cont)

This is also consistent with a number of recent Council decisions (as well as Tribunal decisions) which support substantially reduced parking rates for similar office or equivalent commercial land uses within the MAC.

*Public Transportation*

Given the sites locational attributes within the MAC and the alternative transport offerings available (rail, bus and tram), it is anticipated that the demand generated for office staff will be limited to the on-site provision of parking available with the remainder utilising the excellent public transport options available within immediate proximity of the proposed building. This is supported by the decision guidelines for parking reductions under Clause 52.06-7.

The proposed connection into the priority pedestrian network as well as the gifting of land for a future north-south, bicycle overpass (connecting the residential peripheries) further substantiates the reduction of car parking by demonstrating a clear intent to change user behaviour within the MAC by encouraging walking and cycling.

In addition to the existing public transport network, the Suburban Rail Loop (SRL) has recently been announced which proposes a new station within the Box Hill transport hub, directly connecting the MAC to adjacent middle suburban regions and activity centres. Whilst limited weight can be given to the environmental effects statement, the proposed concept significantly increase accessibility into the MAC from the outer regions, again supporting reduced parking demand within commercial land uses at this location.

Traffic Impacts

The SIDRA intersection modelling presented within the submitted Transport Impact Assessment, prepared by GTA Consultants (February 2021) indicates that there are moderate to high levels of existing traffic congestion in Box Hill at present, with these levels expected to marginally worsen with the continued development of the area. At present, the existing road network operates within acceptable limits during the PM peak hour (congestion higher during weekday PM peak).

However, with existing levels of road-based congestion expected to increase in Box Hill due to the substantial building intensification and density being accepted within the MAC, a typical approach to transport planning, which adopts greater rates for private vehicle parking is unsustainable and would further intensify traffic and congestion on the local road network within the MAC, degrading the public realm and reducing opportunities for active transport, all of which are sought within the relevant local policy and the recently adopted Integrated Transport Strategy outlined above.

**11.2**  
(cont)

The proposal adopts an alternate approach that seeks to prioritise and shift behaviours away from the private vehicle and into walking, cycling and public transport, and as a result of this method demonstrates significantly reduced vehicle movements associated with the proposed building and through the demolition of the existing retail car parking.

Empirical evidence outlined within the Transport Impact Assessment, prepared by GTA Consultants (February 2021) indicates that office / staff car parking spaces generally generate traffic movements at a rate of 0.4 vehicle movements per staff car space per hour. Application of these rates to the proposed provision of 202 car parking spaces indicates that the development could be expected to generate up to approximately 80 vehicle movements in any peak hour. This generation rate can be accommodated into the existing road network.

However, taking a more holistic approach for the site and acknowledging the post-development conditions of Stage 1, the total traffic generation identified by the traffic impact assessment post development will be:

- Lower than the existing use of the site during the critical weekday afternoon peak hour (-115 movements).
- Significantly lower than the existing use of the site during the Saturday lunchtime peak hour (-295 movements); and
- Generally consistent with the existing use of the site during the weekday morning peak hour (+6 movements), which can currently be accommodated in the existing road network.

The outcomes above are primarily due to the demolition of the existing shopping centre which incorporates a greater number of car parking spaces compared to the post development conditions. The data within Table 5.3 of the Transport Impact Assessment, prepared by GTA Consultants (February 2021) prepared demonstrates that there are substantial reduction in traffic generation between the existing centre and the post-development conditions under Stage 1 (if approved).

This concludes that the redevelopment of site would not result in increased congestion at the current rates of car parking. The traffic impact assessment has also adopted a worst-case scenario of the SIDRA analysis with a 20% increase in traffic which continues to show adequate traffic conditions. Noting the above, the proposed building would not result in unreasonable traffic impacts to the existing and proposed road network.

Whilst Council's transport engineering team do not agree with the submitted outcomes of the Transport Impact Assessment, the following responses are provided to their concerns:

- The adopted generation rates are based on a low rate of parking, which is to achieve a significant change in behaviour and modal shift away from the private vehicle use, which is an adopted Council position through the Integrated Transport Strategy.

**11.2**  
(cont)

- The use of the road extension as a 'rat run' is unlikely due to the significant pedestrianisation of the street network including the raised flush pedestrian crossing. Vehicles typically drive slower where the boundaries between pedestrian and vehicle are blurred, which limits the use of the street as a run between Whitehorse Road and Elgar Road.
- The proposed road extension is likely to be utilised by people accessing the development sites, and given that the traffic generation of these sites is identified as low (as specified within Table 5.3), it is unlikely that there will be vehicle queuing. The applicant has included queuing analysis, which concludes that there will be no traffic impact to the road network as detailed within the Transport Impact Assessment.
- The proposal is DDA compliant, with conditions of permit requiring a DDA accessibility plan and audit.
- The southern side of Prospect Street (post-development) does include street furniture, but maintains unencumbered access and clear sightlines through its central corridor for those with vision impairments.
- Visibility sight lines have been considered within the relevant traffic impact assessments and deemed acceptable.
- The proposed access road (created for basement / back of house access) to the western side of the commercial building is likely to be maintained as a private road and does not need to be constructed to Council width specifications. Irrespective, the road maintains a width of 7 metres, acceptable for two-way traffic.
- The length of the car parking spaces to the edge of the proposed road extension are measured at 6.7 metres, which meets the relevant Clause 52.06-9 standards for parking space length.

**Bicycle Parking**

The table below demonstrates the following statutory bicycle parking rates for the building:

| Description | Size      | Statutory Rate   |                         | Parking Requirement |           |
|-------------|-----------|------------------|-------------------------|---------------------|-----------|
|             |           | Employee         | Visitor                 | Employee            | Visitor   |
| Office      | 42,843sqm | 1 to each 300sqm | 1 to each 1,000sqm      | 142 spaces          | 42 spaces |
| Retail      | 1,317sqm  | 1 to each 300sqm | 2 plus 1 to each 200sqm | 4 spaces            | 8 spaces  |
| Total       |           |                  |                         | 146 spaces          | 50 spaces |

**11.2**  
(cont)

The proposed development includes a total of 408 bicycle parking spaces, including 342 secure spaces on the lower ground level, 56 visitor spaces at the lower ground level and 10 visitor spaces in the public realm. The provision significantly exceeds the statutory requirement by 212 spaces and continues to demonstrate a substantial modal shift away from the private vehicle.

The end-of-trip facilities within the building are located between the lower ground and lower ground mezzanine floor levels, with bicycle parking for staff located on the lower ground and accessed from Prospect Street (adjacent the escalators) with separated male / female facilities (including showers and lockers) on the mezzanine level and accessed internally via the EOT lobby and lift. Both facilities exceed the number of showers and lockers required pursuant to Clause 53.34 for *Bicycle Facilities*. The end-of-trip facilities are easily accessible from the public realm and provide excellent amenities for staff.

The proposed bicycle layout has been reviewed by Council's transport engineering department, and no concerns have been identified. This indicates that the bicycle parking spaces are easily accessible for use.

Basement Layout

The basement layout has been reviewed by Council's Traffic Engineering department. The following assessment is in response to the comments made within the referral response that are to be addressed via planning permit conditions or require further consideration:

- There are some minor encroachments into the clearances of car parking spaces, particularly to those on the south western corner of the basement, however generally all spaces meet the clearance requirements as per Diagram 1 of Clause 52.06-9.
- Bollards are provided to discourage persons parking in front of the staircase connecting the split levels of the car park.
- Allocation of car parking will be identified within any car parking management plan required as permit conditions.
- The location of electrical parking spaces is acceptable, with the total provision of 11 charging stations.
- There is no requirement for motorcycle parking with Clause 52.06.

The proposal meets all other relevant standards of Clause 52.06-9. The basement layout is therefore acceptable.

**11.2**  
(cont)

Loading and Unloading

Commercial vehicle loading / unloading and waste collection is proposed to the rear of the building and accessed to the western side of the site via a new road connection, avoiding an interface with any key public realm. The proposed road connection would also facilitate service access to buildings under the Stage 2 redevelopment.

The loading / unloading and waste collection has been reviewed by the relevant traffic and waste departments and are supported subject to necessary planning permit conditions for loading management.

**Rail Corridor and Future Rail Overpass**

Rail Corridor

The application is located to the northern side of the railway corridor, and the plans demonstrate proximal buildings and works. These have been considered by VicTrack for comment under Section 52 of the *Planning and Environment Act 1987*, who have responded with a number of conditions that seek to protect existing infrastructure from the suite of building works. These conditions have been recommend in full.

Future Rail Overpass

Through negotiations with the permit applicant, planning officers have secured a gifting of land (5.8 metres width by 45 metres length) to the western side of the wider site (at the edge of the Nelson Road extension), allowing for the construction of a pedestrian and cyclist railway overpass.

The gifted land aligns with the Access Framework Plan outlined within the Structure Plan, which identifies the railway overpass as a proposed north-south link for the MAC, providing access into the Centre from the residential peripheries and connecting a number of key east-west strategic cycling routes. The overpass is further identified as a critical north-south link within the Box Hill Integrated Transport Strategy recently adopted by Council in September 2020.

This a significant net community benefit, and further supports the reduction of car parking adopted for the application, through the substantial encouragement of alternative modes of transport.

**CONCLUSION**

The application has been considered against and responds to the relevant objectives within the Planning and Local Planning Policy Framework.

The proposed building maintains strong policy support for built form intensification, being located within major development Precinct F, and further supports employment growth and economic diversity within the MAC through the substantial increase of office floor space.

**11.2**  
(cont)

The proposed building has been carefully designed and sited to limit offsite impacts from both visual bulk and massing as well as the impact of overshadowing to the public realm and private residential land.

The proposed building has also demonstrated a substantial net community benefit through the gifting of private land to the western edge of the broader site and allowing for the future construction of a critical north-south link, identified within the Structure Plan, and further supporting the modal shift away from the private vehicle.

A total of nine (9) 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, and a **Notice of Decision to Grant a Planning Permit** be issued.

**REPORT FOR WH/2020/597 (RESIDENTIAL BUILDING)**  
**Planning Controls**

Zone

The site is located within Clause 34.01 Commercial 1 Zone. Pursuant to Clause 34.01-1, a planning permit is required to use the land for accommodation, as the Section 1 condition, which specifies that *any frontage at ground floor level must not exceed 2 metres*, has not been met.

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

Overlays

The site is located within Clause 45.09 Parking Overlay (Schedule 1), which specifies car parking rates for dwelling and offices land uses, reduced from the statutory requirements prescribed under Clause 52.06-5 of the Planning Scheme. Where a car parking rate is not specified, the rates outlined under Clause 52.06-5 of the Planning Scheme apply.



## 11.2

(cont)

The table below demonstrates the following statutory parking requirements for the proposed building:

| Description      | Size          | Statutory Rate   |                   | Parking Requirement | Parking Provision |
|------------------|---------------|--|-------------------|---------------------|-------------------|
| Dwelling         | One bed       | 64 dwellings   | 0.5 per dwelling  | 32 spaces           | 224 spaces        |
|                  | Two bed       | 282 dwellings  | 0.75 per dwelling | 212 spaces          |                   |
|                  | Three bed     | 20 dwellings   | 1 per dwelling    | 20 spaces           |                   |
| Dwelling visitor | 366 dwellings | 0.2 visitor spaces to each dwelling for the first five, plus<br><br>0.1 visitor spaces to each dwelling for any subsequent dwellings |                   | 73 spaces           | 0 spaces          |
| Office           | 7,615sqm      | 2 spaces to each 100sqm NFA  |                   | 152 spaces          | 0 spaces          |
| Retail (shop)    | 677sqm        | 3.5 spaces to each 100sqm of LFA   |                   | 23 spaces           | 0 spaces          |
| Total            |               |  |                   | 480 spaces          | 224 spaces        |

A total of 224 car parking spaces are proposed and a planning permit is required to reduce the total car parking requirements by 256 spaces.

## PROPOSAL

The proposal is for the construction of a part 50 and part 51 storey building at 17-21 Market Street, comprising of 366 dwellings in the tower and office and retail floor space within the podium. The building is positioned to the northern side of Main Street and eastern side of Prospect Street.

The key features of the proposed building are as follows:

- The provision of 366 apartments, comprising a mix of one (1), two (2) and three (3) bedroom apartments within the tower.
- The provision of 7,615sqm of office floor at the upper ground levels within the podium.
- The provision of 677sqm of retail floor space at both the lower and upper ground levels within the podium.
- The provision of 224 car parking spaces located within three (3) levels of basement.
- The provision of 397 bicycle parking spaces and associated end-of-trip-facilities within the lower ground level residential bicycle storage and commercial end-of-trip facilities.

**11.2**  
(cont)

In addition to the above building, the application proposes a secondary two (2) storey mixed use building that maintains an interface with Market Street. Key features of the proposed buildings and works are nominated as follows:

Podium

*Residential building podium*

The application includes a five (5) to six (6) storey podium that interfaces with Prospect Street on the lower ground level and Main Street on the upper ground level.

At the lower ground level, the podium includes the primary commercial entry via the proposed road extension of Prospect Street / Clisby Court, as well as the secondary residential entry. A single retail tenancy is located to the southern side of the lower ground frontage.

Vehicular access is located to the northern side of the lower ground level providing basement and back of house access. A lift located between the commercial and residential entry provides access to the upper ground level on Main Street.

At the upper ground level, the podium includes the primary residential entry, surrounded five (5) retail tenancies. A single commercial tenancy is located to the northern half of the upper ground podium and accessed via the secondary commercial entry which is positioned adjacent the lift core and accessed via the communal terrace.

The upper levels of the podium above Main Street are all accessible via the lift core, and include an additional four (4) levels of open plan commercial tenancies that extend to the perimeter of the podium as well as residential communal open space on level 5, which incorporates both internal and external amenities.

The proposed building's podium has been designed to integrate in with the proposed buildings and works proposed under WH/2020/467 (public realm works), which provide improved pedestrian connectivity, landscaping and public realm works.

*Market Street Building*

In addition to the above works, the proposal also includes a two (2) storey building positioned to the western side of Market Street and the eastern side of the laneway.

The building would be used for commercial purposes with a 188sqm ground floor tenancy that has a direct interface with Market Street and a 324sqm office tenancy above, that is accessed via a lift to the rear of the building.

The proposal also includes rear back of house / loading and unloading facilities which are accessed from the rear laneway via the residential building accessway or Whitehorse Road.

**11.2**  
(cont)

Tower

Above the podium levels, the application proposes an upper level tower, with a total height of 50 storeys from Main Street (maximum height of 173.65metres) and 51 storeys from Prospect Street (maximum height of 179.05 metres).

The tower is setback from the podium footprint below and maintains a generally consistent massing through its height with consistent side and rear setbacks that range between 1.905 metres to the south and 13.235 metres to the west. Each floor plate is accessed via the central lift core and used for the purposes of accommodation.

two (2) storey mid-rise plant room is positioned between levels 19 and 21, and will be clad by metal louvres as evidenced in Figure 2 below.

Design Detail and Materials

The podium has been designed with a curved form that incorporate masonry framing with recessed glazing, capturing the fine grain rhythm of Market Street and Main Street. This materiality wraps around the Prospect Street and Main Street frontages.

**11.2**  
(cont)

The tower adopts a more refined materiality and is primarily clad with a glazed curtain wall, with protruding horizontal metal bands as shown in Figure 2 below.



*Figure 9: Residential building full height*

Vehicle Access, Parking and Loading

A total of 224 car parking spaces would be provided for residential use within three (3) levels of basement. The basement is accessible via the proposed loop road (proposed under application WH/2020/467), with vehicular access located to the northern side of the building on the lower-ground level.

The proposed vehicle accessway entry would be shared by both commercial and pedestrian vehicles, and further separated with secure truck access and loading / unloading facilities and the car basement access to enable waste and commercial loading for the commercial land uses.

**11.2**  
(cont)

A total of 398 bicycle parking spaces and end-of-trip facilities would be provided within the lower ground residential bicycle storage, each accessible from Prospect Street.

End-of-trip facilities include separate male and female amenities with a total of seven (7) showers, and 22 lockers with access provided adjacent the commercial entry lobby on the lower-ground level.

The proposal seeks to reinstate the north-south laneway that provides access between Whitehorse Road and Main Street abutting the residential buildings podium to the east, providing access through the land to the southern side Market Street properties as well as the proposed Market Street building described below.

**CONSULTATION**

**Public Notice and Consultation**

The application was advertised by mail to the adjacent and nearby property owners and occupiers. Following the advertising period nine (9) objections were received.

A Consultation Forum was held on 07 September 2021 chaired by Councillor Liu. The forum was held for the broader Stage 1 redevelopment due to the integrated nature of the works and the total objections received (a total of 40 objections received for Stage 1).

**Objections**

The issues raised are summarised as follows:

- Overdevelopment.
- Height and overshadowing.
- Bulk and massing.
- Traffic congestion.
- Wind comfort.
- Reflectivity.
- Limited open space.
- Infrastructure pressures.
- Equitable development opportunity.
- Restricted vehicular access.
- Construction impacts.

**11.2**  
(cont)

A response to each issue is provided within the table below:

| <b>Objector concern</b>  | <b>Planning Officer Response</b>   |
|--------------------------|--|
| Overdevelopment          | The subject site is located within the Major Development Precinct F, anticipating substantial intensification. The proposed building responds to its policy setting.   |
| Height and overshadowing | <p>The subject site is located within the Major Development Precinct F, anticipating substantial intensification of the land.</p> <p>The proposed height is consistent with the policy expectations for the land and respects the built form characteristics of the surrounding area.</p> <p>The resultant overshadowing has been considered against the relevant policy and Structure Plan outcomes and generally provides an acceptable design response with regards to overshadowing.</p>   |
| Bulk and massing         | <p>The subject site is located within the Major Development Precinct F, anticipating substantial intensification of the land.</p> <p>The building has been designed in accordance with the relevant built form guidelines of the Structure Plan and provides a level of detail and architectural merit to eliminate bulk and massing.</p> <p>The design response has also been considered by an independent urban design expert who generally supports the proposed built form. The proposal is generally acceptable against the relevant built form outcomes.</p> |

**11.2**

(cont)

| <b>Objector concern</b> | <b>Planning Officer Response</b>  |
|-------------------------|---|
| Traffic congestion      | <p>The post-construction outcomes under Stage 1 demonstrate less traffic movements when compared to the existing buildings on the land, resulting in reduced traffic generation from the site.</p> <p>The reduced rate of car parking seeks to limit car parking demand into the centre and achieve a modal shift away from the private vehicle through provision of a new east-west pedestrian connection proposed into the office precinct as well as the gifting of land to the Nelson Road extension at the western side of the site for the future provision of a rail overpass, supporting active transport from the residential peripheries.</p> <p>The proposal generally meets the relevant policy outcomes sought for land use and car parking.</p> |
| Wind comfort            | <p>The applicant has environmental wind assessments which demonstrate a variety of comfort conditions that would be acceptable.</p>   |
| Reflectivity            | <p>The applicant has submitted a desktop reflectivity assessment, which demonstrates that glint and glare impacts would be managed through the design detail phase of construction.</p> <p>A condition would require a reflectivity assessment to demonstrate that the proposal will not result in unreasonable glint and glare to any sensitive receptors.</p>   |
| Limited open space      | <p>The proposed building includes internal and external communal open space areas for future occupants on the top of the podium level, meeting Clause 58 – Apartment Development standards.</p> <p>In addition, the proposal is designed to integrate in with the public realm improvement works made under WH/2020/467 which will provide additional areas of urban open space.</p>  |

**11.2**

(cont)

| <b>Objector concern</b>     | <b>Planning Officer Response</b>  |
|-----------------------------|---|
| Infrastructure pressures    | <p>The subject site is located within a commercial area which is fully serviced by existing service infrastructure. There is no evidence that the existing infrastructure would not be adequate for the proposed development.</p> <p>A condition would require civil / drainage plans which will ensure that the necessary infrastructure is provided commensurate with the scale of the building.</p>  |
| Equitable development       | <p>The proposal demonstrates equitable development outcomes at both the podium and tower level.</p> <p>At the podium, the building is constructed primarily to the boundary to the north, allowing opportunity for a commensurate form for the adjoining properties.</p> <p>To the east, the podium maintains a setback through the laneway, which was refined through discussions with Council's urban designer during the application process. A condition would require that the plans be amended to reflected the without prejudice set that achieves the equitable development outcomes.</p> <p>At the tower levels, the building maintains substantial setbacks from the boundaries, allowing equitable opportunity for development and amenity, with the only encroachments into the typical 4.5 metre setback being at the buildings edge, which is only for a small section of built form.</p> |
| Restricted vehicular access | <p>The proposal does not restrict vehicular access to properties located to the southern side of Whitehorse Road, which maintain access from the existing laneway.</p> <p>Where access is limited to the properties to the south-western side of Market Street (due to the proposed enclosing wall to Main Street), permit conditions ensure that an easement will be created to allow access rights to these buildings.</p>  |
| Construction impacts        | <p>A permit condition will recommend a construction management plan which will seek to manage any offsite construction impacts.</p>   |



**11.2**  
(cont)

**Additional Submissions**

A submission under Section 52 of the *Planning and Environment Act 1987* was received by Council from VicTrack on 28/08/2020, who did not raise concern with the application subject to planning permit conditions.

**EXTERNAL AND INTERNAL REFERRALS**

**External**

| Referral Authority      | Type                     | Response  |
|-------------------------|--------------------------|---|
| Department of Transport | Section 55 (determining) | No objection, subject to planning permit conditions |

**Internal**

| Internal Department           | Response   |
|-------------------------------|--|
| Transport                     | Concerns with the proposed traffic response and basement layout. To be discussed further below.  |
| Asset                         | Concerns with the proposed engineering response, subject to permit conditions. To be discussed further below.  |
| Design and Construct          | A number of comments received in relation to the broader public renewal works. These have primarily been addressed under WH/2020/467.                                |
| City Works                    | A number of comments received in relation to the broader public renewal works. These have primarily been addressed under WH/2020/467.                                |
| Parks and Natural Environment | A number of comments received in relation to the broader public renewal works. These have primarily been addressed under WH/2020/467.                                |
| Strategic and Landscaping     | A number of comments received in relation to the design of the proposed buildings and works. These are addressed further below, or via permit conditions.            |
| ESD                           | ESD expectations are met, subject to planning permit conditions  |
| Waste                         | Concerns have been raised with respect to collection of waste for the Market Street building which have since been addressed within a revised Waste Management Plan. |

**Other External Advice**

Council has also referred the application material externally to both MGS Architects and Vipac Engineers for independent advice on urban design and environmental wind respectively.

## 11.2

(cont)

The table below summarises their response:

| External Referral | Response   |
|-------------------|--|
| MGS Architects    | <p>Summary:</p> <p><i>Subject to the adoption of Recommendations 1 to 13 to the satisfaction of the Council, I support the proposal as one delivering with its partner projects an exciting new neighbourhood within the centre and support its approval on Urban Design grounds</i></p> <p>The recommendations made by MGS will be discussed further below.</p>   |
| Vipac Engineers   | <p>Summary:</p> <ul style="list-style-type: none"><li>• Vipac have reviewed the environmental wind assessment and conclude that Mel Consultants have used the proper analysis and methodology to measure the wind effects on the pedestrian level surrounding the proposed development.</li><li>• Where exceedances of the recommended wind criteria have been found, appropriate recommendations have been made to mitigate and improve wind comfort.</li></ul> |

## DISCUSSION

The proposed building, together with the broader redevelopment of the site under Stage 1 (WH/2020/466 for the office building and WH/2020/467 for the public realm works) will play a critical role in Box Hill's evolution as a vibrant and integrated centre supporting the delivery of housing within the Metropolitan Activity Centre (MAC) as envisaged under Clause 22.07 – *Box Hill Metropolitan Activity Centre*.

Specifically, the proposed building delivers high quality and affordable housing stock within the centre's core that is highly accessible to public transport, services and entertainment, supporting the anticipated growth of the Centre. The proposed building also includes a number of commercial land uses, providing additional employment opportunities and economic benefit.

The proposed building represents an architectural outcome that is consistent with the built form outcomes of the relevant policy and *Box Hill Transit City Activity Centre Structure Plan 2007* ("the Structure Plan"), and seeks to enhance the built environment and immediate public realm, in association with the broader works and landscaping outcomes proposed under Stage 1.

**11.2**  
(cont)

The assessment below outlines that the proposed buildings and works provide both an acceptable design response for the site, as well as the broader Stage 1 applications, as well as a significant net community benefit for the municipality, generally in line with the policy direction under the Whitehorse Planning Scheme and Clause 71.02-4 for *Integrated Decision Making*.

The two-storey building proposed to Market Street, including its design, height, shadowing impact and other planning considerations will be assessed as a separate element to the primary tower.

**Net Community Benefit**

Pursuant to Clause 71.02-3 for *Integrated Decision Making*, Planning and responsible authorities should endeavour to integrate the range of planning policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generation.

In seeking to balance the competing objectives under the policy framework applicable to the site, planning officers have been successful in negotiating a number of outcomes through the application process that would generate significant net community benefit.

‘Net Community Benefit’ is a planning concept which has been well established over time, and was enshrined in the current Victorian Planning Provisions in the late 1990’s. It is the requirement that a proposal goes beyond balancing the benefits and dis-benefits of what is proposed, to create an overwhelmingly positive planning outcome.

There are a variety of additions to a proposal that could be considered to increase the overall community benefit of the proposal, these may include improved public (indoor or outdoor) spaces or buildings (not public open space), affordable housing, or other strategically justified use of benefit to the community (library, kindergarten, community meeting room etc).

Due to the overwhelmingly large demand for affordable housing in Victoria, the Minister for Planning amended the *Planning and Environment Act* (‘the Act’) in 2018 to include that an objective of the Act is:

(fa) to facilitate the provision of affordable housing in Victoria.

‘Affordable Housing’ has subsequently been defined by a Governor in Council Order based on income level, and guidance support has been provided to Councils and developers to help facilitate affordable housing as part of development applications. Specifically the Act supports the use of voluntary section 173 Agreements for affordable housing. There is also a Ministerial Notice which specifies the matters that must be considered in determining whether housing provided under an Affordable Housing Agreement is appropriate for the needs of very low, low and moderate-income households.

**11.2**  
(cont)

At Clause 22.07 (Box Hill Metropolitan Activity Centre), the Whitehorse Planning Scheme establishes policy basis for creating affordable housing in Box Hill. This is supported by state policy at clause 16.01-2S, which has an objective:

- To deliver more affordable housing closer to jobs, transport and services.
  - With various strategies, including:
    - *Encouraging a significant proportion of new development to be affordable for households on very low to moderate incomes.*
- Increase the supply of well-located affordable housing by:*
- *Facilitating a mix of private, affordable and social housing in suburbs, activity centres and urban renewal precincts.*

Whilst the Whitehorse Planning Scheme does not include a specific percentage basis for the provision of affordable housing, significant strategic planning work across Victoria has established best practice for the provision of affordable housing around 6%. Examples of this include:

*Port Phillip Planning Scheme:*

- Fishermans Bend – 6%
- Bay Street Activity Centre – 10%

*Melbourne Planning Scheme:*

- Fishermans Bend – 6%
- West Melbourne Precinct – 6%

*Yarra Planning Scheme:*

- Amcor Site – 10%
- Various DPOs – 5%-10%

As such, 6% affordable housing has been used in this application as an established negotiating point for a voluntary affordable housing agreement to help achieve net community benefit.

The benefit agreed to be provided by the applicant through the permit applications to support the proposed development can be summarised as follows:

- The supply of 6% affordable housing; and
- The replacement of improved wind structures within Market Street.

This is in conjunction with the delivery of significant public realm upgrades under the WH/2020/467 application, the improved east-west pedestrian connection through the MAC and the voluntary gifting of land to enable the future construction of a north-south railway overpass.

**11.2**  
(cont)

Overall, the extent of works proposed under Stage 1, together with the negotiated outcomes to be voluntarily delivered by the landowner result in significant net community benefits for the Box Hill community. These are discussed in greater detail below.

**Policy Framework**

Planning Policy Framework (PPF)

The proposal responds to the objective of Clause 11.03-1S for Activity Centres which seeks to encourage the concentration of various land uses into highly accessible activity centres through a substantial net increase in high quality housing stock supporting the anticipated growth within the MAC.

The proposal responds to the objective of Clause 15.01-1S for Urban Design and Clause 15.01-2S for Building Design through a site responsive design that positively contributes to and enhances the built form and public realm character of the Box Hill MAC.

The proposal responds to the objective of Clause 15.02-1S Energy and Resource Efficiency by meeting best practice BESS outcomes, conforming to Council's ESD expectations under Clause 22.10.

The proposal responds to the objectives of Clause 15.01-4S Healthy Neighbourhoods by proposing a development that provides for the development of excellent connection opportunities to the nearby walking, cycling and public transit routes, promoting opportunity for regular and healthy activity to and from the site by encourage the uptake of alternative and sustainable transportation.

The proposal responds to the objectives of Clause 16.01-1S for Housing Supply by delivering well-located and diverse housing that meets the needs of the Box Hill community, and provides access to a number of public transportation options, services and community facilities.

The proposal also responds to the objectives of Clause 16.01-2S for Housing Affordability through the voluntary supply of 6% of affordable housing dwellings, as defined by Section 3AA of the *Planning and Environment Act* which supports the current shortfall in affordable housing within the Box Hill area and seeks to deliver more affordable housing within the MAC, closer to employment opportunities, transport and services.

The proposal responds to the objectives of Clause 17.01-1S for Diversified Economy and Clause 17.02-1S for Business by supporting employment growth and access to jobs within the MAC through the provision of approximately 7,615sqm of office floor space and 677sqm of retail floor space within the buildings podium.

**11.2**  
(cont)

The proposal responds to the objectives of Clause 18.02-1S for Walking and 18.02-2S for Cycling by supporting the uptake of these modes of transport through a substantial increase in bicycle parking that is easily accessible from the primary pedestrian network with excellent amenities for staff and visitors.

The proposal responds to the objective of Clause 18.02-3S for Public Transport by substantially reducing the reliance on the private vehicle and supporting the uptake of the multitude of nearby public transport options.

Local Planning Policy Framework (LPPF)

The proposal responds to the vision for Whitehorse outlined under Clause 21.03 for *A Vision for the City of Whitehorse* which seeks to maintain and enhance the built environment to ensure a liveable and sustainable city by seeking to substantially improve the built environment within the Box Hill MAC and providing a substantial net increase quality housing stock supporting the anticipated growth within the MAC.

The proposal responds to the objectives of Clause 21.05 for *Environment* through the development of an environmentally sustainable building (Best Practice BESS) and by encouraging the uptake of sustainable transportation through reduced on-site car parking, enhanced bicycle facilities and improved connections that substantially improve direct pedestrian access to the Box Hill public transport interchange, supported by both Council's ESD advisor and urban design advice.

The proposal responds to the objectives of Clause 21.07 for Economic Development by facilitating a substantial investment in high quality office space within the MAC, housed within a contemporary and attractive built environment.

The subject site is located within the 'Box Hill Transport and Retail' activity precinct and the 'Major Development' built form precinct which together seek to support taller buildings for a variety of land uses. The proposal responds to the objectives of Clause 22.07 for the Box Hill Metropolitan Activity Centre through the delivery of high quality housing stock, supporting the anticipated population growth of the MAC whilst also providing employment and retail opportunities through the provision of 7,615sqm of office and 677sqm of retail floor space, strengthening the role of the MAC as a major commercial hub. In addition, the proposed building has been designed to respond to its immediate surrounds, with substantial improvements to the built and the pedestrian environments.

The proposed development demonstrates design excellence through its architectural quality, materiality and overall design concept, which also results in further enhancements to the pedestrian experience of Box Hill with activated frontages. Together with the broader public realm works will seek to make substantial public realm improvements to the Box Hill MAC, consistent with the policy objectives of Clause 22.07.

## 11.2

(cont)

### Urban Design

#### Urban Design Advice

Council have received independent urban design advice from MGS Architects for the proposed building, which offers a number of key recommendations seeking to improve the urban design outcomes of the building. These are outlined in the table below, with planning officer responses:

| Urban Designer Recommendation  | Planning Officer Response   |
|--|---|
| <p><b>Recommendation 1:</b><br/><i>Adopt Equitable development principles for the setbacks to for the Commercial Tenancies on Ground level to Level 4 inclusive as follows:</i></p> <ul style="list-style-type: none"> <li>• For the Main Street Building, provide a depth for the northern light court of 3m from the northern abutment with adjoining properties.</li> <li>• For the Market Street and Main Street Buildings, provide a setback of 3m from the centreline of the eastern laneway.</li> </ul> | <p>Through subsequent urban design meetings, the applicant presented without prejudice plans that sought to provide the necessary setbacks for improved equitable development opportunity. These modifications were supported by Council's Urban Designer, and these plans will be adopted into the primary set through planning permit conditions.</p> |
| <p><b>Recommendation 2:</b><br/><i>Provide a setback of 3m from the northern boundary interface for the Level 4 podium from the northern boundary interface to enable the visibility of the form to be addressed within the lower level fine grain context to the north east and north.</i></p>  | <p>As above, through subsequent urban design meetings, the applicant presented without prejudice plans that sought to provide the necessary setbacks. These modifications were accepted by Council's Urban Designer, and these plans will be adopted into the primary set through planning permit conditions.</p>                                       |
| <p><b>Recommendation 3:</b><br/><i>A suite of 3- D thumbnail drawings and details are to be provided at minimum 1:50 detail describing the proposed projecting blade balcony, plant room floors, planter and bridge details and frontage details for the Market Street building complete with façade details and sections to the satisfaction of the council demonstrating the quality, fitness for purpose and resilience of the materials and approaches adopted.</i></p>                                    | <p>The submitted drawings from Bates Smart provide a suitable level of detail for assessment. A façade strategy will form a condition of any permit granted, which will provide further design detail of the necessary architectural details and building fittings, to demonstrate the buildings quality and fitness for purpose.</p>                   |

**11.2**

(cont)

|   |  |
|---|--|
| <i>Review the design language for the north and eastern sides of the Residential Tower podium facades to ensure each is invested with the design quality and articulation arising from its scale relative to the surrounding built form and consistent with the quality and language applied to the Main Street and Prospect Street interfaces.</i> | As above, through further subsequent urban design meetings, the applicant presented without prejudice plans that sought to reference the design language from the street façade to the north/east interface. These were supported by Council's Urban Designer, and these plans will be adopted into the primary set through planning permit conditions   |
| <i>Consider the quality and capacity of the lower level residential access in the light of its obvious role as a drop-off and collection point for taxis and share transport in particular.</i>   | The secondary residential access has been reconsidered in revised plans and maintains a clear point of entry from the ground floor level, suitable for its intended purpose.   |
| <b>Recommendation 4:</b><br><i>The Wind assessment and design response is to be updated to make recommendations for and provide amended drawings to achieve the following: -</i>  | <p>The Environmental Wind Speed Measurements (prepared by Mel Consultants) have been revised several times to ensure acceptable wind comfort results for both the building and wider pedestrian network.</p> <p>The proposed building entries and adjoining pedestrian accessways maintain suitable standing and walking comfort respectively.</p> <p>At the upper levels, the communal terraces have been designed to include a mix of sitting and standing comfort for both short and long term stationary recreation.</p> <p>Within the wider network, the proposal demonstrates a loss of wind comfort within Market Street, however the applicant has committed to the construction of high quality wind structures to the western side of the street that will allow for acceptable sitting comfort. These outcomes will be discussed further in later sections of the report below.</p> |



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| <p><b>Recommendation 5:</b><br/><i>Reduce the height of the proposed tower to ensure the south side of the footpath beyond the kerb is not overshadowed after 11am at the September 22nd equinox to the satisfaction of the responsible authority</i></p>   | <p>The applicant has responded to this recommendation to demonstrate that the proposed building does not result in overshadowing to the southern side of the Carrington Road footpath at 11am on the Equinox.</p>  |
| <p><b>Recommendation 6:</b><br/><i>Setback the northern façade of the residential tower a minimum 4.5 from the northern boundary for the Low rise and apartments and associated low-rise plant areas. Amend the arrangements of the northernmost midrise tower and high rise tower units to further erode the extent of built form at the northern apex to provide a minimum 4.5 m to balcony edges with greater setbacks for habitable rooms providing for a progressive reduced interface intensity above the lower rise levels to the satisfaction of the Council.</i></p> | <p>Through subsequent urban design meetings, the applicant presented without prejudice plans that retained the existing setback of the northern podium, with modified architectural detailing and a deeper setback to the light-well, These modifications were supported by Council's Urban Designer, and these plans will be adopted into the primary set through planning permit conditions.</p>   |
| <p><b>Recommendation 7:</b><br/><i>Provide a subdivision plan clearly denoting the areas of 24 hour access e.g. to lifts providing connection between Main Street and Prospect / Clisby Street and transfer of land e.g. interconnection of Prospect St and Main Street for review and approval by council and a draft management framework to secure access for the licensed areas to the satisfaction of Council.</i></p>   | <p>A planning permit condition has been recommended that will require that the landowner enter into an Agreement to ensure that the lifts are publically accessible on a 24/7 basis and maintained in good working order. An additional planning permit condition has also been recommended under WH/2020/467 (for the public realm works) that would also require that the landowner enter into an Agreement to ensure that the areas of public realm proposed will be publically accessible on a 24/7 basis in perpetuity.</p> |

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| <b>Recommendation 8:</b><br><i>Consider a condition requiring the retention of Bates Smart Architects through the project development and delivery and/or a firm of commensurate record for industry awards across both Residential and Commercial Buildings to the satisfaction of the Council.</i> | A planning permit condition has been recommended to both this application and the building under WH/2020/466 (office building) to require the retention of Bates Smart Architect (or firm of commensurate expertise) through the project development and delivery, ensuring that the design merit is maintained to commencement of works and beyond. |
|--|--|

No further recommendations were made, with Council's urban designer finding that the proposed building architectural quality, height and massing were responsive to the site and surrounds.

**Building Height and Overshadowing**

Building heights within the Box Hill MAC are primarily guided by two urban design principles established within the Structure Plan (2007), namely that built form appropriately transitions to the surrounding residential areas at the edges of the Activity Centre, and that new development does not cast shadows to Key Public Spaces, peripheral Residential Precincts or residential areas outside the Activity Centre between 11am and 2pm on 22 June.

In addition to the above, the Structure Plan also seeks to maintain and improve pedestrian amenity and enhance streets as public spaces to support and cultivate a range of activity. This is further supported within the built form guidelines of the Major Development Precinct under Clause 5.2.F which identifies the need to protect the amenity (including access to sunlight) of streetscapes.

In assessing the appropriateness of the proposed building height, planning officers refer to the decision guidelines of the Zone, and the objectives of the Policy Framework and Structure Plan.

***Building Height***

In determining that the proposed 50-51 storey building height is an acceptable response to the precincts vision and built form characteristics, it is first important to understand the context of the site and surrounding area. The following developments have been constructed or approved in the immediately surrounding area and are deemed relevant to the context of the subject land:

- 9-11 Prospect Street: 25 storeys (under construction)
- 34-36 Prospect Street: 30 storeys (approved)
- 820-824 Whitehorse Road: 30 storeys (constructed)
- 826-834 Whitehorse Road: 31 storeys (under construction)
- 850 Whitehorse Road: 26 and 36 storeys (constructed)

**11.2**  
(cont)

- 545 Station Street: 36 storeys (constructed)

The above approvals / developments are all located on sites that were suitable for substantial redevelopment due to their size, consolidation or locational attributes (i.e. major highway interface), and on the basis that the heights proposed would not result in unreasonable amenity outcomes such as overshadowing to key open spaces identified in the Structure Plan (2007) or the priority pedestrian corridors.

The site maintains similar locational characteristics to the above buildings, being positioned within an unencumbered, redevelopment site and away from any sensitive residential interfaces on the periphery of the MAC. However, the subject site is further distinguished from the above due to its location within the central core of the MAC, between the existing 36 storey buildings to the east (545 Station Street – Sky One) and west (850 Whitehorse Road – The Chen) respectively.

As such, whilst the proposed building is taller than its nearest counterparts to the east and west by 14-15 storeys, the building would appropriately scale up towards its centralised location within the MAC, sitting comfortably within the context of the Box Hill skyline and creating a focal point for the ‘town centre’, providing an appropriately scaled building in the centre’s core from which future developments can reference in a ‘scaling down’ towards more sensitive, periphery area. This responds to the objectives and supporting strategies of Clause 15.01-1S *Urban Design* and Clause 15.01-2S *Building Design* which require developments to respond to their locational context. In addition to the built form context above, the building’s height is further supported through floor area uplift principles, with the voluntary supply of 6% of affordable housing dwellings as defined under the *Planning and Environment Act 1987* (as well as other key benefits being offered under stage 1, including the gifting of land for a future overpass connection; addition east-west connection and substantially improved public realm open spaces, which are desperately discussed). The substantial net community benefit being offered by the applicant is commensurate with the building height proposed, on the basis that the uplift does not result in any unreasonable overshadowing (as discussed further below).

The proposed construction of a 50-51 storey building is consistent in the context of the site, responding to the sites locational attributes and proposing a height that would sit comfortably within the Box Hill MAC skyline.

*Overshadowing*

As noted above, existing and approved building heights within the Box Hill MAC have generally been derived/limited as a result of the need to limit impacts of overshadowing to residential areas and priority pedestrian corridors.

The current policy objectives within the Whitehorse Planning Scheme that are relevant to overshadowing are as follows:

## 11.2

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- Built form policy at Clause 22.07 (Box Hill Metropolitan Activity Centre) encourages development that protects key open spaces from overshadowing.
- Section 5.2.F of the Structure Plan (2007) for the Major Development Precinct encourages development to avoid overshadowing of Key Public Spaces, Peripheral Residential Precincts or residential areas outside the Activity Centre between 11am and 2pm on 22 June, beyond what would result from an 11m building over the full extent of the site
- Section 5.2.F of the Structure Plan (2007) for the Major Development Precinct seeks to protect the amenity (including access to sunlight) of streetscapes and 'Key Public Spaces'.

Whilst the Structure Plan does not include an overshadowing test for the pedestrian network within the MAC, adopting 11am to 2pm at the Equinox is considered to be a balanced assessment approach that is consistent with a number of Council approved permits on Prospect Street and further supported by Council's urban design advice received on the application.

The table below outlines the relevant areas for protection and the associated overshadowing tests:

| Location  | Overshadowing test             | Response  |
|---|--------------------------------|---|
| Market Street and Main Street (east) civic plaza (Key public space within the <i>Structure Plan</i> , 2007) | June solstice, 11am to 2pm     | No shadow impact from the residential building to Market Street or Main Street east between 11am and 2pm at the Solstice                |
| Carrington Road (Key public space within the <i>Structure Plan</i> , 2007)                                  | June Solstice, 11am to 2pm     | No additional shadow impact from the residential building to Carrington Road between 11am and 2pm at the equinox,                       |
| Hopetoun Parade pedestrian footpath (southern side)   | September equinox, 11am to 2pm | No shadow impact from the residential building to the southern side of the Hopetoun Parade footpath between 11am and 2pm at the Equinox |
| Thurston Street pedestrian footpath (southern side)   | September equinox, 11am to 2pm | No shadow impact from the residential building to the western side of the Thurston Street footpath between 11am and 2pm at the Equinox  |
| Residential periphery private property (southern side of Hopetoun Parade / western side of Thurston Street) | September equinox, 11am to 2pm | No shadow impact from the residential building to residential periphery between 11am and 2pm at the Equinox                             |

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The table above demonstrates that the height of the proposed building would not result in any overshadowing impact to these spaces between 11am and 2pm at either the Winter Solstice or September Equinox. Where the proposed building results in shadowing to the Carrington Road 'Key Public Space' between 11am and 2pm at the Winter Solstice, the shadow diagrams demonstrate that this space would already be overshadowed by an 11 metre building over the full extent of the site (meeting the guidance under the Structure Plan).

The proposed building has been designed to respond to the immediate context, with the building height not resulting in any unacceptable overshadowing impact to the existing public realm). This is consistent with the relevant policy objectives and outcomes applicable to the site, and demonstrates an outcome that continues to maintain the solar amenity of the surrounding public open spaces and priority pedestrian network, supported by the policy outcomes under Clause 22.07 as well as the guidelines of the Structure Plan (2007).

The expectation of amenity for dwellings within the residential periphery must be balanced with the increased density being achieved and anticipated within the MAC consistent with the strategic direction for the land. In this instance, the areas of private open space that are likely to be overshadowed will still receive solar amenity during the day beyond 9am or 10am and the extent of shadowing from the building to the residential periphery is acceptable when balanced against the strategic intent for the site and the excellent built form outcomes for the Box Hill MAC.

**Built Form**

The proposed building design is responsive to the built form objectives of the Major Development Precinct outlined within the Structure Plan, and supported by the relevant objectives of Clause 22.07 for the Box Hill Metropolitan Activity Centre. The built form outcomes sought for development under Clause 22.07 and the Precinct F built form guidelines of the Structure Plan can be summarised as follows:

- Articulated building facades and high quality building materials, demonstrating design excellence and visually interesting built form.
- Podium-tower building formats, with upper levels recessed to provide ample spacing between high-rise buildings.
- Active street level frontages to enhance the public realm at ground levels and improve pedestrian permeability.
- Active land uses within the podium to support opportunities for passive surveillance.

The following sections of the report will assess the buildings form and architectural arrangements of the building.

**11.2**  
(cont)

*Building Setbacks*

The built form guidelines of Precinct F encourages upper level building (tower) setbacks above 12 metres (from Main Street) and 16 metres (from other streets), and seeks to ensure that setbacks between buildings are sufficient to allow equitable development outcomes.

The building proposes the following upper level setbacks above the podium at each interface:

- North: tower setback from the apex at 4.5m
- East: tower setback from the apex at 3.995m or 5.515m to the centre of the adjoining laneway
- South: tower setback from the apex at 1.905m
- West: tower setback from the apex at 12.235m

The tower has been designed as a curved rhomboid shape, and all setbacks beyond the buildings apex are reduced from the sites boundaries and podium, minimising bulk and massing when viewed in the round.

The proposed upper level setbacks accord with the built form guidelines of Precinct F but also seek to reduce bulk and massing at the upper levels, manage wind conditions and protect daylight access to the proposed apartments. Greater setbacks have been employed to the more sensitive interfaces to the north and east, allowing for equitable development outcomes on adjoining sites and to protect the internal amenity to the proposed residential dwellings. The towers arrangement is supported by Council's urban design advice.

The southern setback of 1.905m to Main Street is as a result of the setbacks required to the northern boundary to allow for equitable development opportunities. The proposed setback to the south is offset by the strength of the podiums base and the width of the proposed Main Street extension, reducing the towers presence within the public realm.

The podium has been designed primarily to the sites northern and eastern boundaries adopting equitable development principles. Greater podium setbacks are proposed around the western Prospect Street interface, providing additional terrace space for the building, integrating with the proposed public realm works (under WH/2020/467) and opportunities for improved access, circulation and passive recreations.

**11.2**  
(cont)

To the north, the podium is located on the boundary, and adopts a central light-court arrangement with a depth of 3 metres and width of 14.875 metres. This allows for equitable development opportunities to any building on the north without compromising daylight access. The land holdings to the north of the site maintain an aspect to Whitehorse Road for improved solar amenity, and could adopt a podium and light-court arrangement to the proposed building. The proposed buildings podium arrangement has been carefully considered by planning officers with support from Council's urban designer.

The proposed building massing is acceptable in its context, respecting the existing and emerging built form outcomes in the immediate area, and responding to the policy outcomes sought under the Major Development Precinct F.

*Architectural Expression*

The proposed development adopts curved façade lines and a refined upper level form that presents as visually interesting when experienced in the pedestrian realm and from afar. This responds to the policy objectives of Clause 22.07 which encourages design excellence.

The buildings podium and base has been designed with a curved masonry frame, which adopts a rectilinear pattern. The materiality wraps around to the northern and eastern elevation, referencing the existing materiality and fine grain rhythm of Market Street and Main Street.

The podiums curved elements soften the edges of the public realm, while creating defined points of entry into the building. The solidity and texture of the masonry improves visual interest within the public realm, and provides a grounding element to the more refined/elegant tower form atop. These outcomes are supported by Council's urban design advice.

At the upper levels, the tower adopts a more formalised appearance through the use of glazed curtain wall and horizontal metal bandings. The tower has been designed as a slender rhomboid shape, forming a sculptural element within the Box Hill skyline. The buildings inset balconies and wintergardens provide further articulation through the height of the building. This is supported by Council's urban design advice. Planning officers have recommended a condition that requires the permit holder to retain the project architect (or architect of equivalent experience), to ensure that the design quality is maintained throughout the design and construction process.

The proposed design response is well considered, demonstrating architectural excellence that is consistent with the built form policy outcomes sought under Clause 22.07.

**11.2**  
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*Public Realm*

The majority of the public realm improvements associated with the Stage 1 redevelopment are the subject of Planning Permit Application WH/2020/467 (for the public works) and have been designed to integrate with and compliment the proposed residential/mixed use building.

The public realm works would provide a new pedestrian connection between Main Street through to Prospect Street and Clisby Court, substantially improving pedestrian movement and permeability through the MAC.

The western end of Main Street currently terminates at a loading bay associated with the Woolworths Supermarket, and has limited foot traffic due to the back of house function of this interface. The proposed public realm works associated with this residential building would activate the currently underutilised area at the western end of Main Street, providing activated tenancies to both Main Street and extending down to Prospect Street, resulting in significant amenity improvements. This further supports the east-west connection proposed under WH/2020/467 (public realm works), providing high-amenity pedestrian access between the public transport interchanges directly to the Prospect Street office precinct.

The proposed podium has been designed with greater setbacks around its western edge, providing a partially covered forecourt space between the buildings primary and secondary entries on the upper ground level on Main Street. The upper-level terrace includes lift access between the lower and upper ground levels, and provides further opportunities for passive recreation through the addition of seating.

The podium provides appropriately scaled glazing areas at the lower and upper ground levels to ensure a visual connection to the streetscape and provide opportunity for passive surveillance which is currently lacking under the existing conditions. Figures 3 and 4 demonstrate the existing Main Street interface and compares it to the proposed outcomes and compares it to the proposed public realm outcomes:



*J* Figure 10: Existing Main Street west interface



**11.2**  
(cont)



ARTIST IMPRESSION  
**K** *Figure 11: Proposed Main Street west interface*

***Pedestrian Amenity***

The proposal would enhance the pedestrian environment through substantive public realm improved associated with the Stage 1 redevelopment of the site.

As part of these improvements, the proposal ensures that the pedestrian environment maintains high levels of amenity by way of sunlight, wind comfort (discussed below) and high levels of clear glazing to provide visual connection and surveillance into the street.

The proposed public realm also make substantial visual improvements to what is currently a back of house area and car park to the western end of Main Street and eastern end of Prospect Street through the use of high quality materials, increased landscaping opportunities and improved street furniture that seeks to enhance the space for improved passive recreation and to serve as a genuine urban plaza.

Overall, the proposed areas of public realm maintain excellent amenity for the pedestrian environment, enhancing the space for its enjoyment and use.

**Market Street Building**

In addition to the main residential tower and podium, the application proposes a two storey commercial building to front Market Street, which seeks to respond to the existing height and setback characteristics of the street. The building will be finished in a similar masonry finish to the podium, with substantial glazing to the frontage, capturing the fine grain rhythm of the streetscape.

**11.2**  
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The Market Street would provide passive surveillance opportunities and activation to Market Street through a ground level retail frontage and upper level commercial tenancy. A canopy at the ground level will continue the canopy line that is already present on Market Street to ensure that the building integrates in with the existing forms. The built form outcomes for this secondary building are generally acceptable.

The building will include a retail use at ground level and an office above, both consistent with the purpose of the Commercial 1 Zone, and the nature of uses existing within the street. Both tenancies are accessed from the street frontage, with the office utilising a corridor for rear lift access.

The overshadowing analysis prepared demonstrates that the proposed building would not result in any additional overshadowing impact to the Market Street key public space beyond the existing built form, between 11am and 2pm at the June solstice. The shadow outcomes for this secondary building are acceptable.

The building includes back of house access from the laneway, with loading / unloading and waste facilities, which have been reviewed by Council's relevant departments and confirmed to be acceptable.

**Clause 58 Assessment**

Planning officers have assessed the proposal against the requirements of Clause 58 Apartment Developments and the Apartment Design Guidelines for Victoria. Broadly, the proposal meets the relevant standards and objectives of Clause 58.

In determining that the dwellings maintain an acceptable level of internal amenity, the following objectives have been further assessed:

- Clause 58.05-1 Accessibility objective
- Clause 58.06-3 Private open space objective
- Clause 58.05-4 Storage objective
- Clause 58.07-1 Functional layout objective
- Clause 58.07-2 Room depth objective
- Clause 58.07-3 Windows objective
- Clause 58.07-4 Natural ventilation objective.

In reviewing the above internal amenity objectives and relevant standards, it is noted that each standard and objective has been met with full compliance. There are no concerns with the apartment layouts when considered against Clause 58 of the Planning Scheme, with each typology providing an acceptable amenity outcome for future residents.

## 11.2

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### Wind Comfort

The Environmental Wind Speed Assessment prepared by MEL Consultants demonstrates acceptable wind outcomes for the buildings entry, lower and upper ground pedestrian footpath and upper level communal terraces.

The upper ground building residential entry on Main Street (test locations 18a under Figure 7b of the Environmental Wind Speed Assessment) demonstrates standing comfort. This meets the expected wind comfort criteria for building entries.

The upper level (level 3) terrace to the north-western side of the building at test location P7 demonstrates walking comfort. Whilst this would be below the preferred comfort level of standing or sitting, it would still provide opportunities for short-term outdoor recreation, which is suitable for a terrace space associated with an office building of this scale.

The upper level 5 (residential) communal open spaces atop of the building's podium at test locations P1, P2, P3 and P4 demonstrate standing (west) and sitting (east) comfort. This is an acceptable outcome for the external communal open space providing zoned wind comfort outcomes that supports a mix of short-long term recreation opportunities, with additional internal communal open space for windy days. This is a supported outcome within the MAC, and adopts a consistent approach with other developments.

The lower ground level pedestrian footpath abutting the building to the west, up to the edge of Whitehorse Road demonstrates walking comfort. The upper ground level pedestrian footpath abutting the building to the south and extending to Market Street demonstrates walking comfort. These are acceptable for the pedestrian footpath in these locations.

The key public space areas of Market Street and Main Street (east) result in a loss of wind comfort from existing conditions which is demonstrated in the table below:

| Comfort criteria | Existing configuration | Proposed configuration |
|------------------|------------------------|------------------------|
| Sitting          | 4/17, 24%              | 0/17, 0%               |
| Standing         | 10/17, 59%             | 9/17, 53%              |
| Walking          | 3/17, 17%              | 8/17, 47%              |

Additional testing under Figure A12 of the wind report demonstrates that wind speeds improve under the existing wind structures on Market Street, however it is unclear whether these improvements extend beyond the structures.

## 11.2 (cont)

These existing structures are currently located in an ad-hoc arrangement on Market Street, and with the exception of the structure to the south-eastern side of the street, are utilised primarily for food and drink seating, with limited benefit to the general public (who are not patrons to the adjoining food and drink premises). These existing structures are outdated in terms of their appearance and do not represent excellent public realm outcomes within an important civic space and therefore provide an opportunity for improvement to the function of the open space.

Through negotiations during the application process, planning officers have been able to secure a commitment to construct and replace wind shelter structures to the south-western quadrant of Market Street. The structures are to be designed with a consistent materiality and form for visual interest and provide shelter for both public and private use, delivering equitable outcomes within the public open space. Figure 5 below shows a typical shelter design:



**L** Figure 12: Typical wind shelter design

Whilst the location of these shelters would require removal of some vegetation to the south-western side of Market Street, this is a significant improvement to the comfort of the public realm providing shelter from wind (both existing conditions as a result of the proposed building) and other weather conditions, and replacing older existing shelters with an improved design outcome that benefits a greater proportion of the community. The remaining areas of Market Street will remain open for clear pedestrian and emergency access to the north-east and western side of the space. This is a substantial better outcome than the existing structures within Market Street.

A condition of permit would be recommended that requires the landowner enter into an agreement to construct these shelters in accordance with the agreed design option (in consultation with council's urban designer), unless at the point of testing (during completion of the development) the report establishes that wind speeds have since improved and the shelters are no longer required.

**11.2**  
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The remaining test locations either remain unchanged (from the existing wind conditions) as a result of the development, or result in reductions that would be acceptable in their locational context (i.e. footpath, other building entries). These can be further addressed and considered within Stage 2 that would require further mitigation mechanisms.

As such, the proposed wind outcomes resulting from the building are acceptable.

**Building Reflectivity**

The applicant has submitted a desktop reflectivity advice note by Inhabit (October 2020) which provides a proposed pathway that seeks to address the possible issue of reflected glare stemming from the building upon the issue of a planning permit and associated permit conditions.

This view has been adopted to ensure that the reflectivity advice aligns with the timing of the design process, where specific plans, materials and the like would be selected.

The condition will be applied to any permit granted and will seek to mitigate hazardous or unreasonable glare to any sensitive receptors, to the satisfaction of the Responsible Authority.

**Landscaping**

Landscaping external to the building envelope and within the immediate surrounds has been further considered and assessed under Planning Application WH/2020/467 for the public realm works. It is noted that within this assessment, the landscaping outcomes within the proposed public realm (urban plaza and street/road extensions) are generous and result in a net increase in canopy density and soft landscaping, consistent with the policy expectations under Clause 21.05 for *Environment*.

## 11.2

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### Traffic, Car and Bicycle Parking and Loading and Unloading

#### Car Parking

The table below demonstrates the following statutory car parking rates for the proposed building:

| Description      | Size          | Statutory Rate   |                   | Parking Requirement | Parking Provision |
|------------------|---------------|--|-------------------|---------------------|-------------------|
| Dwelling         | One bed       | 64 dwellings   | 0.5 per dwelling  | 32 spaces           | 224 spaces        |
|                  | Two bed       | 282 dwellings  | 0.75 per dwelling | 212 spaces          |                   |
|                  | Three bed     | 20 dwellings   | 1 per dwelling    | 20 spaces           |                   |
|                  | Total         |  |                   | 264                 |                   |
| Dwelling visitor | 366 dwellings | 0.2 visitor spaces to each dwelling for the first five, plus<br><br>0.1 visitor spaces to each dwelling for any subsequent dwellings |                   | 73 spaces           | 0 spaces          |
| Office           | 7,615sqm      | 2 spaces to each 100sqm NFA  |                   | 152 spaces          | 0 spaces          |
| Retail (shop)    | 677sqm        | 3.5 spaces to each 100sqm of LFA   |                   | 23 spaces           | 0 spaces          |
| Total            |               |  |                   | 480 spaces          | 224 spaces        |

A total of 224 car parking spaces are proposed to be provided, and therefore a reduction of 256 car parking spaces is sought. This equates to a rate of 0 spaces for office and retail uses, 0 spaces for visitors and a reduced number of spaces for some residential dwellings (to be determined through allocation).

Council's Transport Engineering department acknowledges the strategic intent to provide less parking on the site, but suggests that the reduction is too substantial without further specific justification.

Through the application process, Planning Officers however have reviewed the Traffic Impact Assessment (GTA Consultants, dated 04/02/2021) as well as the policy framework for the site and wider MAC, and consider the reduction to be acceptable for the proposed land uses in this particular location. This is based primarily on the following factors:

- The policy framework for parking within the Box Hill Metropolitan Activity Centre;

## 11.2

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- The commercial land uses and the type of car parking demand generated;
- The opportunity to improve and increase pedestrian and alternatives modes of transportation through the provision of the Main Street extension through to Prospect Street and the availability of land for future bicycle connectivity;
- Parking opportunities off-site and away from the retail core;
- The market led demand for residential vehicle parking; and
- The opportunity to reduce parking and vehicle movements into the retail core.

### *Policy Framework*

The car parking objectives of Clause 45.09 Parking Overlay – Schedule 1 for the Box Hill Activity Centre encourage the promotion of active and sustainable travel modes rather than increase private vehicle travel. This objective is tied to outcomes geared towards locating and managing the provision of car parking within the MAC so as to minimise traffic generated by the search for a parking space in areas already experiencing high traffic levels. Whilst minimum parking rates are specified for dwelling and office land uses within the Parking Overlay, there is an opportunity to reduce the parking provided for a land use should the car parking objectives be achieved. As noted in the following assessments, the reduced rate continues to respond to the objectives of the Overlay.

The PPF and LPPF both support reduced parking rates within Activity Centres and specifically the Box Hill Metropolitan Activity Centre. Within the PPF, Clause 18.01-3S (Sustainable and Safe Transport) includes strategies that support development which promotes walking, cycling and the use of public transport, (in that order), and minimise car dependency. Similarly, both Clause 18.02-1S (Walking) and Clause 18.02-2S (Cycling) seek to increase the uptake of walking and cycling through the provision of priority networks that link in with nearby public transportation links and interchanges.

Clause 22.07 (Box Hill Metropolitan Activity Centre) includes objectives which encourage walking, cycling and the uptake of public transport in favour of reduced private vehicle usage as well as managing parking supply to support choice of travel mode, and a balance between access, sustainable transport and land use needs within the Centre. The proposed land uses and car parking arrangement is supported by the above policy objectives through the location of the site, its proximity to transportation, the limited parking supply and the quality of bicycle facilities.

**11.2**  
(cont)

The proposal responds to these policy outcomes by reducing the rate of parking primarily for the commercial land uses, with some reductions proposed to dwellings and by extension reducing private vehicle demand and trips within the core retail precinct. The proposal also would substantially improve the pedestrian network through the construction of an east-west priority pedestrian connection that links the enterprise precinct of Prospect Street directly to the Box Hill public transport interchanges, substantially encouraging and increasing the uptake of alternative travel modes.

*Reduced Reliance on the Private Vehicle*

The Integrated Transport Strategy (adopted by Council 21 September 2020) identifies a number of critical transport issues within the MAC and opportunities available for improvements. Relevant to this application are the following:

- The car parking requirements for new developments are not sustainable within the anticipated population and employment growth.
- Active transport participation amongst residents, workers and visitors is very low.

Expanding on the above points, the Strategy indicates that the allocation of road space is inefficient and a key factor in the congestion on the road network, with resulting adverse economic, environment and social impacts to the community. This is linked to the issue of low active transport participation within the MAC, through limited allocated of road reserve to the private vehicle in lieu of walking and cycling links.

The proposal responds to and seeks to alleviate the above issues by proposing a substantial reduction in parking (both from the proposed office, retail and residential uses and the demolition of the existing retail parking), which results in substantially less private car movements into the MAC and specifically the retail core as a result of the development.

Furthermore, the proposal also seeks to expand the priority pedestrian network and contribute to the provision of bicycle infrastructure through the provision of a new east-west connection between Main Street and Prospect Street, as well as allocating land for the future construction of a north-south rail overpass. This seeks to reallocate existing land within the MAC for dedicated pedestrian activity and provide an opportunity for improved active transport amongst residents by connecting the residential peripheries into the Centre. Both outcomes result in reduced reliance of the private vehicle for the site and proposal, but continue to facilitate a change in approach for future transport planning within the MAC.



**11.2**  
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*Commercial demand*

The proposal seeks to use part of the land for office and retail and reduces the rate of parking for both. It is an established planning principle (see *KM Tram Enterprise Pty Ltd v Boroondara CC [2018] VCAT 1237*) that (office) staff parking demands are typically a function of supply, and in locations where on-street parking is constrained by time restrictions or limited parking availabilities, staff elect to utilise alternate transport modes where available. It is the view of planning officers that this principle can be equally applied for retail land uses, due to their similar commercial nature.

The reduced rate of parking provided for the proposed office and retail uses seek to facilitate a modal shift away from the private vehicle, and to encourage staff to utilise the excellent offering of public transportation within the MAC. This is supported by the objectives of Clause 22.07 and Section 4.4.E of the Structure Plan.

Empirical evidence provided within the Transport Impact Assessment, prepared by GTA Consultants (February 2021) further supports the reduced parking rate for office land uses, demonstrating an average parking rate of 0.77 spaces per 100sqm.

In this instance, Council supports a further reduced rate of 0 spaces for office and retail on the basis that:

- The reduced supply of parking encourages the uptake of public transport for office and retail land uses;
- The proximity of the building to the numerous public transport options within retail core supports the above proposition;
- The substantially improved east-west connection from the station directly into the office precinct supports greater pedestrian activity;
- The parking reductions support a sustainable mode shift that supports reduced vehicle movements within the centre; and
- The bicycle parking and high amenity end-of-trip facilities encourages workers to cycle to work.

Whilst this application seeks to provide a zero rate for parking compared to the 0.48 rate proposed under the office tower (WH/2020/466), the office use is reduced in scale compared to its purpose built counterpart with less parking demand generated (34 spaces based on a rate of 0.48 per 100sqm). As such, if any person still elects to drive, any potential overflow resulting from the zero rate of parking could easily be captured within a number of public parking options available with the centre.

**11.2**  
(cont)

*Public Transportation*

Given the site's locational attributes within the MAC and the alternative transport offerings available (rail, bus and tram all within 150 metres walking distance), it is anticipated that the demand generated for the proposed land uses will be limited to the on-site provision of parking available with the remainder utilising the excellent public transport options available within immediate proximity of the proposed building. This is supported by the decision guidelines for parking reductions under Clause 52.06-7.

The proposed connection into Main Street as well as the gifting of land for a future north-south, bicycle overpass (connecting the residential peripheries) further substantiates the reduction of car parking by demonstrating a clear intent to change user behaviour within the MAC by providing substantially improved walking and cycling conditions within the Centre.

In addition to the existing public transport network, the Suburban Rail Loop (SRL) has recently been announced which proposes a new station within the Box Hill transport hub, directly connecting the MAC to adjacent middle suburban regions and activity centres. Whilst limited weight can be given to the Environmental Effects Statement at this point in time, the proposed concept significantly increase accessibility into the MAC from the outer regions, again supporting reduced parking demand within commercial land uses at this location.

*Off-site parking opportunities*

Council manages a number of public car parks within the Box Hill MAC (excluding short-term timed parking), including:

- 5 Watts Street (260m from the site with 468 spaces);
- 2-10 Harrow Street (300m from the site with 562 spaces); and
- 20-24 Ellingworth Parade (380m from the site with approx. 93 spaces).

In addition to the above, there is additional private owned public parking within the existing Box Hill Central South shopping centre (886 spaces) at 1 Main Street.

Together with the above Council owned car parks, there are a number of publically available spaces within the MAC, at a suitable walking distances to the site.

These offsite parking options will cater for any overflow parking demand generated from the commercial uses and residential visitors should they elect to drive. Both vehicle users will have a clear understanding that there will be no on-site parking for these purposes, and will therefore need to find a suitable alternative. As these public parking options are typically on the periphery of the centres, it avoids the need for vehicles to drive into the retail core where traffic impacts are typically at their worst.

## 11.2

(cont)

As noted in the above justification, whilst demand will be suppressed by the reduced supply of parking, some may continue to elect to drive. However, even if with overflow parking, the post-completion traffic conditions from Stage 1 will still result in similar or substantially reduced vehicle movements based on the number of spaces, and as such, any overflow generation is still likely to fall within the existing conditions of the site.

### *Residential vehicle parking*

The application seeks to reduce the rates for visitor (full reduction) and residential car parking (40 spaces). These residential reductions are acceptable for the site in its location.

For the residential dwellings, the reduction of 40 spaces is acceptable due to the opportunity for residents to take public or alternative transportation on an as-needs basis. In addition, dwellings will be sold without car parking spaces and therefore prospective property owners will have a clear understanding that there will be no allocated car parking space on the site, and parking off-site will be costly and difficult to manage. Similar to the discussion above pertaining to office parking, the demand of parking is managed by the provision provided for residents, who have choice to decide on whether they purchase without parking availabilities.

The reduction of visitor car parking is acceptable in this particular location of the MAC due to the opportunity to take public transportation into the MAC and walk to the building through the improved public realm connections, or as an alternative park within one of the nearby off-site public car parks as described above, which are designed to cater for any overflow generated by the development.

Importantly, the context of the subject site is different to others within the MAC, which may not be afforded with the same level of access to public transport and pedestrian convenience, and may not have nearby supporting infrastructure (such as car parks) to respond to any overflow. Visitor parking reductions need to be individually considered within their locational context.

### Traffic Impacts

The SIDRA intersection modelling presented within the submitted Transport Impact Assessment, prepared by GTA Consultants (February 2021) indicates that there are moderate to high levels of existing traffic congestion in Box Hill at present, with these levels expected to marginally worsen with the continued development of the area. At present, the existing road network operates within acceptable limits during the PM peak hour (congestion higher during weekday PM peak).

**11.2**  
(cont)

However, with existing levels of road-based congestion expected to increase in Box Hill due to the substantial building intensification and density being accepted within the MAC, a typical approach to transport planning, which adopts greater rates for private vehicle parking is unsustainable and would further intensify traffic and congestion on the local road network within the MAC, degrading the public realm and reducing opportunities for active transport, all of which are sought within the relevant local policy and the recently adopted Integrated Transport Strategy outlined above.

The proposal adopts an alternate approach that seeks to prioritise and shift behaviours away from the private vehicle and into walking, cycling and public transport, and as a result of this method demonstrates significantly reduced vehicle movements associated with the proposed building and through the demolition of the existing retail car parking.

Empirical evidence outlined within the Transport Impact Assessment, prepared by GTA Consultants (February 2021) indicates that residential car parking spaces generally generate traffic movements at a rate of 0.15 vehicle movements per car per hour. Application of these rates to the proposed provision of 224 car parking spaces indicates that the development could be expected to generate up to approximately 34 vehicle movements in any peak hour (best-case scenario). This generation rate can be accommodated into the existing road network based on the SIDRA analysis prepared.

In a scenario where people elect to drive to the site, the demands generated by residential visitors, office, retail and continues to be low (10 movement for visitors and 15 movements for commercial uses on similar rates adopted under WH/2020/466 for the office building and those specified within the Transport Impact Assessment), which can equally be accommodated into the existing road network, as demonstrated by the worst-case SIDRA analysis for the wider road network.

However, taking a more holistic approach for the site and acknowledging the post-development conditions of Stage 1, the total traffic generation identified by the traffic impact assessment post development will be:

- Lower than the existing shopping centre use of the site during the critical weekday afternoon peak hour (-115 movements).
- Significantly lower than the existing use of the site during the Saturday lunchtime peak hour (-295 movements); and
- Generally consistent with the existing use of the site during the weekday morning peak hour (+6 movements), which can currently be accommodated in the existing road network.

**11.2**  
(cont)

The outcomes above are primarily due to the demolition of the existing shopping centre which incorporates a greater number of car parking spaces compared to the post development conditions. The data within Table 5.3 of the Transport Impact Assessment, prepared by GTA Consultants (February 2021) prepared demonstrates that there are substantial reductions in traffic generation between the existing centre and the post-development conditions under Stage 1 (if approved).

This concludes that the redevelopment of site would result in decongestion to the road network at the current rates of car parking. The traffic impact assessment has also adopted a worst-case scenario of the SIDRA analysis with a 20% increase (buffer) in traffic which continues to demonstrate adequate traffic conditions. Noting the above, the proposed building would not result in unreasonable traffic impacts to the existing and proposed road network.

Whilst Council's traffic engineering department do not agree with the submitted outcomes of the Transport Impact Assessment, the following responses are provided to their concerns:

- The adopted generation rates are based on a low rate of parking, which is to achieve a significant change in behaviour and modal shift away from the private vehicle use, which is an adopted Council position through the Integrated Transport Strategy.
- The use of the road extension as a 'rat run' is unlikely due to the significant pedestrianisation of the street network including the raised flush pedestrian crossing. Vehicles typically drive slower where the boundaries between pedestrian and vehicle are blurred, which limits the use of the street as a run between Whitehorse Road and Elgar Road.
- The proposed road extension is likely to be utilised by people accessing the development sites, and given that the traffic generation of these sites is identified as low (as specified within Table 5.3), it is unlikely that there will be vehicle queuing. The applicant has included queuing analysis, which concludes that there will be no traffic impact to the road network as detailed within the Transport Impact Assessment.
- The proposal is DDA compliant, with conditions of permit requiring a DDA accessibility plan and audit.
- The southern side of Prospect Street (post-development) does include street furniture, but maintains unencumbered access and clear sightlines through its central corridor for those with vision impairments.
- Visibility sight lines have been considered within the relevant traffic impact assessments and deemed acceptable.
- The length of the car parking spaces to the edge of the proposed road extension are measured at 6.7 metres, which meets the relevant Clause 52.06-9 standards for parking space length.

## 11.2

(cont)

### Bicycle Parking

The table below demonstrates the following statutory bicycle parking rates for the building:

| Description | Size     | Statutory Rate        |                         | Parking Requirement |           |
|-------------|----------|-----------------------|-------------------------|---------------------|-----------|
|             |          | Employee/<br>resident | Visitor                 | Employee            | Visitor   |
| Residential | 366      | 1 to each 5 dwellings | 1 to each 10 dwellings  | 76 spaces           | 38 spaces |
| Office      | 7,165sqm | 1 to each 300sqm      | 1 to each 1,000sqm      | 23 spaces           | 7 spaces  |
| Retail      | 677sqm   | 1 to each 300sqm      | 2 plus 1 to each 200sqm | 2 spaces            | 5 spaces  |
| Total       |          |                       |                         | 101 spaces          | 50 spaces |

The proposed development includes a total of 396 bicycle parking spaces, including 366 secure resident spaces on the lower ground level, and 30 commercial and retail spaces on the lower ground level in conjunction with end-of-trip facilities. The provision significantly exceeds the statutory requirement and continues to demonstrate a substantial modal shift away from the private vehicle.

The end-of-trip facilities within the building are located at the lower ground level and accessed from Prospect Street (adjacent the primary commercial building entry) with separated male / female facilities (including showers and lockers). Both facilities exceed the number of showers and lockers required pursuant to Clause 53.34 for *Bicycle Facilities*. The end-of-trip facilities are easily accessible from the public realm and provide excellent amenities for staff.

The proposed bicycle layout has been reviewed by Council's transport engineering department, and no concerns have been identified. This indicates that the bicycle parking spaces are easily accessible for use.

### Basement Layout

The basement layout has been reviewed by Council's Traffic Engineering department. The following assessment is in response to the comments made within the referral response that are to be addressed via planning permit conditions or require further consideration:

- Visibility splays have not been provided at the pedestrian edge of the lower-ground access. A condition of permit through the car parking management plan will require any visibility issues and conflicts between pedestrians and vehicles.
- Allocation of car parking (including DDA parking) will be identified within any car parking management plan required as permit conditions.

**11.2**  
(cont)

- The location of electrical parking spaces is acceptable, with the total provision of 12 charging stations.
- There is no requirement for motorcycle parking with Clause 52.06.

The proposal meets all other relevant standards of Clause 52.06-9. The basement layout is therefore acceptable.

Loading and Unloading

Commercial vehicle loading / unloading and waste collection is proposed to the rear of the residential building and accessed via the lower-ground access from the loop road.

The loading / unloading and waste collection has been reviewed by the relevant traffic and waste departments and are supported subject to necessary planning permit conditions for loading management.

Swept path diagrams for both the primary residential building as well as the secondary Market Street building have been provided to demonstrate that vehicles can enter and exit the site in a forward direction, safely and efficiently.

**EASEMENTS**

Due to the enclosure of Main Street (under WH/2020/467 for public realm improvements), vehicular access to the southern side Market/Main Street tenancies at 23-27 Market Street and 42-50 Main Street would be limited.

To ensure that these buildings maintain access rights upon completion of the development, a condition of permit would require the registration of easement through the length of the re-established laneway that would be maintained under Vicinity ownership.

This laneway will be accessed via the existing crossover on Whitehorse Road and provide connection to each abutting tenancy from its rear.

**CONCLUSION**

The application has been considered against and responds to the relevant objectives within the Planning and Local Planning Policy Framework.

The proposed building has policy support for built form intensification, being located within major development Precinct F, and further supports population growth and economic diversity within the MAC through the substantial increase of both dwellings and office and retail floor space.

The proposed building has been carefully sited and designed to limit offsite impacts from both visual bulk and massing as well as the impact of overshadowing to the public realm and private residential land.

**11.2**  
(cont)

The proposed building has also demonstrated a substantial net community benefit through the voluntary supply for 6% of affordable housing dwellings within the building, supporting the shortfall of these types of accommodation identified within the Box Hill area.

A total of twenty (25) objections were received as a result of public notice and all of the issues raised have been discussed as required. It is considered that the application should be approved, and a **Notice of Decision to Grant a Planning Permit** be issued.

**ATTACHMENT**

- 1 Public Realm Works - Development Plans
- 2 Commercial Tower - Development Plans
- 3 Residential Tower - Development Plans



### **11.3 Tally Ho Proposed Commercial 3 Zone Update and Proposal for Future Strategic Review**

City Planning and Development  
Director, City Development  
FILE NUMBER: SF18/2614

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#### **SUMMARY**

Tally Ho is one of four centres in the municipality that is designated as a Major Activity Centre (MAC) under the metropolitan strategy, *Plan Melbourne 2017-2050*. Unlike the other MACs in Whitehorse, Tally Ho's key function is as an important employment hub that provides substantial office space in the eastern metropolitan region, accommodating approximately 3,750 jobs.

The primary employment role of the Tally Ho Business Park has been under threat since 2013 when the State government initiated commercial zone reforms which applied the Commercial 1 Zone (C1Z) to land formerly in the Business 2 Zone (B2Z). This amendment fundamentally changed the purpose of land in Tally Ho from a zone (B2Z) that encouraged development of offices and associated commercial uses, to a zone (C1Z) that provides for a very wide mix of uses including retail, office, entertainment, community and residential.

In recognition of this substantial change in permissible uses, Council appointed Urban Enterprise to undertake a review of the C1Z in Tally Ho MAC. Their 2019 report concluded that the employment focus of the MAC should be retained and this could be achieved by applying the Commercial 3 Zone (C3Z) to the land currently zoned C1Z. This zone change was to be supported by revisions to Clause 22.08 (Tally Ho Activity Centre) and the application of a site specific control to the Crossway Baptist Church.

In accordance with the Council resolution on 27 January 2021, a request for authorisation to prepare and exhibit Amendment C232 to the Whitehorse Planning Scheme was submitted to the Minister for Planning. The proposed amendment included rezoning land in the C1Z to C3Z, and prohibiting dwellings and residential buildings in the Tally Ho Business Park. On 6 December 2021, a letter was received from the Department of Environment, Land, Water and Planning (DELWP) notifying Council that Amendment C232 had not been authorised. The age of the strategic planning documents for the Tally Ho MAC was cited as a key reason for this decision.

The *Tally Ho Urban Design Framework* (the UDF) was adopted by Council in April 2007. It sets out objectives and strategies to facilitate the continued growth and development of the centre over a 15 year period. Given its age, a renewed vision and guiding strategy is required to manage growth and change in Tally Ho over the next 10 to 15 years. The new strategy, in the form of a structure plan, would be developed in consultation with the community and would underpin future planning scheme amendments, including any zoning change and/or revisions to the existing Design and Development Overlay Schedule 9 (DDO9).

**11.3**  
(cont)

**RECOMMENDATION**

That Council, subject to approval of funding in the 2022/23 Budget:

1. Undertake a review of the *Tally Ho Major Activity Centre Urban Design Framework 2007* and the *Tally Ho Urban Design and Landscape Guidelines 2015*, taking into account the recommendations of the *Tally Ho Commercial 1 Zone Review, July 2019*, and prepare a structure plan to guide growth and change in the activity centre for the next 10 to 15 years.
2. Advise all submitters that provided feedback on the *Tally Ho Commercial 1 Zone Review, July 2019*, of the outcome of this report.

**KEY MATTERS**

The Tally Ho Business Park is integral to the local economy and employment opportunities within Whitehorse. It is the largest business park in the municipality and has a regional role that has been recognised in the State Government strategy, the *Melbourne Industrial and Commercial Land Use Plan 2020*.

State-wide commercial zone reforms in 2013 resulted in the majority of the Tally Ho MAC being rezoned from B2Z to the C1Z (see figure 1 below). A key outcome of this change was the loss of planning authority discretion in permitting a range of non-employment generating uses, such as dwellings (above ground floor level) and various forms of retail. The current zone has the potential to undermine the primary business park role of the activity centre, which is integral to not only Whitehorse, but the eastern region more broadly.



Figure 1: Plan showing the C1Z land in the Tally Ho MAC

**11.3**  
(cont)

The need to rectify the zoning of Tally Ho was identified some time ago following a number of enquiries for possible residential uses on sites now in the C1Z. The 2019 Urban Enterprise report recommended that Council undertake a number of actions, including rezoning the C1Z to the C3Z. Other recommendations included updates to Clause 22.08, applying a specific control to the Crossway Baptist Church and undertaking a review of the built form controls that apply to Tally Ho in the coming years.

Council sought to action a number of these recommendations by seeking authorisation to commence proposed Amendment C232 to the Whitehorse Planning Scheme, while simultaneously commencing a review of the built form controls of the DDO9. Authorisation for Amendment C232 has not been granted.

The refusal of authorisation and subsequent discussions with officers from DELWP has reinforced the need to undertake a more comprehensive strategic review of the activity centre as a whole. It was emphasised that a review of the current UDF is required to establish a renewed vision for the centre that can underpin future planning scheme amendments to rezone specific areas of the activity centre and inform any changes to the built form controls in the DDO9 and the policies and strategies of Clause 22.08. This review process would encompass the strategic work committed to by Council at the meeting on 27 January 2021. The review would also relevantly embrace the State government's *Melbourne Industrial and Commercial Land Use Plan 2020* and the, yet to be finalised, *Eastern Region Land Use Framework Plan*.

**STRATEGIC ALIGNMENT**

Theme 4 of the *Whitehorse Community Vision 2040* is of particular relevance and relates to employment, education and skill development. Key priority 4.1 supports "*job creation and providing facilities to support local business and attract new business investment and innovation*" which will be integral in the creation of a new structure plan that seeks to strengthen Tally Ho's economic activity and employment growth.

Strategic Direction 2: *A Thriving Local; Business, Employment, Education and Skill Development* of the *Council Plan 2021-2025* supports job creation and strategies to attract business investment and innovation. A new structure plan for Tally Ho has the ability to secure the centre as an employment hub and deliver strategies and policies that will drive growth and investment for the foreseeable future.

A structure plan for Tally Ho will also support Strategic Direction 4: *Our Built Environment, Movement and Public Places*, which seeks high quality urban development and environments. The structure plan will set parameters for new development in terms of heights, setbacks, landscaping, street interfaces, as well as guide future enhancements to the public realm.

**11.3**  
(cont)

**Policy**

As noted above, *Plan Melbourne 2017-2050* designates Tally Ho as a Major Activity Centre (MAC) where growth and investment should be directed. A further metropolitan wide strategy, being *The Melbourne Industrial and Commercial Land Use Plan, 2020*, also makes specific reference to Tally Ho's role as a regionally significant employment node. The draft *Eastern Region Land Use Framework Plan* similarly identifies the employment role of Tally Ho.

The State policies in the Planning Policy Framework support a diverse economy and the strengthening of the existing employment areas (Clause 17.01-1S). Clause 11.03-1S supports strategic planning for the use and development of land in and around activity centres.

At a local level, Tally Ho is recognised as a key activity centre which is home to several large offices and technology based businesses (Clause 21.07). Clause 22.06 emphasises the economic role of Tally Ho and supports its continued 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 22.06 also supports the preparation of structure plans and business plans for activity centres as they are required.

Clause 22.08 relates specifically to Tally Ho and sets out a range of objectives and policies that seek to achieve the vision for the centre. Specifically, economic development based on new generation commerce and knowledge is encouraged to maintain and enhance the centre's primary role as a key eastern suburbs office and technology hub.

**BACKGROUND**

Tally Ho is designated as a Major Activity Centre (MAC) under *Plan Melbourne, 2017-2050* and is one of only four MACs in Whitehorse. Tally Ho plays a very different role to other MACs in the City of Whitehorse and across Melbourne. At its core, it functions as an office park and technology hub with approximately 3,750 jobs, set in campus style surrounds. With approximately 100,000 square metres 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. Land surrounding the commercial office core of the activity centre supports residential growth and community land uses.

Council has actively supported maintaining and enhancing the economic role and function of Tally Ho by encouraging business and services that create jobs. This has been achieved by a range of strategies, including the UDF adopted in 2007 and the *Tally Ho Activity Centre Urban Design and Landscape Guidelines, 2013* (the Guidelines). These long term strategic visioning documents underpin the planning scheme policies and controls at Clause 22.08 and the DDO9 that relate specifically to Tally Ho.

**11.3**  
(cont)

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 C1Z. As a consequence, the majority of the Tally Ho MAC was rezoned from B2Z to C1Z, bringing with it significant changes to the purpose of the zone and the range of uses it permits. A number of uses subsequently became as of right in the Tally Ho business park, including shop, retail premises and accommodation.

These changes sparked a range of enquiries and planning permit applications for non-employment generating uses in Tally Ho. The intrusion of these other uses has the potential to erode over time the primary employment function of the centre. In response to this issue, Council appointed Urban Enterprise to undertake a review of the C1Z in Tally Ho. The review resulted in a series of recommendations, including that the C1Z land be rezoned to C3Z. The findings of this review are detailed in the 2019 report considered by Council on 27 January 2021.

The report was publicly released for community consultation in early 2020 and 11 submissions were received. The common themes arising from the feedback included the:

- Proposed rezoning to C3Z;
- Need to review the built form controls in the DDO9;
- Policy direction for Tally Ho activity centre;
- Future development potential of the Crossway Baptist Church site.

The Urban Enterprise report, together with the feedback from the 11 submissions were considered at a Council meeting. In accordance with the Council resolution from 27 January 2021, a request for authorisation to prepare and exhibit Amendment C232 to the Whitehorse Planning Scheme was submitted to the Minister for Planning in July 2021. The proposed amendment comprised:

- Rezoning of the C1Z land to C3Z and apply a schedule to the zone to:
  - Prohibit dwellings and residential buildings in the Tally Ho Business Park;
  - Limit dwellings and residential buildings on the Poly Holdings site (347-383 Burwood Highway, Forest Hill) and the Crossway Baptist Church site to the default 35% of the combined gross floor area of all buildings on the lot;
- Apply a Specific Control Overlay to the Crossway Baptist Church and insert a new associated Incorporated Document;
- Make consequential changes to Clause 22.08 (Tally Ho Activity Centre).

### **11.3** (cont)

On 6 December 2021, Council received a letter from DELWP advising that the authorisation had not been granted. The main reasons for the refusal were the:

- Structure planning for Tally Ho is out of date and requires review in order to inform any significant change to zoning or built form controls;
- Proposed extent of the C3Z application does not facilitate preferred outcomes for the commercial precinct of a MAC
- Proposed amendment departs from some of the recommendations of the Urban Enterprise report.

Further discussions with officers from DELWP confirmed that application of the C3Z over part of the Tally Ho MAC, specifically the existing Business Park, may be appropriate. However rezoning all of the C1Z land to C3Z is considered a disproportionate response to the issue of employment land fragmentation in the absence of updated strategic work for the wider activity centre.

It was clear from the refusal letter and subsequent discussions with DELWP that there is a need for a comprehensive review of the strategic documents that have guided use and development in Tally Ho for the last 15 years.

## **SUPPORTING REPORT DETAILS**

### **Legislative and Risk Implications**

If Council does not proceed with further strategic work it is highly unlikely that an amendment to rezone any part of the Tally Ho MAC would be entertained by DELWP and the Minister for Planning.

There is a risk that Council will be obligated to consider planning permit applications (and in some cases no planning permit would even be required) for uses that may undermine the primary intent of the activity centre as an employment hub if the discussed strategic work is not progressed and a Planning Scheme Amendment does not eventuate.

### **Equity, Inclusion, and Human Rights Considerations**

It is considered that the subject matter does not raise any human rights issues.

### **Community Engagement**

The community, principally affected land owners and occupiers, were invited to provide feedback on the *Tally Ho Commercial a1 Zone Review* between February and April 2020. This feedback was considered by Council at a meeting on 27 January 2021.

Community engagement is an integral component of a structure planning process. Specifically, Planning Practice Note 58 (Structure Planning for Activity Centres), states that it is essential to include wider community and possibly targeted consultation at key stages through the process.

### 11.3

(cont)

This includes developing a vision for the centre and scoping stakeholder issues, and the release of a draft plan. A comprehensive engagement strategy will be developed as part of the project.

If Council proceeds with a planning scheme amendment following the completion of a structure planning process, a statutory exhibition process would occur and provide a further opportunity for public comment.

#### Financial and Resource Implications

|   | Budget           | Expenditure     |
|---|------------------|-----------------|
| Tally Ho Review of the Commercial 1 Zone prepared by Urban Enterprise (completed) | \$30,000         | \$29,990        |
| Tally Ho Major Activity Centre Structure Plan 2022/23 Draft Budget                | \$150,000        |                 |
| <b>Total</b>  | <b>\$180,000</b> | <b>\$29,990</b> |

The project may be eligible for financial and professional support under the 2022/23 Streamlining for Growth Program that is delivered by the Victorian Planning Authority (VPA).

#### Innovation and Continuous Improvement

There are no Innovation and Continuous Improvement matters arising from the recommendation contained in this report.

#### Collaboration

There has been an ongoing dialogue between Council officers and officers at DELWP. Prior to lodging the request to authorise Amendment C232, officers at DELWP indicated that the C3Z may be suitable for the Tally Ho MAC and acknowledged that it would assist in retaining the employment purpose of the centre.

Following the decision to refuse authorisation, further discussions were held with DELWP. This reaffirmed an appetite to consider the C3Z over part of the Tally Ho MAC following further strategic work. It was clear that a thorough review of the UDF is required before any substantial proposal to alter the planning scheme controls that apply to Tally Ho can be contemplated.

### 11.3 (cont)

Council officers have also had a number of discussions with representatives from the VPA. The VPA implements the Streamlining for Growth Program that aims to support economic growth by delivering and accelerating strategic planning projects for employment and residential land. The VPA is highly interested in Council's direction for Tally Ho and has expressed an eagerness to support future strategic work. It is suggested that if a new funding round is announced, Council officers should submit an application to fund all or part of the structure planning process under the Streamlining for Growth Program. Applications for the 2022/23 round of funding close in mid-June 2022 with a decision on applications expected from the VPA by early October 2022.

### Discussion and Options

Tally Ho is identified as a Major Activity Centre (MAC) in *Plan Melbourne, 2017-2050* where growth and development that strengthens and expands the role of the activity centre is encouraged. Furthermore, the *Melbourne Industrial and Commercial Land Use Plan 2020* specifically identifies the Tally Ho MAC as a "*regional employment node with significant office space accommodating a range of professional services as well as government office headquarters for large corporations*".

The current UDF has been guiding growth and change in the centre since 2007 and is in need of renewal. The need to refresh or prepare a new strategic planning document to guide future development has been identified by officers at DELWP, and was a determining factor in the refusal to grant authorisation for Amendment C232, which (among other changes) sought to rezone the commercial area of the centre from the C1Z to C3Z.

It was noted in the letter from DELWP that further strategic work is "*a necessary step prior to any proposal to make significance changes to zoning or built form controls within the centre*". Any strategic planning process for the centre must be comprehensive and have regard to Planning Practice Note 58 (PPN58): Structure planning for activity centres. PPN58 includes the following diagram that details the structure planning process and the various steps involved.



**11.3**  
(cont)



*Figure 2: The Structure Planning Process (source: Planning Practice Note 58: Structure planning for activity centres, September 2018)*

In order to secure the long term sustainability of Tally Ho as an important employment node in the eastern region, a thorough strategic planning process must occur. It is considered that a structure plan, which has the ability to guide land uses as well as built form outcomes, is preferable to a refreshed UDF, noting however, that the current UDF does in fact also provide land use recommendations that have guided the activity centre). The structure plan will provide a current framework that responds to the needs of the local community and business sector, and can underpin future changes to the statutory controls applying to the MAC.

Once a structure plan has been finalised, it can then form the strategic basis of the planning scheme amendments that will implement the vision established by the structure plan. Such amendments may include a rezoning of all or part of the Tally Ho MAC, revisions to the policies and strategies set out in Clause 22.08 (Tally Ho Activity Centre) and updates to the DDO9 control that applies to a large part of the MAC.

**Conflict of Interest**

Council officers involved in the preparation of this report have no conflict of interest in this matter.

**11.3**  
(cont)

**Conclusion**

Long term planning for activity centres is an integral part of Council's strategic planning program. The current strategic plans for the Tally Ho MAC, namely the UDF, is outdated and in need of renewal. In order to secure the long term viability of Tally Ho as a regional employment hub in the eastern suburbs, a revised strategy to guide growth and change over a 10-15 year period in the activity centre is required.

The preparation of a structure plan will involve multiple rounds of community consultation where land owners, residents and commercial tenants will be invited to have their say on the form and content of the new plan.

The proposed structure plan will underpin a future amendment to the Whitehorse Planning Scheme including a potential rezoning and update to the DDO9 and the Planning Policy Framework. These future amendments could implement new built form controls, land use guidance and support opportunities for investment and growth in employment generating uses.

**11.4 10 Boulton Road, BLACKBURN (LOT 2 LP 214382) – Tree removal and buildings and works associated with a new dwelling within 4 metres of vegetation protected under Significant Landscape Overlay, Schedule 2 (SLO2).**

City Planning and Development  
Director, City Development  
FILE NUMBER: WH/2021/361  
ATTACHMENT

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**SUMMARY**

This application proposes tree removal and buildings and works associated with the construction of a single-storey dwelling within a Significant Landscape Overlay, Schedule 2 (SLO2). The application has triggered a permit for removal of protected vegetation and buildings and works for a new dwelling, pursuant to the provisions of the Significant Landscape Overlay, Schedule 2 (SLO2).

This application was advertised, and a total of fifteen (15) objections were received. The objections raised issues with vegetation removal, lack of landscaping opportunity, site coverage and consistency with neighbourhood character. A Consultation Forum was held online via Zoom on 9 February 2022 chaired by Councillor Massoud, at which time 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

Amended sketch plans have been submitted by the applicant showing reduced impacts on trees, and overall only two (2) trees to be removed. These plans were not readvertised, however have been used to form the basis for conditional approval of the application.

The proposal for buildings and works associated with a single dwelling on a lot within 4 metres of protected trees and removal of vegetation in the Significant Landscape Overlay, Schedule 2 (SLO2), is an acceptable response, subject to conditions which seek landscaping improvements to ensure built form is the subservient element to the established vegetation and canopy cover of the streetscape.

The provision of one new single storey dwelling, will provide an appropriate built form character outcome. The new dwelling will provide for an appropriate development that ensures its front setback can be well vegetated, and in doing so, will be consistent with others in the street. The development also provides space around the new building, allowing for tree retention, as well as allowance for new tree planting and landscaping to ensure the vegetated character of the area is retained and enhanced.

It is recommended that the application be supported, subject to conditions.

**11.4**  
(cont)

**RECOMMENDATION**

That Council:

- A. Being the Responsible Authority, having caused application WH/2021/361 for 10 Boulton Road, BLACKBURN (LOT 2 LP 214382) to be advertised and having received and noted the objections is of the opinion that the granting of a Planning Permit for 'tree removal and buildings and works associated with a new dwelling within 4 metres of vegetation protected under Significant Landscape Overlay, Schedule 2 (SLO2) 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 10 Boulton Road, BLACKBURN (LOT 2 LP 214382) for 'tree removal and buildings and works associated with a new dwelling within 4 metres of vegetation protected under Significant Landscape Overlay, Schedule 2 (SLO2)', subject to the following conditions:
  - 1. Before the development starts, or vegetation removed, amended plans must be submitted to and approved by the Responsible Authority in a digital format. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale, and be generally in accordance with the plans submitted with the application but modified to show:
    - a) Tree 16:
      - i. The south wall of the dwelling setback a minimum 1.74 metres from the south boundary and relocation of all earthworks to be outside the Tree Protection Zone (TPZ).
      - ii. Delete stepping stone pathway where within TPZ.
      - iii. Dwelling construction if within TPZ must be constructed at grade and on tree sensitive footings.
      - iv. The dwelling's south setback where within Tree 16's TPZ is to be converted to garden bed and mulched.
      - v. Encroachments into the TPZ of this tree are to be consistent with the revised plans submitted into Council on 20 December 2021, prepared by Reagan Ashmore and dated 24 April 2021.
    - b) Granitic sand / gravel pathway along north side of dwelling must be converted to lawn / garden beds to allow for increased permeability and protection TPZs for Trees 7, 9 and 10.
    - c) Relocate vehicle crossing 1 metre to the south away from Tree 1 to provide clearance from the structural root zone. Provide a copy of permission from the power company to relocate or undertake works within 1 metre of the power pole.

**11.4**  
(cont)

- d) Undertake a Non-Destructive Root Investigation (NDRI) for the crossover where works are to occur within the TPZ of Tree 1, and incorporate recommendations of the Arborist undertaking the NDRI.
- e) The internal setback between the west-facing wall of the retreat room and eastern wall of workshop/shed reduced to 2 metres.
- f) Setbacks of workshop/shed increased from north-west and west boundaries to a minimum 6.568 metres and 7.94 metres, respectively.
- g) Reduce dwelling setback from the north boundary to a minimum 3.376 metres
- h) South-west corner of garage offset 436mm from southern boundary where within the Tree Protection Zone (TPZ) of Tree 17.
- i) Setback between garage's western door and workshop/shed's eastern door reduced to 19.99 metres.
- j) Finished Floor Levels (FFLs) to Australian Height Datum (AHD) to be nominated clearly on the plans. The FFL of the dwelling is to be set no lower than 95.85 metres to AHD, which is 300mm above the applicable flood level of 95.55 metres to AHD.
- k) Roofing material for the dwelling to be non-reflective so as to not cause excessive sun glare.
- l) The locations of the Structural Root Zone and Tree Protection Zones described in Condition 5, with all nominated trees clearly identified and numbered on both the site and landscape plans and the requirements of Conditions 5 and 6 to be annotated on the development plan and landscape plan.
- m) Development plans to include an annotation which clearly states Trees 7, 8, 9 and 10 are to be retained, to be consistent with what is shown on the landscape plan prepared by Zenith Concepts Pty Ltd, dated 5/8/2021.
- n) The landscape plan to be amended to show:
  - i. The provision of at least four (4) new indigenous or native trees to be planted across the site, capable of reaching a minimum mature height of 15 metres.
  - ii. Replacement tree species to be selected from the following list:
    - Eucalyptus cephalocarpa – Mealy Stringybark
    - Eucalyptus leucoxylon – Yellow Gum
    - Eucalyptus melliodora – Yellow Box
    - Eucalyptus polyanthemos – Red Box

**11.4**  
(cont)

- Alternative species to the satisfaction of the Responsible Authority

All of the above must be to the satisfaction of the Responsible Authority. Once approved these plans must always accord with the endorsed plan and must not be altered or modified without the further written consent of the Responsible Authority.

2. The layout of the site and the size, design and location of the buildings and works permitted must always accord with the endorsed plan and must not be altered or modified without the further written consent of the Responsible Authority.
3. No building or works must be commenced (and no trees or vegetation are to be removed) until a landscape plan prepared by a suitably qualified and experienced person or firm has been submitted to and endorsed by the Responsible Authority. This plan when endorsed shall form part of this permit. This plan shall show:
  - a) A survey of all existing vegetation, abutting street trees, natural features and vegetation.
  - b) Buildings, outbuildings and trees in neighbouring lots that would affect the landscape design.
  - c) Planting within and around the perimeter of the site comprising trees and shrubs capable of:
    - i. Providing a complete garden scheme,
    - ii. Softening the building bulk,
    - iii. Providing some upper canopy for landscape perspective,
    - iv. Minimising the potential of any overlooking between habitable rooms of adjacent dwellings.
  - d) A schedule of the botanical name of all trees and shrubs proposed to be retained and those to be removed incorporating any relevant requirements of Condition 1.
  - e) The proposed design features such as paths, paving, lawn and mulch.
  - f) A planting schedule of all proposed vegetation (trees, shrubs and ground covers) which includes, botanical names, common names, pot size, mature size and total quantities of each plant.

Landscaping in accordance with this approved plan and schedule must be completed before the development is occupied.

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

**11.4**  
(cont)

4. The garden areas shown on the endorsed plan must only be used as gardens and must be maintained in a proper, tidy and healthy condition to the satisfaction of the Responsible Authority. Should any tree or shrub be removed or destroyed it must be replaced by a tree or shrub of a similar size and variety.
5. 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 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 – 5.4 metre radius from the centre of the tree base
    - i. Tree 2 – 2 metre radius from the centre of the tree base
    - ii. Tree 3 – 4.6 metre radius from the centre of the tree base
    - iii. Tree 5 – 2 metre radius from the centre of the tree base
    - iv. Tree 7 – 4.3 metre radius from the centre of the tree base
    - v. Tree 8 - 2 metre radius from the centre of the tree base
    - vi. Tree 9 – 3.5 metre radius from the centre of the tree base
    - vii. Tree 10 – 8.9 metre radius from the centre of the tree base
    - viii. Tree 16 – 4.8 metre radius from the centre of the tree base
    - ix. Tree 17 – 2.0 metre radius from the centre of the tree base
  - (b) Tree protection zone measures are to be established in accordance with Australian Standard 4970-2009 and including the following:
    - i) Erection of solid chain mesh or similar type fencing at a minimum height of 1.8 metres held in place with concrete feet.
    - ii) Signage placed around the outer edge of perimeter fencing identifying the area as a TPZ. The signage should be visible from within the development, with the lettering complying with AS 1319.
    - iii) Mulch across the surface of the TPZ to a depth of 100mm and undertake supplementary watering in summer months as required.
    - iv) No excavation, heavy machinery, 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.

**11.4**  
(cont)

- v) All supports, and bracing should be outside the TPZ and any excavation for supports or bracing should avoid damaging roots where possible.
  - vi) No trenching is allowed within the TPZ for the installation of utility services unless tree sensitive installation methods such as boring have been approved by the Responsible Authority.
  - vii) Where construction is approved within the TPZ, fencing and mulching should be placed at the outer point of the construction area.
  - viii) Where there are approved works within the TPZ, it may only be reduced to the required amount by an authorised person only during approved construction within the TPZ and must be restored in accordance with the above requirements at all other times.
6. During the construction of any buildings or works, the following tree protection requirements must be carried out to the satisfaction of the Responsible Authority:
- a) The dwelling where within the TPZ of Tree 16, must be constructed on tree sensitive footings, such as post footings or screw piles, with no grade change within greater than 10% of the TPZ. The postholes must be hand dug and no roots greater than 40mm in diameter are to be cut or damaged. A Geotechnical Engineer must assess the soil type and provide the results to a Structural Engineer so that appropriate footings and foundations can be designed so that they are not affected by soil movement.
  - b) The paving where within the TPZ of Tree 16, must be constructed above the existing soil grade. There must be no grade change within greater than 10% of the TPZ, and no roots greater than 40mm in diameter are to be cut or damaged during any part of the construction process.
  - c) For Trees 7, 8, 9, 10 and 17 no roots greater than 40mm in diameter are to be cut or damaged during any part of the construction process.
  - d) All buildings and works for the demolition of the site and construction of the development (as shown on the endorsed plans) must not alter the existing ground level or topography of the land (which includes trenching and site scrapes) within greater than 10% of the TPZs of Trees 7, 8, 9, 10 and 17.
  - e) No trenching is allowed within the TPZs of Trees 7, 8, 9, 10, 16 and 17 for the installation of utility services. All utility services must be bored to a depth of 600mm below natural ground level where within the TPZs of these trees and the entering points for the boring works must be outside the TPZs.



**11.4**  
(cont)

- f) No buildings and works, which includes changes to the existing ground levels or topography of the land, are to be undertaken within 4m of the base of Tree 15 without a permit from the Responsible Authority (RA).
  - g) Tree 15 must not be removed, destroyed, or lopped without a permit from the Responsible Authority (RA).
  - h) The builder / site manager must ensure that any buildings and works within or adjacent to the TPZs of Trees 7, 8, 9, 10, 16 and 17 do not adversely impact their health and / or stability now or into the future.
  - i) The builder / site manager must ensure the TPZ Fencing Conditions and the Tree Protection Conditions for Trees 7, 8, 9, 10, 16 and 17 are being adhered to throughout the entire building process, including site demolition, levelling, and landscape works.
- 7. The applicant is required to contact Council's Planning Enforcement Officer in writing within three (3) months of planting to undertake a site inspection of the replacement canopy trees.
- 8. 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.
- 9. Stormwater that could adversely affect any adjacent land must not be discharged from the subject site onto the surface of the adjacent land.
- 10. 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 seven (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.
- 11. The existing street trees must not be removed or damaged except with the prior written consent of the Responsible Authority.
- 12. This permit will expire if one of the following circumstances applies:
  - a) The development is not commenced within two (2) years from the date of issue of this permit;
  - b) The development is not completed within four (4) years from the date of this permit.

**11.4**  
(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.

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

**Permit Notes:**

- Application not assessed against ResCode (Clause 54)

**MELWAYS REFERENCE MAP 62 C1**

|                   |  |
|-------------------|--|
| Applicant:        | R Ashmore                                  |
| Zoning:           | Neighbourhood Residential Zone, Schedule 1 |
| Overlays:         | Significant Landscape Overlay, Schedule 2  |
| Relevant Clauses: |  |
| Clause 11         | Settlement                                 |
| Clause 12         | Environment and Landscape Values           |
| Clause 15         | Built Environment and Heritage             |
| Clause 21.05      | Environment                                |
| Clause 21.06      | Housing                                    |
| Clause 22.03      | Residential Development                    |
| Clause 22.04      | Tree Conservation                          |
| Clause 32.09      | Neighbourhood Residential Zone, Schedule 1 |
| Clause 42.03      | Significant Landscape Overlay, Schedule 2  |
| Clause 65         | Decision Guidelines                        |
| Ward:             | Lake                                       |

**WH/2021/361 – 10 Boulton Road, Blackburn**

**SITE LOCATION PLAN**



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

**11.4**  
(cont)

**BACKGROUND**

Council Officers facilitated an onsite meeting with the permit applicant and land owner on 30 November 2021. The purpose of this meeting was to work collaboratively on finding potential solutions to tree issues which were first raised by Council's Consulting Arborist in referral comments dated 26 August 2021. Following this onsite meeting, sketch plans were received by Council on 20 December 2021. These amended plans saw improvements made to the proposed design of the dwelling to lessen impacts on trees. These changes included an increased setback of built form from the south boundary as well as a reduction in the setback from the north boundary. The permit applicant has since relied upon these sketch plans and is willing to undertake more replacement planting of upper canopy trees in light of the number of objections received, and to better respond to the bush environment precinct.

In making a recommendation to Council, this report will be assessing the decision plans, prepared by 'Reagan Ashmore Design and Drafting Services', dated 24 April 2021 and advertised by Council on 25 August 2021. The changes to the design to respond to the tree issues as discussed above will form part of the officer recommendation by way of permit condition.

**History**

A review of Council's records reveals the subject site does not have any available planning permit history. Aerial images courtesy of GIS Weave confirm the subject land has remained vacant, dating back to December 1945. At this time the land was used as an orchard.

**The Site and Surrounds**

The subject site is located at the north-west end of Boulton Road, approximately 110 metres north of Canterbury Road and directly adjacent the Masons Road Flood Retarding Basin in Blackburn. The site is irregular in shape with a frontage of 18.19 metres to Boulton Road, a north side boundary of 57.43 metres, a south side boundary of 50.27 metres and a rear boundary of 7.6 metres, yielding an overall area of 859 square metres.

The lot is currently vacant and a combination of exotic and native canopy trees are scattered across the site. No vehicle crossover services the subject land and there are a number of street trees located within the nature strip outside the front of the site. The site has a gradual fall in excess of 1 metre from south to north. A 1.52 metre wide easement is located towards the front boundary and a 2 metre wide easement extends the length of the north side boundary.

The subject site is located within a Bush Environment precinct in which the landscape is the dominant feature, and built form acts as subservient to the prevalence of middle to upper storey canopy trees and understorey vegetation.

**11.4**  
(cont)

Within the immediate context, the following is noted:

North

The subject land adjoins the Masons Road Retarding Basin to its immediate north. This open space is frequented by local residents for recreational purposes

South

The adjoining lot to the south, at No.8 Boulton Road, contains a single storey dwelling with a mostly flat roof, although skillion elements are evident. The block is an irregular shaped lot which wraps around the rear (i.e. western side) of the subject lot. The dwelling at No.8 Boulton Road is well setback from the street, at approximately 31.2 metres from the street frontage. A north-facing pergola and alfresco area is oriented to face the subject site, and is setback approximately 3.2 metres from the common boundary

Other dwellings to the south along Boulton Road are modest in scale, typically single-storey and of brick or weatherboard construction. Canopy trees are common within frontages and areas of secluded private open space (SPOS), contributing to a leafy bushland feel to the neighbourhood.

East

Directly opposite the site at No.7 Boulton Road is a single storey dwelling, well recessed from the street frontage, and dominated by established understorey vegetation as well as high quality native and indigenous canopy trees. A carport abuts the site's southern boundary. Visibility of the dwelling is partially hidden by the predominance of canopy cover and understorey planting in keeping with the 'bush environment' landscape character of the environs.

West

The SPOS of the neighbouring property to the south at No.8 Boulton Road is located to the sites immediate west. Further west is a walking trail for the Masons Road Flood Retarding Basin which connects to Masons Road.

**PROPOSAL**

The application proposes tree removal and buildings and works associated with a new single-storey dwelling within 4 metres of protected trees. The key features of the proposal include:

- Construction of a single storey dwelling comprising an entrance via a porch, an open plan kitchen, dining and living room, four bedrooms, two bathrooms inclusive of a private ensuite for bedroom 1, a laundry, retreat room, and storage area.
- The dwelling's front setback is proposed at 9 metres, with the garage setback 10.45 metres to Boulton Road (i.e. the front boundary).
- The dwelling has an overall height of 5.38 metres above ground level.
- Construction of a workshop (6 metres by 6 metres) to the rear of the dwelling.

**11.4**  
(cont)

- Construction of a vehicle crossing
- Removal of vegetation. The arborist report shows the removal of ten (10) trees, seven (7) of which require a permit.
- Revised plans which are discussed later in this report show the retention of trees 7, 8, 9, 10 and 11. Therefore a total of six (6) trees are to be removed, two (2) of which require a permit under the provisions of the SLO2, namely trees 6 and 12.

Trees requiring a planning permit

| Tree No.  | Name               | Species                      | Trunk Circumference (m) and tree height (m) | Structure         | Recommendation / Permit Required? |
|-----------|--------------------|------------------------------|---|-------------------|-----------------------------------|
| <b>6</b>  | <b>English Oak</b> | <b><i>Quercus robur</i></b>  | <b>0.81 / 11</b>                            | <b>Fair</b>       | <b>Removal. Permit required.</b>  |
| 7         | Desert Ash         | <i>Fraxinus angustifolia</i> | 0.54 / 11                                   | Fair              | Removal. Permit required.         |
| 9         | Desert Ash         | <i>Fraxinus angustifolia</i> | 0.75 / 6                                    | Fair/ Poor        | Removal. Permit required.         |
| 10        | River Peppermint   | <i>Eucalyptus elata</i>      | 2.36 / 17                                   | Poor              | Removal. Permit required.         |
| 11        | River Peppermint   | <i>Eucalyptus elata</i>      | 1.51 / 13                                   | Poor              | Removal. Permit required.         |
| <b>12</b> | <b>English Oak</b> | <b><i>Quercus robur</i></b>  | <b>0.85 / 6</b>                             | <b>Fair/ Poor</b> | <b>Removal. Permit required.</b>  |

**Bold** = Trees proposed for removal as per revised plans

**11.4**  
(cont)

Trees to be removed which do not require a planning permit

| Tree No. | Name             | Species                      | Trunk Circumference (m) and tree height (m) | Structure | Recommendation / Permit Required? |
|----------|------------------|------------------------------|---|-----------|-----------------------------------|
| 5        | European Spindle | <i>Euonymus europaeus</i>    | 0.25 / 3                                    | Fair      | Removal. No permit required.      |
| 8        | Gossamer Wattle  | <i>Acacia floribunda</i>     | 0.22 / 4.5                                  | Fair      | Removal. No permit required.      |
| 13       | Desert Ash       | <i>Fraxinus angustifolia</i> | 0.39 / 6.3                                  | Fair      | Removal. No permit required.      |
| 14       | Desert Ash       | <i>Fraxinus angustifolia</i> | 1.01 / 6                                    | Poor      | Dying. No permit required.        |

- Tree 14 has been assessed and verified by Council's Consulting Arborist as dying, and therefore is exempt from needing a permit for its removal.
- Vehicle access is sought via a proposed vehicle crossover in the south-east corner of the lot. This vehicle crossover is to connect to the front driveway and double width garage on-boundary. The driveway material has been nominated as exposed aggregate.
- A north and west-facing deck area is accessible via the living room and provides for a north-facing alfresco experience.
- A site cut (a maximum of approximately 600 millimetres) and associated earthworks to create a level area.

External materials include acrylic rendered finish to blockwork and foam, blockwork, timber cladding elements, aluminium battens and colorbond roofing painted in muted grey tones to blend in with the surrounding natural environment.

Buildings and works associated with the new dwelling are proposed to be located within 4 metres of the following protected trees:

- Trees 7, 9, 10, 16 and 17

### **Planning Controls**

#### Neighbourhood Residential Zone, Schedule 1 (NRZ1)

Under Schedule 1 of the Neighbourhood Residential Zone, a permit is not required to construct a single dwelling as the lot size is greater than 500 square metres (at 859sqm). Given this, ResCode standards as varied by Schedule 1 to the Neighbourhood Residential Zone cannot be considered by Council's Planning Officers as a permit is not triggered for the proposal under the zone.

## 11.4

(cont)

An application to construct a dwelling must provide a minimum garden area of 35 per cent (based on the lot size of over 650 square metres). An assessment of the plans indicates an approximate area of 405.9 square metres, equivalent to approximately 47 per cent of the lot. This complies with the minimum garden area requirement.

### Significant Landscape Overlay, Schedule 2

Under Schedule 2 to the Significant Landscape Overlay (SLO2) a permit is required for the removal of a tree having a single trunk circumference of 0.5 metres or more at a height of one metre above ground level.

A permit is required to remove Trees 6 and 12. Tree 13 (Desert Ash) has been assessed by Council's Planning Arborist as having a single trunk circumference of less than 0.5 metres (as measured from a height of 1 metre above ground level). Therefore a permit is not required under the provisions of SLO2 for Tree 13's removal. A summary of the protected trees to be removed follows:

**Table 1**

| Tree No. | Species                            | Height | DBH  | Significance | Comments (Taylors)   |
|----------|------------------------------------|--------|------|--------------|--|
| 6        | <i>Quercus robur</i> – English Oak | 11m    | 0.57 | Moderate     | Co-dominant stems at 0.4m above ground level. Low hanging branches to ground level.  |
| 12       | <i>Quercus robur</i> – English Oak | 6m     | 0.85 | Low          | 2 trees growing from 1 root plate. Tree dimensions have been averaged. Possum defoliation. Unbalanced canopy masses. Low hanging branches to ground level. |

### **Source – Taylor's Trees**

Pursuant to Clause 42.03-2 of the Whitehorse Planning Scheme (the Scheme), a permit is required to undertake buildings and works within four (4) metres of protected trees. As stated under the proposal section to this report, buildings and works are proposed within 4 metres of five (5) protected trees, namely Trees 7, 9, 10, 16 and 17.

Trees 13 and 14 do not trigger a permit for removal due to either being under 0.5 metres in trunk circumference as measured from a height of 1 metre above ground level (Tree 13) or dead or dying to the satisfaction of Council (Tree 14).

## 11.4

(cont)

Schedule 2 to the Overlay sets out a number of 'permit triggers' for buildings and works. The following permit requirements are not mandatory, rather are 'permit triggers'.

| Permit requirement  | Measure   |
|---|---|
| A permit is not required to construct a building or construct or carry out works provided all of the following is met:  |   |
| The building is no higher than two storeys or 9 metres.   | The dwelling is proposed to feature a maximum build height of 5.38 metres above ground level, and therefore is no higher than two storeys or 9 metres.<br><b>No permit triggered</b>  |
| The building is set back at least 9 metres from the front boundary for a single storey building or 11 metres for a two-storey building  | The single storey dwelling is setback a minimum of 9 metres from the front boundary.<br><b>No permit triggered</b>  |
| The building is set back at least 3 metres from a boundary to a road at least 4 metres wide (other than the front boundary) for a building wall height of no more than 3.6 metres or 3 metres plus half the building wall height if the building wall height is more than 3.6 metres. | N/A   |
| The building is set back at least 1.2 metres from any other boundary for a building wall height of no more than 3.6 metres or 1.5 metres plus half the building wall height if the building wall height is more than 3.6 metres   | The setback to the south boundary (with the exception of the two walls on boundary) is a minimum 1.4 metres which complies with the standard (1.2 metres). The setback of the building from the north boundary is a minimum 3.7 metres. The overall wall height for the northern side of the dwelling is 4.78 metres above natural ground level.<br><br>This requires a setback of 3.89 metres from the north boundary (190 millimetre variation sought). The amended plans received by Council on 20 December 2021 propose a minimum setback of 3.376 metres from this northern boundary, and as such will further increase the variation sought to 520 millimetres. |



**11.4**  
(cont)

| <b>Permit requirement</b>   | <b>Measure</b>  |
|---|---|
|   | <b>Permit triggered</b><br>Two (2) walls are proposed adjacent the south boundary, one for the double-width garage (approximately 6.5 metres in length at a maximum height of 3.15 metres above natural ground level) and the other wall on boundary is for the workshop in the site's rear SPOS. The length of this on-boundary wall for the workshop is shown at 6.2 metres with an overall height of approximately 2.8 metres above ground level.<br><b>Permit not triggered</b> |
| The building is less than 33 per cent of the site area at ground level and 25 per cent of the site area at first floor level, excluding hard surfaces and impervious areas. | The site coverage is 355.12 square metres (41.35 per cent)<br><b>Permit triggered</b>   |
| Comprising hard surfaced and impervious areas (including tennis courts and swimming pools, but excluding buildings) are less than 17 per cent of the site area.             | Hard surfacing is calculated at 77.42 square metres (9.02 per cent).<br><b>No permit triggered</b>  |
| The total area of all buildings and hard surfaces and impervious areas (including tennis courts and swimming pools are less than 50 per cent of the site area.              | The total building and paving hard surface coverage is 50.37 per cent<br><b>Permit triggered</b>  |

**CONSULTATION**

**Public Notice**

The application was advertised by mail to the adjacent and nearby property owners and occupiers and by erecting a notice (sign) to the Boulton Road frontage. Following the formal notification period, 15 objections were received.

The main objector issues raised included the following:

- Tree removal and impact of vegetation loss on landscape character
- Consistency with neighbourhood character
- Impact of proposed dwelling and works in close proximity to protected trees
- Deficient landscape response for a 'bush environment' setting

**11.4**  
(cont)

- Potential for certain materials (e.g. roofing) to be reflective and cause excessive glare

A response to these objector concerns will be detailed throughout the assessment section, as well as later within this report.

Following advertising, amended plans were received in response to arboricultural issues. These plans were not formally amended under Section 57 A of the Act and therefore have not been formally advertised. These plans are attached for information purposes and the form the basis of the permit conditions.

Melbourne Water was also notified (as an adjoining land owner) under Section 52 of the Act. A submission from Melbourne Water was received. Melbourne Water supported the proposal subject to finished floor levels (FFLs) for the dwelling being set no lower than 95.85 metres to Australian Height Datum (AHD). FFLs to AHD have not been included on the plans. This can be resolved by way of permit conditions.

**Consultation Forum**

An online consultation forum was held via Zoom on 9 February 2022, chaired by Councillor Massoud. Approximately 12 objectors, the applicant, land owners and Council's planning officers attended the meeting during which the issues were explored. The amended plans were displayed and discussed at the forum.

Key points during the forum meeting surrounded the level of tree removal and available room on-site for landscaping.

The general consensus of the objectors on the night was that the development proposal was incompatible with the established and preferred bush environment character. The main point of contention was the lack of replacement planting, with only one *Tristaniopsis laurina* (Water Gum) nominated on the plans as a replacement tree in the frontage. The objectors' spoke of the importance of maintaining the landscape character of Boulton Road through additional planting opportunities and ensuring the valued treed canopy was preserved. The objectors also alerted Council that Tree 11 has since been removed from the site due to storm damage.

In response the permit applicant was willing to undertake further landscaping and planting of upper canopy trees to ensure the design of the new dwelling is sensitive to the valued bush environment landscape which surrounds the site.

## 11.4

(cont)

### Referrals

#### External

The application was not required to be referred under Section 55 of the *Planning and Environment Act 1987* (the Act) to any relevant external departments in accordance with Clause 66 of the Whitehorse Planning Scheme.

#### Internal

The application was referred internally to the following departments:

#### Planning Arborist

Council's planning arborist has assessed the application and was initially non-supportive of the proposal due to the tree impacts. Council's arborist was primarily concerned with the major encroachments into the Tree Protection Zones (TPZs) for Trees 7, 9, 10, 16 and 17 at 33.4%, 36.6%, 18.9%, 39.4% and 19.6%, respectively. All of these encroachments exceeded the maximum of 10% as prescribed at Australian Standard AS 4970:2009 – Protection of Trees on Development Sites.

In response to these concerns from Council's arborist, the applicant has shown a willingness to amend plans to better protect trees, evidenced by the sketch plans submitted into Council on 20 December 2021.

Council's arborist has reviewed the changes to the design based on what was discussed on site on 30 November 2021, and believes the proposal can be supported, provided specific tree protection measures are implemented throughout the construction phase, if Council were of the view that a permit should be issued for the subject land. The amended plans and tree protection requirements have been addressed by way of conditions.

#### Parks and Natural Environment

The application was referred to Council's Parks and Natural Environment Department given the proximity of the proposed vehicle crossover to a street tree in the nature strip (i.e. Tree 1 *Lophostemon confertus* (Brush Box). The following referral response was received on 18 February 2022.

*This tree has been described as exhibiting "good health with fair structure and a long ULE (Useful Life Expectancy).*

*The plans provided indicate that the proposed crossover will be located approximately 1.7 m from Tree 1:*

- 1. This is within the trees TPZ and likely an encroachment of greater than the 10% mandated within AS 4970 2009. The incursion area of the proposed works is 14%, this is considered a "major encroachment".*
- 2. Parks and Natural Environment does not support installation of proposed works due to the "major encroachment".*

**11.4**  
(cont)

3. *Root damage can cause a tree to decline and eventually die. It may also predispose a tree to failure, representing a serious safety hazard.*

*Recommendation for Tree 1:*

- *Request permission from the power company to relocate the power pole on the south side at the owner's expense, therefore providing clearance outside the structural root zone from Tree 1. An NDRI will still need to be undertaken before the crossover can go ahead.*

These modifications to the plans can be addressed as conditions on any permit issued for the land.

## **ASSESSMENT**

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

The central issue surrounding this application focuses on whether the proposal appropriately meets the preferred neighbourhood character under the Significant Landscape Overlay, Schedule 2 (SLO2). As described earlier in this report, the site is situated within a 'bush environment' precinct which seeks minimal change in a landscape setting. Such policy does not envisage no development at all, rather, the policy aims to ensure development is sympathetic to the existing and preferred neighbourhood character.

The following provides an outline of the relevant local planning provisions.

Clause 21.06 of the Scheme (Housing) is informed by Council's Housing Strategy 2014. It outlines how the municipality will contribute to the State's housing objectives for Metropolitan Melbourne. It identifies three categories of change. The subject site is included within a 'limited change' area. These areas enable specific characteristics of the neighbourhood, environment or landscape to be protected through greater controls over new housing development. These areas represent the lowest degree of intended residential growth in Whitehorse.

Clause 22.03 of the Scheme (Residential Development) seeks to ensure new development reflects the 'limited change' classification of housing policy and contributes to the preferred character for this neighbourhood. Under this clause the site is included within a bush environment precinct.

**11.4**  
(cont)

Clause 22.04 of the Scheme (Tree Conservation) encourages new development to minimise the loss of significant trees and promotes regeneration of tall trees by ensuring sufficient space exists on new development for re-planting of tall trees. The policy sets 'performance standards' for the retention and regeneration of trees. This aims to assist in the management of the City's tree canopy by ensuring that new development minimises the loss of significant trees. These local policies enable specific characteristics of the neighbourhood, environment and landscape to be protected through greater control over new development. Moreover, architectural, urban design and landscape outcomes must positively contribute to the local urban character whilst minimising impacts on neighbouring properties.

These policies, amongst other local level planning policies, justify the zoning of the site and surrounds in the Neighbourhood Residential Zone, Schedule 1 (NRZ1). The purpose of this zone places emphasis on neighbourhood character and its associated policies.

The proposed development represents a modest single-storey dwelling with generous setbacks offered from north, east and west boundaries. The scale of the development proposal is consistent with State and Local Policy guidance for facilitating appropriate residential development in areas designated for limited change. The siting of the dwelling has been purposefully designed to accommodate vegetation retention where possible, as well as allow for replacement planting of new canopy trees. The proposed dwelling, subject to landscaping conditions is seen to respond positively to the preferred bush environment neighbourhood character. The proposal is in accord with the objectives and intent of Council's local policies as stipulated at Clause 22.03 and Clause 22.04 of the Scheme.

**Zoning and Overlays**

Given the lot size exceeds the 500sqm threshold (at 859sqm), there is no trigger for a permit under the zone and therefore Council has no ability to assess the proposed development's compliance against the varied standards prescribed under Schedule 1 to the Neighbourhood Residential Zone (NRZ1). A note will be included on any permit issued for the site, explicitly stating that the application has not been assessed against Clause 54 (ResCode) of the Whitehorse Planning Scheme. Council's ambit of discretion for this proposal is confined to how the built form responds to the bush environment landscape character of Boulton Road and surrounds, with particular emphasis on accommodating retention of trees where possible, and allowing for sufficient replanting opportunities expected of SLO2 areas.

The decision guidelines within the SLO2 are designed to guide and shape new development. To ensure the environmental and landscape elements valued by the community, continue to be protected. Any new development should respect and respond to these performance objectives.

**11.4**  
(cont)

The proposed dwelling has sought to respond to these measures through a site responsive design which allows for built form to be subservient to vegetation through the provision of a modest single storey built form. The dwelling is consistent with the existing housing stock and character of the surrounding area. By creating setbacks that respond appropriately to the surrounding built form, articulated façade features, provision of a skillion roof form, allowing for the retention of existing vegetation where appropriate, and appropriate spacing for landscaping and replanting, the decision guidelines at Clause 22.04, and Clause 42.03 are considered to be met.

**Built Form**

The subject site is identified as being located within a Bush Environment Character Precinct. The *City of Whitehorse Neighbourhood Character Study, 2014* summarises the existing architectural style in the area as ‘mixed’ and includes ‘pre-WWII (including heritage significant bungalow dwellings), post-war, 1940s, 1950s and contemporary infill styles’. In terms of the landscape setting ‘gardens are bushy and informal with predominantly native/indigenous species and large canopy trees. The appearance of vegetated garden areas around buildings is an important feature of this precinct’.

Achieving a preferred landscape character for the area is guided by the ‘Preferred Character Statement’ outlined within Clause 22.03-5 of the Scheme. The preferred character setting for the bush environment setting is detailed below:

*‘The streetscapes will be dominated by vegetation with subservient buildings frequently hidden from view behind vegetation and tall trees. The buildings will nestle into the topography of the landscape and be surrounded by bush-like native and indigenous gardens, including large indigenous trees in the private and public domains.*

*Buildings and hard surfaces will occupy a very low proportion of the site. They will be sited to reflect the prevailing front, rear and side setbacks. The larger rear setbacks will accommodate substantial vegetation including large canopy trees. The bushy environs are complemented by street trees and a lack of front fencing. Properties abutting and close to creeks and lake environs will contain more indigenous trees and shrubs that act in part as wildlife corridors.*

*This precinct is identified for the lowest scale of intended residential growth in Whitehorse (Limited Change area) and the preservation of its significant landscape character and environmental integrity is the highest priority’.*

The SLO2 area is recognised as having special significance attributed to the quality of the environment, which includes vegetation notable for its height, density, maturity and high proportion of Australian native trees. This in turn contributes to the significance of the area as a valuable bird and wildlife habitat.

## 11.4

(cont)

The Overlay provides a number of landscape objectives to be achieved, which can be summarised as retaining the dominance of vegetation cover. This is in keeping with the established bush environment character. Encouraging development that is compatible with the character of the area ensures that a reasonable portion of the lot is free of buildings, which in turn allows for the retention of valued trees and replanting of tall trees. The SLO2 also includes a number of 'decision guidelines' which test a development's responsiveness to a preferred neighbourhood and landscape character.

The immediate locality predominantly provides detached single storey dwellings on a lot. The proposed development provides for an appropriate building footprint with setbacks from side and rear boundaries, and elevations which demonstrate a mixture of materials and articulated forms. This leads to an outcome that presents as an inconspicuous profile, particularly in a setting surrounded by medium and large canopy trees. A number of the existing trees to be retained on site are not 15 metres high, but are still of amenity value due to their maturity, instant screening effect and location along the northern boundary to Masons Basin Reserve. This interface to Masons Basin Reserve is further softened through the retention of the existing 1.75 metre high cyclone wire fence along the north boundary.

### Site Coverage, Permeability and Hard Surfacing

The dwelling site coverage is 41.35 per cent, 8.35 per cent more than the 33 per cent exemption under the SLO2. Additional hard surfacing is 9.02 per cent, which is below the 17 per cent permit trigger under the overlay. The total of building and hard surfacing is 50.37 per cent which is only 0.37 per cent above the permit trigger. This is considered to be a minor variation to the overall hard surfacing trigger and achieves the objective of the controls. This is further enhanced by the site's ability to accommodate the retention of established vegetation such as Tree 7 and Tree 10 and room for additional planting.

The development proposes a site permeability of 52.38 per cent which is seen to meet the objectives of the SLO2 in allowing sufficient 'garden areas' on site for tree planting and general landscaping. The development plans indicate the proposal achieves compliance with the mandatory 'garden area' requirement pursuant to Clause 32.09-4 of the Scheme. Under Clause 32.09-4 of the Scheme, "an application to construct or extend a dwelling or residential building on a lot must provide a minimum garden area as set out in the following table:

| <b>Lot size</b>     | <b>Minimum percentage of a lot set aside as garden area</b> |
|---------------------|---|
| 400 - 500 sqm       | 25%   |
| Above 500 - 650 sqm | 30%   |
| Above 650 sqm       | 35%   |

**11.4**  
(cont)

As the lot size exceeds 650sqm (at approximately 859sqm), a minimum 35 per cent of the lot must be set aside as 'garden area'. The proposal comfortably demonstrates compliance with this standard, having a garden area at 47 per cent of the lot.

It is noted that site coverage could have been reduced through the provision of a two storey dwelling; however this would have brought forward its own specific issues, including being less appropriate in the Bush Environment character area. It is considered the provision of a single-storey dwelling is in keeping with the character of the area, which is predominantly single storey dwellings in bushy landscaped areas. By increasing landscaping through conditions on the permit, an acceptable outcome which is respectful of the prevailing features of the landscape and neighbourhood can be best achieved.

**Setbacks**

The dwelling proposes a minimum setback of 3.7 metres to the northern boundary, for an overall wall height above ground level of 4.78 metres. This setback triggers a permit, with all other setbacks to side and rear boundaries being within the prescribed exemptions, under the SLO2. The SLO2 prescribes a minimum setback of 3.89 metres from the north boundary, therefore a 190 millimetre variation is sought. The sketch plans show this northern setback reduced to 3.376 metres, therefore a 520 mm variation is required. A 520 mm variation from the standard will be imperceptible to the naked eye, especially given the interface to the north is the Masons Road Flood Retarding Basin and not residential land. Therefore the amenity impacts will be negligible. On balance, this outcome is appropriate, noting there is ample opportunity for landscape in the frontage, as well as northern and western setbacks.

**Tree Assessment and Landscaping**

This site falls under SLO2. The Statement of Nature and key elements of landscape for this area is:

- 'The significance of the area is attributed to the quality of the environment, which includes vegetation notable for its height, density, maturity and high proportion of Australian native trees This in turn contributes to the significance of the area as a valuable bird and wildlife habitat'.

Of note, Trees 1, 2, 4, 8, 10, 16, 17 and 18 are classified as 'native'. The extent of tree removal, particularly the removal of protected Trees 6 and 12 has been assessed by Council's Arborist, and found to be acceptable provided sufficient replanting of new canopy trees is undertaken to compensate for the vegetation loss. Objectors however, have raised concerns regarding the proposed landscaping being inadequate in terms of the number of replacement trees indicated on the plans, as well as not including enough native tree species.



**11.4**  
(cont)

Local residents of Blackburn at the Community Consultation Forum have since informed Council Tree 11 was damaged in the recent storms, and has therefore been removed due to the tree being dangerous. Council and the permit applicant have acknowledged the existing landscape plan is deficient for a SLO2 'Bush Environment' context as under the tree density ratio requirements of the SLO2, a minimum of six (6) upper canopy trees (i.e. trees 15 metres or higher at maturity) are encouraged to be planted as per the decision guidelines of the SLO. Currently a shortfall of five (5) upper canopy trees from this recommended decision guideline exists.

Despite this, two (2) medium to upper sized canopy trees, namely Tree 7 and Tree 10 are to be retained. Tree 7 is a Desert Ash of 11 metres height, and Tree 10 is a Eucalyptus of 17 metres height. Both trees have a healthy 8 to 9 metre canopy spread which assists in softening the appearance of built form. The retention of both of these trees will offer some immediate canopy cover relief while the new trees are establishing.

The retention of existing medium canopy trees, as well as the condition to replant a further four (4) more native upper canopy trees is seen to meet the landscaping objectives of the SLO2 and 'bush environment' precinct. Replacement species suggested by Council's Consulting Arborist have been included by way of conditions in the recommendation.

The above assessment identifies how the proposal can appropriately meet the neighbourhood character objectives of the planning scheme and specifically the SLO2. On balance, the new dwelling is able to meet the decision guidelines under the overlay and therefore integrate with the preferred neighbourhood character of the bush environment precinct.

**Objectors Concerns not Previously Addressed**

The following concerns have been raised by objector parties, many of which are addressed in more detail in the above assessment section of the report:

Consistency with neighbourhood character objectives.

As previously discussed, the proposed development is for a single storey dwelling with a skillion roof, which is respectful of the roof forms present along Boulton Road. The front setback meets the exemptions for setbacks for single-storey dwellings in SLO2 areas and is compatible with setbacks in the street. Similarly, the side and rear setbacks are adequate to allow for abundant planting opportunities.

Impact to trees within adjoining lots.

As previously discussed, the impacts to trees have been assessed by Council's Arborist and Parks and Natural Environment department, and found to be appropriate, subject to increased setbacks from the southern boundary, and provided specific tree protection measures are implemented during construction phase. These tree protection measures will form a critical part of any Council approval for the site.

**11.4**  
(cont)

Lack of replacement tree planting and overall landscaping opportunity

As previously discussed, the proposed development is able to accommodate a minimum of five (5) upper canopy trees onsite, through a combination of (one) retained and (four) replacement canopy trees, and retention of one medium height canopy tree. In addition, landscaping is provided throughout the site, particularly toward the street frontage.

Over development of the lot

A single storey detached dwelling is not considered an over development of the site. The provision of replacement planting and landscaping, combined with retention of existing trees will soften the appearance of the built form.

Potential sun glare from roofing material

This matter was discussed at the forum and the applicant was amenable to conditions on the permit requiring a non-reflective roofing material.

**CONCLUSION**

The proposal for the construction of a single dwelling on a lot and removal of vegetation within the Significant Landscape Overlay, Schedule 2 (SLO2), is an acceptable response that satisfies the relevant provisions contained within the Whitehorse Planning Scheme.

The provision of one new single storey dwelling, will provide an appropriate character outcome. The new dwelling will provide for appropriate development that ensures its front setback can be well vegetated, and in doing so, will be consistent with others in the street. The development also provides space around the new building, allowing for tree retention, as well as allowance for new tree planting and landscaping to ensure the vegetated character of the area is retained and enhanced.

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

It is considered that the application should be approved.

**ATTACHMENT**

- 1 Attachment 1 - Plans
- 2 Sketch Plans received after notice

**11.5 Box Hill Commercial Precinct & 5 Elland Avenue, Box Hill -  
Results of heritage investigation for possible inclusion in the  
Victorian Heritage Register (VHR)**

City Planning and Development  
Director, City Development  
FILE NUMBER: SF22/535  
ATTACHMENT

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**SUMMARY**

The purpose of this report is to respond to a Councillor Notice of Motion from the Council meeting on 22 November 2021. At the meeting Council resolved to receive a report from officers about investigating and possibly nominating the following buildings to the Victorian Heritage Register (VHR):

- 920-922 Whitehorse Road, Box Hill
- 924 Whitehorse Road, Box Hill
- 926 Whitehorse Road, Box Hill
- 928 Whitehorse Road, Box Hill
- 930 Whitehorse Road, Box Hill
- 932 Whitehorse Road, Box Hill
- 934 Whitehorse Road, Box Hill
- 942-946 Whitehorse Road, Box Hill
- 948 Whitehorse Road, Box Hill
- 950-956 Whitehorse Road, Box Hill
- 5 Elland Avenue, Box Hill

The Notice of Motion was prompted by a proposal by the Suburban Rail Loop Authority (SRLA) to acquire and demolish an entire block of buildings bordered by Whitehorse Road, Market Street, Main Street and Station Street (with the exception of the former Railway Hotel building on the north east corner). This project proposes the demolition of properties covered by a local Heritage Overlay (HO244 and HO91) in the Whitehorse Planning Scheme. The cleared site will be used as a construction and laydown area during the construction phase of the Suburban Rail Loop (SRL) project (see **Figure 1**).

In January 2022 Landmark Heritage Pty Ltd were appointed to undertake a review of the heritage properties under threat and to consider whether they might warrant inclusion in the VHR, either individually or as a group (precinct). The scope of the study also included a single old English style house at 5 Elland Avenue Box Hill, which was first identified as a 'potential' heritage place in the 2001 Whitehorse Heritage Review prepared by Andrew Ward, but not included in the Heritage Overlay under the Whitehorse Planning Scheme.

**11.5**  
(cont)

The investigation by Landmark Heritage Pty Ltd involved undertaking comparative examples both within Whitehorse and adjoining municipalities, site visits and the preparation of a report of the findings available at **Attachment 1**. The report concluded that the heritage precinct (HO244) and the three individual places (HO91, HO92 and 5 Elland Avenue) are not of State-level heritage significance, so should not be nominated to the VHR.

**RECOMMENDATION**

That Council:

1. Receive and note the findings of the Box Hill Commercial Precinct Heritage Assessment, April 2022, prepared by Landmark Heritage Pty Ltd at Attachment 1.
2. While noting that the subject properties are not considered to be of State level heritage significance, continue to advocate for the protection of buildings within the Box Hill Commercial Precinct that are of local heritage significance.

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**KEY MATTERS**

Since becoming aware of the SRL project, Council has strenuously opposed the demolition of those properties covered by a local Heritage Overlay in the Whitehorse Planning Scheme. These places were identified in the *Whitehorse Heritage Review 2021* (the 2001 Review) prepared by Coleman Architects Pty Ltd.

The 2001 Review identified these places as having historical significance as a representative collection of commercial buildings that reflect the development of the business centre of Box Hill from the 1890s to 1945. The Box Hill Commercial Precinct was also identified as being of aesthetic significance for its collection of diverse building styles as applied to commercial buildings. The precinct overlay was applied through Whitehorse Planning Scheme Amendment C157 that was gazetted on 4 August 2016.

The heritage overlays in the Box Hill commercial area and the broader traditional commercial core has also influenced the existing Box Hill Transit City Activity Centre Structure Plan 2007 (the Structure Plan) and the recently revised Box Hill Metropolitan Activity Centre to 2036 DRAFT Structure Plan 2021 and the Box Hill Metropolitan Activity Centre to 2036 DRAFT Urban Design Framework 2021. Envisaging modest change in the heritage precinct, these documents identify the heritage places as part of the 'traditional town centre.' This approach is considered to provide a sense of connection to community, to the past and to lived experiences. In the midst of enormous change in Box Hill over past decades, these buildings serve as a story that tells where we have come from.

**11.5**  
(cont)

***Levels of heritage protection***

Places and objects of cultural heritage significance can be protected and managed through one or more of four statutory mechanisms. The mechanism that protects the largest number of places of cultural heritage significance is the Heritage Overlay under a local planning scheme. At the other end of the spectrum, one place in Victoria (the Royal Exhibition Building & Carlton Gardens) is inscribed in the World Heritage List for its outstanding universal value.

The Heritage Council of Victoria sets out the criteria and threshold guidelines for inclusion on the VHR. The significance threshold determines the level of cultural heritage significance a place or object has and what mechanisms can therefore be used to protect and manage it. As a general principle:

- A place that is of heritage value to a locality or municipality has the potential to be recognised as being of local cultural heritage significance (and may be included in the Heritage Overlay of the local planning scheme);
- A place or object that is of heritage value to wider Victoria has the potential to be recognised as being of state level cultural heritage significance (and may be included in the VHR);
- A place with outstanding heritage value to the nation has the potential to be recognised as being of national heritage significance (and may be included in the National Heritage List); and
- A place that is of outstanding universal value has the potential to be recognised as being of world heritage significance (and may be inscribed on the World Heritage List).

The investigation carried out by Landmark Heritage concluded that while the Box Hill Commercial Precinct, including the individually significant Colonial Gas Association Building (HO91) and the former Railway Hotel (HO92) are of local heritage significance, these places are not of State-level heritage significance, so should not be nominated to the VHR.

The report by Landmark Heritage concluded that the house (and garage) at 5 Elland Avenue are highly intact and illustrate a creative and non-academic approach to the 1930s Old English style. The comparative analysis undertaken has demonstrated that it is one of the more interesting examples of this style in the municipality. Despite this it is clear, however, that it is not of State heritage significance for its architectural design.

While the house at 5 Elland Avenue would potentially be regarded as representative of the Old English style, its location in a highly altered streetscape, the lack of a specific assessment in the past despite the Box Hill area being reviewed multiple times, might count against its inclusion in the local HO at this stage. There are therefore no immediate plans to revisit this property for inclusion in a local heritage overlay.

**11.5**  
(cont)

**STRATEGIC ALIGNMENT**

The additional investigation of heritage properties under threat of demolition in the Box Hill Commercial Precinct supports Strategic Direction 4: *Our built environment, movement and public places*, of the Council Plan.

This further investigation by Landmark Heritage Pty Ltd better informs Council's advocacy around the future development of Box Hill and the impacts of the State government's SRL project. If the subject properties had met the threshold for inclusion on the VHR Council would be in a stronger position to advocate for their protection with the support of Heritage Victoria.

**Policy**

The State and regional policies in the Planning Policy Framework of the Whitehorse Planning Scheme are of relevance to this report as outlined below:

- Clause 15 (Built Environment and heritage) promotes that planning should protect places and sites with significant heritage, architectural, aesthetic, scientific and cultural value. The proposed demolition of the heritage buildings and subsequent loss of sense of place prompted the further exploration of these properties to determine whether they warranted a greater level of protection.
- Clause 15.03-1S (Heritage conservation) promotes the conservation of places of heritage significance by encouraging appropriate development that respects places with identified heritage values. Council has advocated for the conservation of the heritage places and sought additional expert advice to determine whether greater protection is warranted.

The Local Planning Policy Framework (LPPF), includes the following clauses of relevance to this report:

- Clause 21.05-2 identifies heritage protection as a key issue in protecting the built and visual amenity of Whitehorse. Council's advocacy in relation to protecting the Box Hill Commercial Precinct aligns with the objective (21.05-3) of protecting and enhancing areas with special natural, environmental, cultural or historic significance for the future enjoyment of the community.
- Clause 22.01 applies to all heritage places within the City of Whitehorse which are subject to a heritage overlay and other heritage buildings identified by Council and where a planning permit is required, this policy also applies to development on properties adjacent to Heritage Overlays.

**11.5**  
(cont)

**BACKGROUND**

On 28 August 2018 the Premier of Victoria released a statement in relation to a new underground rail network circling Melbourne's suburbs. The statement announced that the south eastern section will run underground between Cheltenham and Box Hill and include six new underground stations – four underground interchanges with existing lines, and two potential new stations at the Monash Clayton and Deakin Burwood precincts.

In October 2021 more explicit information was shared with Council in relation to the location of proposed stations. This information included the plan to demolish the heritage buildings on Whitehorse Road between Station Street and Market Street to make way for the construction of the SRL project. Over the course of months Council vigorously opposed the proposed demolition and advocated for a redesign of the project to allow their retention.

In November 2021 Council resolved to receive a report from officers about investigating and potentially nominating the Box Hill Commercial Heritage Precinct and the interwar residence at 5 Elland Avenue, Box Hill (identified as having potential heritage) for inclusion in the VHR. If warranted, the inclusion of these buildings on the VHR would ultimately offer greater protection from demolition.

In February 2022 Landmark Heritage provided the findings of their investigation into the subject properties and recommended that no further action be taken in nominating properties to the VHR.

**SUPPORTING REPORT DETAILS**

**Legislative and Risk Implications**

There are no legislative or risk implications arising from the recommendation contained in this report.

**Equity, Inclusion, and Human Rights Considerations**

In developing this report to Council, the subject matter has been considered in accordance with the requirements of the *Charter of Human Rights and Responsibilities Act 2006*.

It is considered that the subject matter does not raise any human rights issues.

**Community Engagement**

No community engagement was required for this report.

**Financial and Resource Implications**

There are no financial or resource implications arising from the recommendation contained in this report.

**11.5**  
(cont)

**Innovation and Continuous Improvement**

There are no Innovation and Continuous Improvement matters arising from the recommendation contained in this report.

**Collaboration**

No collaboration was required for this report.

**Discussion and Options** The investigation carried out by Landmark Heritage concluded that while the Box Hill Commercial Precinct, including the individually significant Colonial Gas Association Building (HO91) and the former Railway Hotel (HO92) are of local heritage significance, these places are not of State-level heritage significance, so should not be nominated to the VHR.

The report by Landmark Heritage also concluded that while the house (and garage) at 5 Elland Avenue are one of the more interesting examples of English Revival style, that is not particularly well represented in the City of Whitehorse, it is not of State heritage significance for its architectural design.

Although the house at 5 Elland Avenue does not meet the criteria and threshold guidelines for inclusion on the VHR, it was identified as having potential heritage significance in the 2001 Whitehorse Heritage Review prepared by Andrew Ward, but has not been further assessed for inclusion in the local heritage overlay in the planning scheme. The property remains however on Council's potential heritage list for investigation, subject to funding becoming available.

Advice from Council's Heritage advisor is that historically, 5 Elland Avenue is one of very few pre-WW2 houses surviving in the immediate area, but having been constructed in the interwar period would not necessarily be representative of residential development in the area which developed much earlier (i.e. it is a relative late-comer to the area).

Further to this, the house at 5 Elland Avenue it is not considered to be a particularly outstanding example of the English Revival style, which probably accounts for the 'C' grading it was given in its identification by Andrew ward in 2001. While it would potentially be regarded as representative of the style, its location in a highly altered streetscape, the lack of a specific assessment in the past despite the Box Hill area being reviewed multiple times, might count against its inclusion in the local HO at this stage.

It is Council's understanding that all heritage buildings and structures to be demolished would be subject to an archival photographic recording by the SRLA before demolition and opportunities to recognise, document and interpret the historical and social associations of the sites would be explored with relevant stakeholders including Heritage Victoria and local governments.



**11.5**  
(cont)

**Conflict of Interest**

Council officers involved in the preparation of this report have no conflict of interest in this matter.

**Conclusion**

This report responds to a Councillor Notice of Motion from the Council Meeting on 22 November 2021. It attaches a report prepared by a qualified heritage specialist confirming that those buildings in the Box Hill Commercial precinct that are affected by a local heritage overlay do not meet the threshold for inclusion on the VHR. It confirms also that the house at 5 Elland Avenue Box Hill does not meet the threshold for inclusion on the VHR.

Any application to the Heritage Council of Victoria to include these properties on the VHR is unlikely to be supported and should not be pursued.

**ATTACHMENT**

- 1 Heritage Assessment Box Hill Commercial Precinct and 5 Elland Avenue Box Hill prepared by Landmark Heritage Pty Ltd

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## **11.6 Bi-annual Audit and Risk Committee Report**

Governance and Integrity  
Director, Corporate Services  
ATTACHMENT

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### **SUMMARY**

This report provides an update on the Audit and Risk Committee activities from October 2021 to March 2022.

Under Section 54(5) of the Local Government Act 2020, the Audit and Risk Committee must prepare a biannual report which the Chief Executive Officer must table at the Council meeting. This bi-annual audit and risk report describes the activities of the Committee and includes its findings and recommendations.

### **RECOMMENDATION**

That Council Note the Bi-annual Audit and Risk Committee Report.

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### **KEY MATTERS**

The key objective and purpose of the Audit and Risk Committee is to “provide independent advice and assistance to the Council and Chief Executive Officer on the City’s risk, control and compliance framework, and its external accountability and legislative compliance responsibilities”.

Meetings of the Council’s Audit and Risk Committee were held on 22 November 2021 and 21 March 2022. Apologies were tendered by two different members for the May and September meetings, otherwise all members of the Audit and Risk Committee were present for the three meetings together with the CEO, all Directors and other officers as required.

The purpose of this report is to brief the Council on the key proceedings and outcomes of the Committee’s activities, provide general commentary on key recommendations/observations received from the Auditor General and/or internal auditors, as well as provide opportunity for discussion and review of the audit program, litigation matters, fraud prevention and awareness program. Additionally, this will provide a forum for discussion between the Committee Chair, Councillors and Executive regarding any other audits as required. Strategic Alignment

Objective 8.3: Good Governance and Integrity

### **Policy**

Audit and Risk Committee Charter

**11.6**  
(cont)

**SUPPORTING REPORT DETAILS**

**Legislative and Risk Implications**

Under Section 54(5) of the Local Government Act 2020, the Audit and Risk Committee must prepare a biannual report which the Chief Executive Officer must table at the Council meeting. This bi-annual audit and risk report describes the activities of the Committee and includes its findings and recommendations.

**Equity, Inclusion, and Human Rights Considerations**

It is considered that the subject matter does not raise any human rights issues.

**Community Engagement**

No community engagement was required for this report.

**Financial and Resource Implications**

There are no financial or resource implications arising from the recommendation contained in this report.

**Innovation and Continuous Improvement**

Internal Audits raise matters and actions for Council to address and improve processes and systems.

**Collaboration**

All members of the Audit and Risk Committee were consulted in preparation of this report.

**Discussion and Options**

This report to Council is required under Section 54(5) of the Local Government Act 2020.

**Conflict of Interest**

Council officers involved in the preparation of this report have no conflict of interest in this matter.

**Conclusion**

The Council is to note this report as required under Section 54(5) of the Local Government Act 2020. Similar reports will be provided to the Council on a six monthly basis.

**ATTACHMENT**

- 1 Whitehorse City Council 6 month ARC Report to March 2022

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## **11.7 Quarterly Performance Report January to March 2022**

Finance and Corporate Performance  
Director, Corporate Services  
ATTACHMENT

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### **SUMMARY**

The purpose of this report is to brief Council on the performance against the Council Plan 2021-2025 and the Annual Budget 2021/2022 for the quarter ended 31 March 2022.

### **RECOMMENDATION**

That Council notes the Quarterly Performance Report for the quarter ended 31 March 2022, as attached.

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### **BACKGROUND**

Pursuant to section 97 of the Local Government Act 2020, the Quarterly Performance Report provides a quarterly budget report including details and commentary on Council's year to date performance compared to budget, year-end projection, cash and other key balance sheet items for the year to date ended 31 March 2022.

The Quarterly Performance Report also includes a high level summary of Council's performance against major initiatives, initiatives, and services identified in the Annual Plan, which is part of the Adopted Budget 2021/2022. These are significant projects that will directly contribute to the achievement of the Council Plan 2021-2025 and have a major focus on the budget. They may include actions that are once-off in nature and/or lead to improvements in services.

### **DISCUSSION**

#### **Performance against Council Plan**

Using a combination of the Council Plan 2021-25, and the Adopted Budget 2021/2022, 74 significant initiatives have been identified that contribute to the achievement of the strategic directions and goals of Council. Of the 74 initiatives being reported on this quarter, 5 are complete, 57 are on track, 5 are behind schedule, 1 needs further work, 3 are yet to be started and 3 have been deferred.

#### **Performance against Annual Budget**

The year to date (YTD) financial result at 31 March 2022 was a surplus of \$51.93m, \$3.60m favourable to the Adopted Budget. Income was \$9.03m unfavourable and expenditure was \$12.63m favourable to budget. The variances are predominantly due to service closures and reduced demand as a result of the COVID-19 pandemic restrictions during the year, and decreased costs relating to delays in recruitment of new and vacant positions. The year to date impact of the pandemic on Council's net result at 31 March was \$5.82m which brings the inception to date impact to \$19.19m.

**11.7**  
(cont)

Council completed a major forecast review during September 2021 to take into account the impact of the COVID-19 pandemic and other changes that had arisen since the Budget was adopted. The full year forecast is presenting a surplus of \$8.22m, \$8.39m unfavourable to budget. This is made up of a reduction in income of \$8.50m and a reduction in expenditure of \$0.12m. Due to the significant impact of COVID-19, this revised forecast has been used as the new baseline for reporting for the rest of the financial year.

**ATTACHMENT**

- 1 Quarterly Performance Report - Quarter 3 2021/22

## 11.8 Records of Informal Meetings of Councillors

### RECOMMENDATION

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

| <b>Councillor Informal Briefing 09.05.22 6.30pm-6.45pm</b>  |  |   |
|---|--|---|
| <b>Matter/s Discussed</b>   | <b>Councillors Present</b>   | <b>Officers Present</b>   |
| <ul style="list-style-type: none"> <li>Public Presentations</li> <li>Public Questions</li> <li>Urgent Business – Item 10.1 Victorian Planning Schemes by Planning Scheme Amendment VC176 ('the amendment'), which amended Clause 52.12 (Bushfire Protection Exemptions)</li> <li>11.1 Tender Evaluation (Contract 30326) Morack Golf Course Redevelopment</li> <li>11.2 Response to Petition for Netball Court at Springfield Park</li> <li>11.3 Review of Council Delegations to Council Staff</li> <li>11.4 Records of Informal Meetings of Councillors</li> <li>12.1 Reports by Delegates</li> </ul> | Cr Liu (Mayor & Chair)<br>Cr Massoud (Deputy Mayor)<br>Cr Barker<br>Cr Carr<br>Cr Cutts<br>Cr Davenport<br>Cr Lane<br>Cr McNeill<br>Cr Skilbeck<br>Cr Stennett | S McMillan<br>J Green<br>L Letic<br>S Cann<br>S White<br>S Sullivan<br>V Ferlaino<br>E Outlaw<br>P Cummings |
| <b>Disclosures of Conflict of Interest</b>  | None Disclosed   |   |
| <b>Councillor /Officer attendance following disclosure</b>  | None Disclosed   |   |

**11.8**  
(cont)

| <b>Councillor Briefing 16.05.22 6.32pm-8.28pm</b>          |  |  |
|--|--|--|
| Matter/s Discussed   | <b>Councillors Present</b>   | <b>Officers Present</b>  |
|  | Cr Liu (Mayor & Chair)<br>Cr Massoud (Deputy Mayor)<br>Cr Barker<br>Cr Carr<br>Cr Cutts<br>Cr Davenport<br>Cr Lane<br>Cr McNeill<br>Cr Skilbeck<br>Cr Stennett | S McMillan<br>J Green<br>L Letic<br>S Cann<br>S White<br>S Sullivan<br>E Outlaw<br>C Altan<br>A Egan<br>K Marriott<br>P Sutton<br>J Cardamone<br>E Roberts<br>P Cumming<br><b>External</b><br>M Said |
| <b>Disclosures of Conflict of Interest</b>                 | None Disclosed   |  |
| <b>Councillor /Officer attendance following disclosure</b> | None Disclosed   |  |

## **12 Councillor Delegate And Conference / Seminar Reports**

### **12.1 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.

### **13.2 Reports on Conferences/Seminars Attendance**

#### **RECOMMENDATION**

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

## **13 CONFIDENTIAL REPORTS**

Nil

## **14 Close Meeting**