



# Whitehorse City Council

## AGENDA

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### **Council Meeting**

on

**Monday 26 August 2024 at 7.00pm**

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

**Members:**      Cr Denise Massoud                      Mayor  
                     Cr Andrew Davenport                  Deputy Mayor  
                     Cr Blair Barker  
                     Cr Raylene Carr  
                     Cr Prue Cutts  
                     Cr Mark Lane  
                     Cr Tina Liu  
                     Cr Amanda McNeill  
                     Cr Andrew Munroe  
                     Cr Trudy Skilbeck  
                     Cr Ben Stennett



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## AGENDA

### 1 Welcome

#### 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.**

#### Acknowledgement of Country

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 Apologies

### 3 Disclosure of Conflicts of Interest

### 4 Confirmation of Minutes of Previous Meeting

Minutes of the Council Meeting 12 August 2024

#### RECOMMENDATION

That the minutes of the Council Meeting 12 August 2024 be confirmed.

### 5 Urgent Business

### 6 Requests to Speak

### 7 Public Question Time

### 8 Petitions

**9 Notices of Motion**

**9.1 Notice of Motion - Fair Access - Cr Davenport**

That Council:

Receives a report from officers on the feasibility of utilizing modular portable change rooms at sporting facilities, to enhance fair access to community sports.

**10 Council Reports**

**10.1 163-165 Central Road, Nunawading (Lot 2 PS 737975)–  
Amendment to Planning Permit WH/2016/650 (issued for  
Extension of an existing residential building, buildings and  
works to use and develop a retirement village and associated  
tree removal and waiver of bicycle parking requirements) for  
the construction of (2) two carports.**

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**Department**

City Planning and Development

Director City Development

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WH/2016/650/B  
Attachment

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**SUMMARY**

This application proposes to amend Planning Permit WH/2016/650 (issued for *Extension of an existing residential building, buildings and works to use and develop a retirement village and associated tree removal and waiver of bicycle parking requirements*) through changes to the endorsed plans for the construction of two (2) carports, and alter the Waste Management Plan. The application was advertised, and a total of 17 objections were received. The objections raised the following issues:

- Non-compliance with the current Planning Permit and endorsed plans.
- Non-compliance with the endorsed Waste Management Plan.
- Justification for the proposal as it is unclear what vehicles will utilise the western carport and whether the carports are necessary.
- Potential traffic generation from the new carports and excessive on-street parking generated from construction workers.
- Environmental issues including views of the natural environment being adversely impacted by the western carport, insufficient landscaping around the proposal and light pollution.
- Concerns related to adjacent sites and their significant tree removal and absence of landscaping.

A Consultation Forum was held on 07 December 2023 chaired by Ward Councillor Mayor Denise Massoud, and attended by 4 objectors, the applicant and planning officers 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.

Whilst it is acknowledged that objectors have raised issues more broadly with the site and its perceived non-compliance with permit conditions, this proposal can only be assessed against those components of the planning scheme that trigger the requirement of a Planning Permit.

## 10.1 (cont)

It is recommended that the application be supported, subject to conditions.

**RECOMMENDATION**

That Council:

- A. Being the Responsible Authority, having caused Application WH/2016/650/B for 163-165 Central Road, NUNAWADING (Lot 2 PS 737975) to be advertised and having received and noted the objections is of the opinion that the amending of a Planning Permit for the construction of two (2) carports is acceptable and should not unreasonably impact the amenity of adjacent properties.
- B. Issue a Notice of Decision to Amend a Permit under the Whitehorse Planning Scheme to the land described as 163-165 Central Road, NUNAWADING (Lot 2 PS 737975) for the construction of two (2) carports, subject to the following new or amended conditions:

**Amended condition 1**

- Before the development starts, or any trees or vegetation removed, amended plans (submitted in digital form) shall be submitted to and approved by the Responsible Authority. The plans must be drawn to 1:100 scale, with dimensions, and be generally in accordance with the plans submitted with the application but modified to show:
  - m) The details shown on the Revision B development plans prepared by Outdoor Impressions dated 20/05/2024, to be implemented into the endorsed development plans dated 17/10/2017.
  - n) The length of carport 2 accurately reflecting the three (3) car parking spaces available within the currently endorsed plans;
  - o) A schedule of material and colours to a colour scheme chosen from suitably muted and non-reflective palettes to ensure the carport structures do not detract from the surrounding landscape.

**Amended condition 9 ((a) xxix-xxx)**

- a) Tree protection zone distances:
- xxix. Tree B (*Paulownia tomentosa*) – 5.8 metre radius from the centre of the tree base.
  - xxx. Tree D (*Liquidambar styraciflua*) – 3.6 metre radius from the centre of the tree base.

**Amended condition 10 (g-k)**

## 10.1 (cont)

- g) The applicant must provide to the Relevant Authority a letter of engagement from a selected Project Arborist. The Project Arborist must have a minimum AQF Level 5 Diploma Qualification in Arboriculture or be able to demonstrate the relevant experience to be appointed as the Project Arborist. The Project Arborist must be always onsite whilst undertaking any excavation works where within the TPZ area of the protected Trees 28, 29, 39, 40, B and D.
- h) The Project Arborist must maintain a log of all site visits and the log needs to include brief detailing and photographic records of all excavation works where within the TPZ of any protected trees. The log must be made available to the responsible authority within 24 hours of any request.
- i) Where the proposed post pad hole excavation works are within the TPZ & SRZ radius of Trees 28, 29, 39, 40, B and D it must be excavation by using a non-root destructive excavation method such as hand-digging or hydro-excavation, to a depth of at least 600mm and for the width of the pad. The pad holes are to be discrete in their final location and be positioned away from major roots (greater than 40mm).
- j) No major roots (greater than 40mm in diameter) are to be cut or damaged during any part of the construction process and the pad footing holes must be repositioned away from any major roots.
- k) Any root severance of roots less than 40mm in diameter must be undertaken by the Project Arborist using clean, sharp, and sterilised root pruning equipment.

**Insert new Melbourne Water conditions 38 – 42**

38. A Build Over application must be submitted online for Melbourne Water's review and approval prior to finalising plans and prior to any construction of permanent or temporary structures, demolition of structures existing structures or tree removal within 5 metres of a Melbourne Water asset:
- a) Details for temporary structures (e.g. Light weight sheds, fences, paving) must include:
    - i. Structures are to be designed as a simple pinned connection that facilitates for ease of removal within a reasonable time of less than 4 hours for two people;
    - ii. Method for removal of the structure must not require the use of plant and equipment such as cranes, scaffolding or elevated work platforms;
    - iii. Footings must not exceed a 600mm x 600mm square pad footing, and maintain a minimum lateral clearance of 500mm from the outside edge of the drain;
    - iv. Footings must be independent and self-supporting;

## 10.1 (cont)

39. Carport 1 must be constructed as fully demountable (in sections), lightweight and open. remain unenclosed for the life of the structure. It must have a flat roof.
40. New landscaping within 5 metres of the asset must comply with Melbourne Water's Planting Guidelines. A Plant near sewers, drains, waterways and water mains application detailing of any landscaping will need to be submitted. Details to be submitted shall include:
- a) Species and locations of trees to be planted.
  - b) Details of any hardstand areas, including paved and concrete areas.
  - c) Fencing details including footings/posts.
41. Any new or modified stormwater connection shall be made to Council's drainage system. In the event that connection cannot be made to Council's system a separate application is necessary for any new or modified stormwater connection or alteration to Melbourne Water's drainage system (i.e. junction pits) and shall require approval from Melbourne Water. Evidence will need to be provided by Council regarding the legal point of discharge.
42. No services are to be installed across any Melbourne Water Asset or within any easements or owned land that are in favour of Melbourne Water unless approval in writing has been granted by Melbourne Water. A separate Utility Installation application will need to be submitted.

**Re-number old conditions 38 and 39 to become 43 and 44**

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



## 10.1 (cont)

MELWAYS REFERENCE 48 D11

Applicant: KM Town Planning

Zoning: Clause 32.09 Neighbourhood Residential Zone – Schedule 1  
Clause 32.09 Neighbourhood Residential Zone – Schedule 3

Overlays: Clause 42.01 Environmental Significance Overlay – Schedule 1

Clause 42.03 Significant Landscape Overlay – Schedule 2

Clause 42.03 Significant Landscape Overlay – Schedule 5

Clause 42.03 Significant Landscape Overlay – Schedule 9

Clause 44.05 Special Building Overlay

Clause 45.06 Development Contributions Plan Overlay –

Schedule 1

Relevant Clauses:

Clause 12 Environment and Landscape Values

Clause 15 Built Environment and Heritage

Clause 21.05 Environment

Clause 22.04 Tree Conservation

Clause 52.06 Car Parking

Clause 65 Decision Guidelines

Ward: Lake



**Aerial Image of subject site – Location of proposed carports circled in red.**

## 10.1 (cont)

**BACKGROUND****History**

Planning Permit application WH/2016/650 proposed the Extension of an existing residential building, buildings and works to use and develop a retirement village and associated tree removal and waiver of bicycle parking requirements and was advertised with 25 objections. The application was determined for approval at a Council meeting in May 2017.

Planning Permit WH/2016/650 was issued on 26 June 2017 and plans were endorsed on 19 December 2017.

An application for amendment to planning permit WH/2016/650 proposed to amend the permit conditions to allow staging of development and some changes to the approved development. An amended Planning Permit Amendment WH/2016/650 was approved on 17 October 2017.

A further amendment to Planning Permit WH/2016/650 has been lodged on 29/07/2024. No assessment of this application has been undertaken as of 6<sup>th</sup> of August 2024.

**The Site and Surrounds**

The subject site comprises two lots known as 163-165 and 175 Central Road Nunawading, with the lots located on the north side of Central Road, in Blackburn. The subject site is an irregular shaped lot and has a primary frontage to Central Road of approximately 269m and comprises an area of 2.6 hectares.

The subject site is undulating and has an overall fall of approximately 9m from the south-east corner to the north-west corner. There are two (2) 2.44-metre-wide drainage easements that run from the southwestern boundary up to the north of the site.

The subject site fronts Central Road to the south and backs onto the Belgrave /Lilydale train line to the north. Residential land abuts the site to the east and west. Blackburn Lake Sanctuary is located to the southwest of the site on the opposite side of Central Road.

The subject site comprises the Nunawading Christian College in the northern portion, the AdventCare Residential Aged Care Facility and the Seventh Day Adventist Church in the southern portion.

The Special Building Overlay covers a narrow portion of the subject site running diagonally from the southwestern boundary to the northeastern boundary of the subject site.

The Environmental Significance Overlay Schedule 1 and Significant Landscape Overlay Schedule 5 covers the majority of the subject site excluding the southeastern area.

With the immediate context, the following is noted:

## 10.1 (cont)

South

The southern boundary is bordered by Central Road with land located on the opposite (southern) side of Central Road being located within the Neighbourhood Residential Zone. These properties generally contain single dwellings which are orientated north towards Central Road.

East

The proposed carports are located centrally within the site with Carport 1 setback of 11.15 metres to the eastern boundary. Land to the east of Carport 1 falls within the Neighbourhood Residential Zone and is occupied by single dwellings oriented east towards Brenda Court.

West

The land west of Carport 2 comprises a setback of approximately 60m to the western boundary. To the west, land is used for residential purposes associated with Blackburn Pavilions Retirement Village.

North

North of the proposed carports is land associated with the aged care facility, comprising landscaping areas and various buildings. Further north are areas associated with the Nunawading Christian College campus. Carport 1 has a setback of 275.7 metres and Carport 2 has a setback of 310.2 metres from the northern boundary which interfaces with the railway line.

**Planning Controls**Neighbourhood Residential Zone, Schedule 1 & 3 (NRZ 1 & 3)

The site is within the Neighbourhood Residential Zone, Schedules 1 and 3.

Under Schedules 1 and 3 of the Neighbourhood Residential Zone, the use of the land for accommodation is a Section 2 (permit required) land use.

Pursuant to Clause 32.09-10 of the Whitehorse Planning Scheme, *a permit is required to construct a building or construct or carry out works for a use in Section 2 of Clause 32.09-2* Therefore, a Planning Permit is triggered under the zone.

As shown in Figure 1, Carport 1 is located within the Neighbourhood Residential Zone – Schedule 1 and Carport 2 is located within the Neighbourhood Residential Zone – Schedule 3.

**Figure 1:** Location of proposed carports in relation to the NRZ Schedule 1 and 3. The location of the carports are indicated with yellow stars. Carport 1 is located on the left and Carport 2 is located on the right.

## 10.1 (cont)



Figure 1

**Source:** Planning Report prepared by Outdoor Impression dated 20 May 2024.

Environmental Significant Overlay – Schedule 1 (ESO1)

Under Schedule 1 of the Environmental Significant Overlay, a *permit is required to construct a building or construct or carry out works.*

With only the north-western area of the proposed development site being covered by the ESO, only Carport 1 triggers the need for a planning permit under the Environment Significant Overlay. Please refer to Figure 2.

**Figure 2:** Location of proposed carports in relation to the ESO Boundary.



Figure 2

**Source:** Council's mapping system Weave

## 10.1 (cont)

Significant Landscape Overlay – Schedule 5 (SLO5)

Under Schedule 5 of the Significant Landscape Overlay, *a permit is required to construct a building or carry out works within 4m of a tree protected under the provisions of the SLO5.*

With only the north-west and south-western portions of the proposed development site being covered by the SLO5, only Carport 1 triggers the need for a Planning Permit under the Significant Landscape Overlay – Schedule 5 as it is located within 4.0m of protected trees.

Significant Landscape Overlay – Schedule 9 (SLO9)

Under Schedule 9 of the Significant Landscape Overlay, *a permit is required to construct a building or carry out works within 4m of a tree protected under the provisions of the SLO9.*

Schedule 9 applies to the south-eastern portion of the proposed development site, covering the area associated with Carport 1. No tree removal and/or buildings and works are proposed within 4 metres of SLO9 protected trees, as such a Planning Permit is not triggered under Schedule 9 to the Overlay.

Special Building Overlay (SBO)

Under the Special Building Overlay (SBO), *a permit is required to construct a building or to construct or carry out works.*

Only Carport 1 triggers for a need for a Planning Permit under the Special Building Overlay.

Development Contributions Plan Overlay – Schedule 1(DCPO1)

Under Schedule 1 of the Development Contributions Plan Overlay, the following exemption applies to this application:

- *The construction of a building or carrying out of works or a subdivision that does not generate a net increase in demand units.*

As there is no net increase in demand units due to the proposed carport construction, the proposed development is exempt from the requirement to pay any development contribution under the Whitehorse Development Contributions Plan.

**PROPOSAL**

Application WH/2016/650/B proposes to amend the endorsed plans of the existing permit to allow for the construction of two (2) carports on the subject land of 163 – 165 Central Road Nunawading.

An amendment to the currently approved Waste Management Plan is also proposed to clarify collection times/frequency and to reflect that pick up times will accord with EPA Guidelines. The revised Waste Management Plan has been referred to Council's Waste Services Officer who raised no



## 10.1 (cont)

objection to the proposal. The revised Waste Management Plan can be endorsed as part of this recommendation.

The carports are proposed to be above the existing car parking spaces as the location shown in Figure 3 circled in red:

**Figure 3:** Location of two (2) proposed carports in the context of the site.

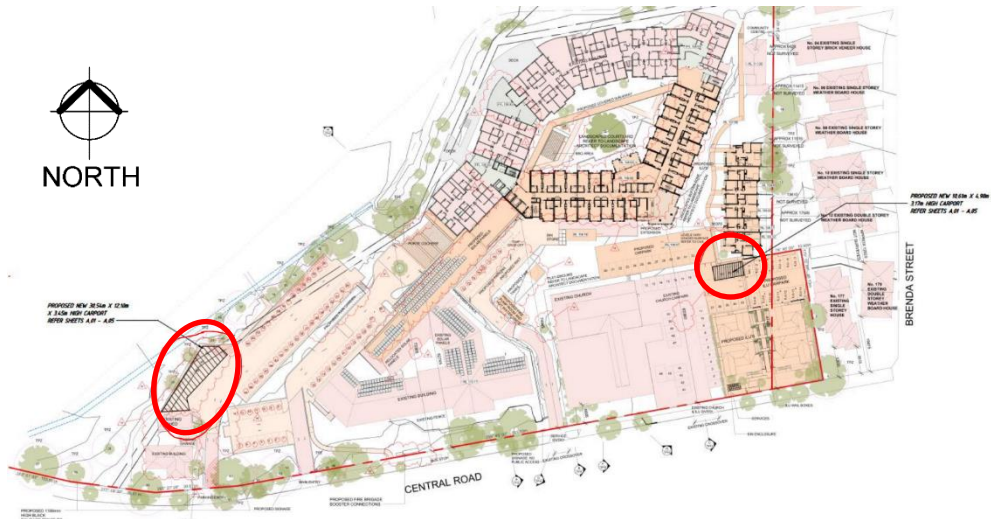


Figure 3

**Source:** Planning Report prepared by Outdoor Impression dated 20 May 2024.

The carport located towards the western boundary of the site is referred to 'Carport 1' and the carport located towards the eastern boundary of the site is referred to 'Carport 2'. The carports will be located above existing hard-surfaced car parking areas, and they do not propose any additional car parking spaces. The purpose of the carports is to provide shelter to motor vehicles on the site. The details of the proposed carports are found below:

### Construction Materials

The proposed carports will include the following materials:

- Colorbond steel beams
- SHS steel posts
- Round downpipes connecting to existing stormwater
- Outback roof
- Edge gutter
- Concrete footings

### Carport 1

The proposal has a length of 30.54 metres, a maximum depth of 12.1 metres. The maximum height of the structure would be 3.45 metres with a flat roof utilising a 1-degree pitch atop the existing car parking spaces.

### 10.1 (cont)

This proposed carport would be set back from the northern boundary (rear) 24.61 metres and a setback from the southern boundary (Central Road) 29.52 metres.

#### Carport 2

The proposal would have a length of 10.61 metres, a depth of 4.9 metres and a height of 3.17 metres and has a flat roof with a 2-degree pitch. The carport has a setback from the eastern boundary (side) of 11.15 metres and a setback from the southern boundary (front) of 40.94 metres.

## **CONSULTATION**

### **Public Notice**

The application was advertised by mail to the adjacent and nearby property owners and occupiers and by erecting one (1) notice board along the Central Road frontage. Following the advertising period 17 objections were received. The issues raised by objectors can be summarised as follows:

#### Non-compliance with Planning Permit WH/2016/650 and the endorsed plans

- The development has not been undertaken in accordance with the endorsed plans in the following areas: addition of a pump house, water tanks and emergency generator, and a playground and landscaping have not been installed.
- The submitted plans include several areas of non-compliance with the endorsed plans, including the layout of the paved car park below the western carport, and the number of car spaces below the eastern carport.
- The emergency generator is not acoustically shielded as required by Condition 17 of the Permit.
- Fume/steam pipes are visible from the street and should be screened.

#### Non-compliance with the Waste Management Plan

- Delivery and waste vehicles are accessing the site outside of the hours allowed by Condition 14 of the Permit, causing noise impacts to neighbours contrary to Conditions 11 and 16 of the Permit.
- Waste vehicles are not turning on site to exit forwards, as required by Condition 26 of the Permit.
- A pump house, boiler room, two large water tanks and a generator have been positioned in the bin storage area and these are preventing waste vehicles from turning on site to exit forwards.

#### Justification for the proposal

- There is no need for the proposed carports.
- It is unclear what vehicles will utilise the western carport.

## 10.1 (cont)

Traffic and car parking

- Traffic generation arising from the new carports.
- Excessive on-street parking demand is generated by the workers on the site.
- Waste vehicles reversing into Central Road may block the intersection of Central Road and Joyce Street.

Environmental Issues

- The western carport structure will have a negative visual impact on the neighbourhood and on the natural environment of the Gardiners Creek and Blackburn Lake Sanctuary.
- Loss of existing trees and loss of a permeable area providing run-off to the reserve.
- Light pollution from the site
- The use of daylight sensor is inappropriate. Lighting should be controlled by motion sensors to minimise the use of external lighting.
- Noise impacts associated with the emergency generator.
- Insufficient landscaping of proposed carports and other new structures such as the tanks.

Concerns related to adjacent sites:

- There has been significant tree removal from the Pavilions retirement village adjacent to the west, which should be off-set by replanting on the subject site.
- Landscaping around the Church has not been undertaken in accordance with the endorsed plans for that building.

**Consultation Forum**

A Consultation Forum was held on-line on 7 December 2023. The Ward Councillor, four (4) objectors, the applicant and Planning Officers attended the meeting. The meeting was chaired by Ward Councillor, Mayor Denise Massoud.

Key points discussed during the forum meeting related to the following items:

- Non-compliance with the Planning Permit and endorsed plans.
- Non-compliance with the endorsed Waste Management Plan.
- Justification for the proposal.
- Traffic and car parking.
- Environmental issues.
- Concerns related to adjacent sites.



### 10.1 (cont)

There was no resolution of issues at the Consultation Forum, however the enforcement concerns that had been raised as part of objections have been raised with Council's Planning Enforcement team for investigation.

## Referrals

### External

#### Melbourne Water

The application was referred to Melbourne Water under Section 55 of the *Planning and Environment Act 1987*. Melbourne Water raised no objection to the proposal subject to conditions.

### Internal

#### Planning Arborist

While the proposed building and works would be located within areas currently containing hardstand associated with existing car parking areas, Carport 1 would be located in proximity to Trees 28, 29, 39, 40 B and D and therefore the application was referred to council's arborist.

Council's Arborist raised no objection to the proposal subject to updated tree protection conditions.

#### Engineering and Environmental Services Department

- Transport Engineer

Council's Transport Engineer was generally supportive of the proposal and did not seek any changes or conditions.

- Waste Engineer

Council's Waste Engineer was supportive of the proposed changes.

## DISCUSSION

### Consistency with State and Local Planning Policies

The relevant State and Local Planning Policies that apply to this application are as follows:

- Clause 12 – Environment and Landscape Values
- Clause 15 – Built Environment and Heritage
- Clause 21.05 – Environment
- Clause 22.04 – Tree Conservation
- Clause 52.06 – Car Parking

---

10.1 (cont)

The assessment of how the proposal achieves the objectives of the above-mentioned planning policies is detailed below.

**Design and Built Form in the Landscape**

The subject site is within the Neighbourhood Residential Zone - Schedules 1 and 3 and therefore the proposed development must address the following purpose of the zone: *To manage and ensure that development respects the neighbourhood character, environmental and landscape characteristics.*

The proposed carports are modest in scale with the maximum height at 3.45 metres for Carport 1 and 3.17 metres for Carport 2. The height of Carport 1 will be below the predominant tree canopy height ensuring it will not create any silhouette within the wider landscape views. The simple design of the structure, while located forward of trees currently visible in views from Central Road through the site, would sit well below the canopy line, avoiding unreasonable impacts to the landscape setting of the wider area. This is generally in line with the objectives of Clause 21.05 as the proposal is of high-quality design that is compatible with the character of the surrounding landscape, does not impede on the existing environment and amenity and ensures there are sufficient views into the biodiverse and tree canopy areas.

Carport 1 would be 31.5 metres from the southern boundary and whilst the carport would be visible from the areas adjacent to the existing vehicle crossover connecting to Central Road, the view of the carport from the frontage is acceptable given the setback, open design of the structure and its modest height.

Carport 2 would not be highly visible from outside the subject site as there are existing buildings that will largely obstruct the view of the structure from Central Road or adjoining lots. Additionally, Carport 2 will not be visible from the eastern boundary of the site as there are residential properties impeding the view along Brenda Court. As there are taller buildings directly north of the location of the proposed carport, significant views of existing vegetation and the surrounding landscape will not be obstructed by the carport.

The carports would retain the side, rear and front setbacks from the site boundaries allowing space for landscaping, planting opportunities and open space use throughout the subject site.

The proposed buildings and works would retain an inconspicuous profile, would not dominate the existing landscape character and would integrate well with the existing structures and buildings. This is generally consistent with the objectives of Clause 15.01 as the proposal protects and enhance valuable views and vistas, minimises the detrimental impacts on the natural and built environment and ensures that sensitive interfaces such as the Pavilions Blackburn Lake are not adversely impacted. A condition of the permit, if issued, will require for the proposal to be finished with suitably muted colours to ensure the carports will appropriately respond to the landscape backdrop. This would be addressed through condition.

The following objectives of Clause 42.03 (SLO5) that will be addressed include:

## 10.1 (cont)

- *To ensure that buildings and works retain an inconspicuous profile and do not dominate the landscape.*
- *To ensure that development is compatible with the character of the area.*
- *To ensure that new development enhances and respects the vegetation and landscape qualities of the Blackburn Lake Sanctuary and surrounding residential area.*

The purpose of the Environmental Significance Overlay is to *ensure that development is compatible with identified environmental areas.*

Schedule 1 to the Environmental Significance Overlay has the following objectives:

- *To ensure the long-term protection of the very high conservation values of this site of botanical significance.*
- *To ensure that the very high habitat value of the site is not diminished by the incremental removal of remnant vegetation or inappropriate development.*
- *To ensure that any new development is sensitively designed and sited to reinforce the existing environmental characteristics of the site.*

The Environmental Significance Overlay only applies to the land where Carport 1 is proposed to be located. Therefore, only Carport 1 can be assessed against the statement, objectives and decision guidelines of the overlay.

The subject site holds environmental significance as it contains a remnant of the endangered Ecological Vegetation Class (EVC) - Valley Heathy Forest. The EVC has a very high conservation significance rating and habitat score in excess of 0.4 Habitat Hectares. Furthermore, the site plays an important role in contributing to the biodiversity of the area around Blackburn Lake environs. Therefore, it is important the development within the site is appropriately managed to ensure the long-term protection and sustainability of this biodiversity rich site. The proposed development addresses the above-mentioned objectives as Carport 1 would be located within established car parking areas avoiding areas that contain landscaping and more significant native vegetation, grasses, and remnants of the endangered Ecological Vegetation Class. This is generally in line with the objectives of Clause 12 as the proposal avoids impacts on the important areas of biodiversity that holds great significance, ensures protection of established vegetated areas and habitats and prevents the destruction of native vegetation.

Therefore, the statement of environmental significance, environmental objectives, and decision guidelines of the of the overlay have been appropriately addressed.

## 10.1 (cont)

**Tree Impacts and Environmental considerations**Tree Removal

The proposal is only for the construction of two (2) carports, no trees are proposed to be removed as a part of this amendment to the Planning Permit.

Buildings and Works

The application seeks to undertake buildings and works (associated with Carport 1) within 4 metres of trees protected under the provisions of SLO5, being Trees 28, 29, 39, 40, B and D.

The proposed carports will be built over an existing hard-surfaced area where the structural components of the carport will be inserted into the concrete and not into the natural ground. Hence, there will be no excavation works or site cut as part of the proposal, ensuring there will be no impacts to the existing trees and their long-term retention. This is generally in line with the objectives of Clause 22.04 as the proposal prevents the loss of significant trees and does not detract from the natural environment and ecological systems.

Tree protection measures such as fencing will be required by a condition of the permit to ensure the existing trees will be protected during the construction stage of the proposed carports.

Subject to the conditions prescribed by council's arborist, there will be no tree impacts as a result of the proposed development which is consistent with the objectives of Clause 42.03 (SLO5) and Clause 22.04 (Tree Conservation).

**Special Building Overlay**

The section of the development within the Special Building Overlay relates to Carport 1 only.

The application has been sent to Melbourne Water who raised no objection to the proposal subject to conditions which have been included in the recommendation to amend the existing permit. The new Melbourne Water requirements include the following items:

- Build over
- Carport demountable
- Landscaping/Earthworks
- Storm Water
- Utility Installation

Through implementation of the conditions required by Melbourne Water, it is considered that the purpose of the Special Building Overlay can be addressed.

## 10.1 (cont)

**Car Parking**

The provision of car parking was assessed and approved as part of the original application, this application does not seek to increase the number of car parking spaces provided on the site. It is not expected that the proposed carports would result in any change in traffic generation for this reason. This is generally consistent with objectives of Clause 52.06 as the proposal ensures the provision of an appropriate number of car parking spaces and ensures that car parking does not adversely affect the amenity of the locality.

Through the comparison of the original endorsed plans and the Revision B development plans prepared by Outdoor Impressions dated 20/05/2024, discrepancies have been identified regarding the design and provision of the car parking spaces. A condition of the permit will require the car parking spaces shown on the Revision B development plans to be consistent with the endorsed plans.

**Objectors Concerns**

This application proposes an amendment to Planning Permit WH/2016/650 to amend the endorsed plans for the construction of two (2) carports and amendment to the currently endorsed Waste Management Plan.

A portion of the objections raised as part of this application related to non-compliance with Planning Permit WH/2016/650, endorsed plans and endorsed Waste Management Plan. The non-compliance issues will be raised and addressed through Council's Planning Enforcement team. As discussed earlier in the report, the revised Waste Management Plan has been referred to Council's Waste Services Officer who raised no objection. Therefore, the revised Waste Management Plans will be endorsed and can address the matters raised within objections.

Whilst it is acknowledged that objectors have raised issues more broadly with the site and its perceived non-compliance with permit conditions, this proposal can only be assessed against those components of the planning scheme that trigger the requirement of a Planning Permit. Therefore, the following items have been addressed but cannot be assessed as part of this amendment:

- Inappropriate use of the daylight sensors and the lighting not being controlled by motion senses.
- Noise impacts associated with the emergency generator.
- Inadequate landscaping around the location of proposed carports.

As indicated in the above statement, where there are identified non-compliances with current planning permit conditions, these can be investigated separately by Council's Planning Enforcement team for any breaches.

## 10.1 (cont)

**CONCLUSION**

The proposal for construction of two carports and amendments to the Waste Management Plan is an acceptable response that satisfies the relevant provisions contained within the Whitehorse Planning Scheme, including the State and Local Planning Policies, the Neighbourhood Residential Zone Schedule 1 & 3, Significant Landscape Overlay Schedule 5, Significant Environment Overlay Schedule 1 and the Special Building Overlay.

A total of 17 objections were received as a result of public notice and all of the issues raised have been discussed as required.

It is recommended that the application be approved subject to conditions.

**ATTACHMENT**

- 1 Decision Plans
- 2 Current Endorsed Plans
- 3 Current Planning Permit

**10.2 119 Victoria Crescent, Mont Albert (LOT 1 TP 226002), 489 Elgar Road, Mont Albert (LOT 1 LP 18866 ECSS) & 102 Kenmare Street, Mont Albert (LOT 93 LP 8375 ECSS) – Amendment to Planning Permit WH/2012/446 (issued for Change of use to Place of Worship and Place of Assembly and reduction in required car parking spaces) to include buildings and works (associated with a section 2 use), tree removal and buildings and works pursuant to the SLO9**

**Department**

City Planning and Development

Director City Development

WH/2012/446/A  
Attachment

**SUMMARY**

This application proposes an amendment to Planning Permit WH/2012/446 (issued for Change of use to Place of Worship and Place of Assembly and reduction in required car parking spaces) to include buildings and works (associated with a section 2 use), tree removal and buildings and works pursuant to the SLO9. More specifically this includes a new residential building (for accommodation purposes) on the Kenmare Street interface, a new single storey place of worship building on the Victoria Crescent interface, and some renovations to the existing building on the Elgar Road interface.

The application is recommended for support as the design and works are generally reflecting of the existing and preferred neighbourhood and allow for an improved landscaping arrangement which better contributes to the surrounding landscape character and environment.

The planning process requires buildings and works to be assessed against the decision guidelines of the zone, alongside local planning policy which provide strategic direction for non-residential uses where within residential zones, economic development and urban design.

This amended permit application was advertised and a total of fifty-five (55) objections were received. Of the objections received forty-eight (48) were received post consultation forum in a proforma style submission which raised concerns in addition to previously raised issues. The objections raised issues with car parking reduction and traffic generation (particularly with surrounding land uses), potential for increased patronage, noise pollution (music, gatherings, traffic), built form impacts including height, bulk, overshadowing, and loss of daylight.

A Consultation Forum was held on Tuesday 16<sup>th</sup> April 2024 chaired by Councillor McNeill, at which the issues were explored, however no resolution was reached between the parties.

## 10.2 (cont)

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

**RECOMMENDATION**

That Council:

- A. Being the Responsible Authority, having caused Application WH/2012/446/A for 119 Victoria Crescent, MONT ALBERT (LOT 1 TP 226002), 489 Elgar Road, MONT ALBERT (LOT 1 LP 18866 ECSS) & 102 Kenmare Street, MONT ALBERT (LOT 93 LP 8375 ECSS) to be advertised and having received and noted the objections is of the opinion that the granting of an amendment to Planning Permit WH/2012/446 (issued for Change of use to Place of Worship and Place of Assembly and reduction in required car parking spaces) to include buildings and works (associated with a section 2 use), tree removal and buildings and works pursuant to the SLO9 is acceptable and should not unreasonably impact the amenity of adjacent properties.
- B. Issue a Notice of Decision to Grant an Amended Permit under the Whitehorse Planning Scheme to the land described as 119 Victoria Crescent, MONT ALBERT (LOT 1 TP 226002), 489 Elgar Road, MONT ALBERT (LOT 1 LP 18866 ECSS) & 102 Kenmare Street, MONT ALBERT (LOT 93 LP 8375 ECSS) for the Amendment to Planning Permit WH/2012/446 to include buildings and works (associated with a section 2 use), tree removal and buildings and works pursuant to the SLO9, subject to the following new or amended conditions:

**New condition, existing condition no. 1 to be renumbered no. 2**

- Before the development starts, or vegetation is removed, amended plans must be submitted to and approved by the Responsible Authority in a digital format. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale, with dimensions, and be generally in accordance with the plans submitted with the application but modified to show:
  - a) The 1.8 metre high front fence on Kenmare Street must be reduced to a height no greater than 1.2 metres;
  - b) An annotation on the elevation drawings and site plan to indicate obscure glazing must be manufactured obscure glass not film;
  - c) Annotations on the site plans relating to the construction of above grade paving must be updated to include permeable paving (either pedestrian paths or vehicle car parks) where within the TPZ or SRZ of any protected tree;
  - d) A landscape plan in accordance with condition 3;
  - e) A tree protection and management plan in accordance with condition .



## 10.2 (cont)

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

**New condition, existing condition no. 3 to be renumbered no. 5**

- 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) Any changes required under condition 1.

**New condition, existing condition no. 4 to be renumbered no. 6**

- Before the development starts, a Tree Protection & Management Plan (TPMP) must be submitted to and approved by the Responsible Authority in a digital format. When approved, the TPMP will be endorsed and will then form part of the permit. The TPMP must:
  - a) Be written by a person qualified in arboriculture, with a minimum Diploma in Horticulture (Arboriculture) / Arboriculture. This plan must be in accordance with the requirements of AS4970-2009 Protection of Trees on Development Sites, as set out, under Section 5.2 Tree Protection Plan (on Page 21). .
  - b) Include Tree Protection Zone Fencing Measures.
  - c) Detail how Trees #1, #2, #3, #4, #5, #6, #7, #9, #10, #11, #12, #13, #14, #15, #16, #20, #21, #23, #26, #27, #29, #30, #31, #32, #33, #36, #37, #40, #43, #44 and #46 will be protected during the Pre-Construction/Demolition Stage, the Construction Stage, the Landscape Stage, and the Post Construction stages, and
  - d) Be to the satisfaction of the Responsible Authority (RA).
  - e) Detail how any excavation works, placement of fill soils, and hard landscaping works within the Tree Protection Zone of Trees 3, 9, 10, 11, 12, 26, 27, 29, 30, 31, 32, 33 and 37 (and any other trees shown to be retained on the plans) will be undertaken and how tree roots will be managed, so that the health and stability of trees are not adversely impacted now or into the future.
  - f) Detail how the driveways/carparking/footpaths proposed within the Tree Protection Zone of Trees 3, 9, 10, 11, 26, 27, 29, 30, 31, 32, 33 & 37 will be constructed using permeable materials; be constructed above current grade; and be constructed on foundations that maintain appropriate permeability for the tree, to the satisfaction of the Responsible Authority (RA).
  - g) Detail how the front fence within the Tree Protection Zone of Trees 3 and 37 will be constructed on pier foundations with any

## 10.2 (cont)

required plinths constructed above existing grade and how all tree roots will be protected throughout the construction process. No strip footing is permitted within the Tree Protection Zone of Trees 3 and 37.

- h) Detail where services will be located and how they will be installed within the Tree Protection Zone of any retained trees, to be located outside of the Tree Protection Zone, or bored under the tree protection zone, or installed using hydro excavation under the supervision of the project arborist.
- i) Detail how any tree pruning of a protected tree is to be undertaken and that the required pruning conforms with AS4373-2007 Pruning of Amenity Trees and that the work is to be performed by a suitably qualified Arborist (AQF Level 3, minimum).
- j) Include actions to ensure that prior to the commencement of any site works, including demolition and excavation, the Responsible Authority (RA) must be provided with evidence that a project arborist has been engaged as part of the ongoing consultant team to oversee all buildings and works, and to ensure the development does not have a detrimental impact on the ongoing health and stability of the trees to be retained. The project arborist must have a qualification in arboriculture and hold a minimum Diploma in Horticulture (Arboriculture) to be the project arborist.

**Existing conditions no. 5-10 to be renumbered no. 7-12****New conditions no. 13-20****Melbourne Water Conditions**

- 13. Prior to endorsement of plans, amended plans must be submitted to Council and Melbourne Water addressing Melbourne Water's conditions. Plans must be submitted with surface and floor levels to Australian Height Datum (AHD) and must be modified to show:
  - (a) Finished floor levels of the proposed store must be no lower than 64.47 metres to Australian Height Datum (AHD), which is 300 millimetres above the applicable flood level of 64.17 metres AHD.
  - (b) Finished floor levels of the proposed community hall must be no lower than 64.47 metres to Australian Height Datum (AHD), which is 300 millimetres above the applicable flood level of 64.17 metres AHD.
- 14. Finished floor levels of the proposed store must be no lower than 64.47 metres to Australian Height Datum (AHD), which is 300 millimetres above the applicable flood level of 64.17 metres AHD.

## 10.2 (cont)

15. Finished floor levels of the proposed community hall must be no lower than 64.47 metres to Australian Height Datum (AHD), which is 300 millimetres above the applicable flood level of 64.17 metres AHD.

Construction Management Plan Conditions

16. Prior to the commencement of buildings or works on the land, a Construction Management Plan, detailing how the owner will manage the environmental and construction issues associated with the development, must be submitted to and approved by Council. The Construction Management Plan must be prepared and managed by a suitably qualified person who is experienced in preparing Construction Management Plans in accordance with the City of Whitehorse Construction Management Plan Guidelines.
17. When approved the Construction Management Plan will form part of this permit and must be complied with, to the satisfaction of the Responsible Authority, to the extent that this is in the control of the owner of the land. The owner of the land is to be responsible for all costs associated with the works to be undertaken in accordance with the requirements of the Construction Management Plan
18. The provisions, recommendations and requirements of the endorsed Construction Management Plans must be implemented and complied with to the satisfaction of the Responsible Authority.

Development Contributions Plan

19. A Development Infrastructure Levy in accordance with the approved Development Contributions Plan which applies to the land must be paid to Whitehorse City Council as the Collecting Agency prior to the grant of a building approval or the development of any buildings and works associated with the permitted development, whichever occurs first; or the Owner must enter into an agreement with Whitehorse City Council as the Collecting Agency to pay the Development Infrastructure Levy within a time specified in the agreement.
20. A Community Infrastructure Levy must be paid to Whitehorse City Council as the Collecting Agency in accordance with the approved Development Contribution Plan which applies to the land prior to the issue of a building permit under the *Building Act 1993*; or the Owner must enter into an agreement with Whitehorse City Council as the Collecting Agency to pay the Community Infrastructure Levy within a time specified in the agreement.

**Amended condition no. 11 renumbered to condition no. 21**Expiry conditions

## 10.2 (cont)

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

**New condition a) and b) added**

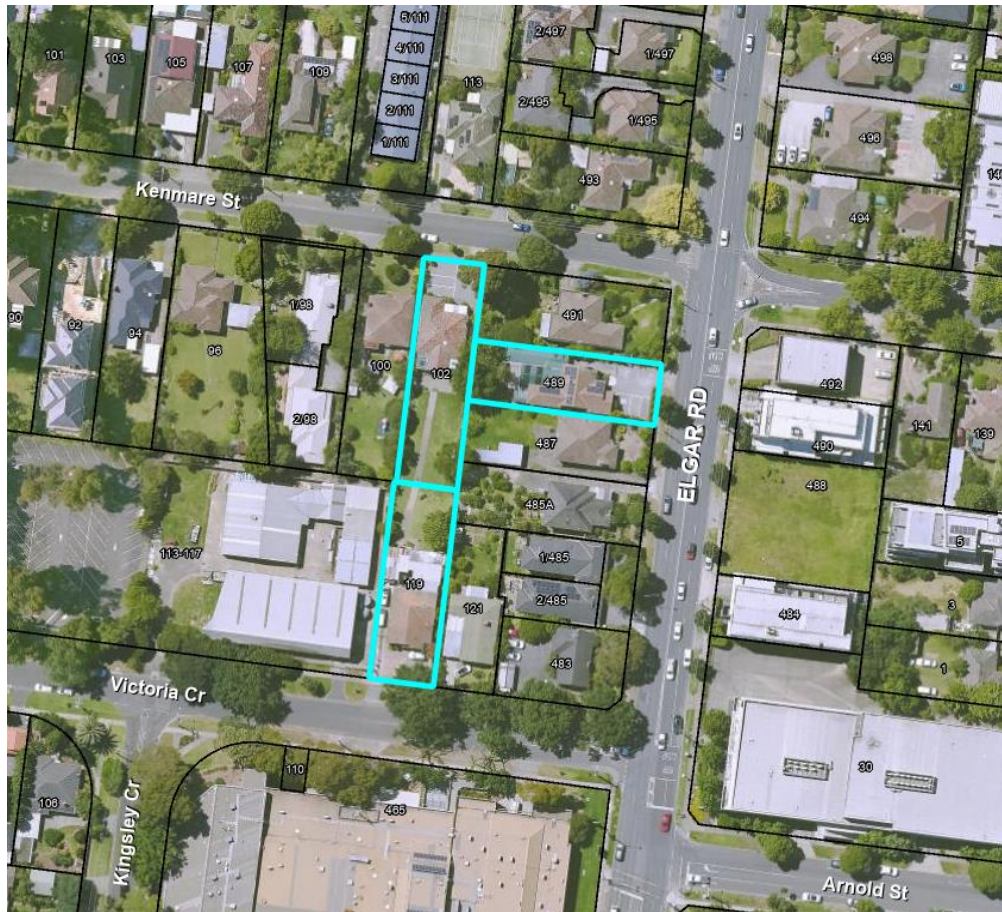
- a) the development is not commenced within two (2) years from the date of issue of this permit;
- b) the development is not completed within four (4) years from the date of this permit.

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

Applicant:	Melbourne Thai Buddhist Temple Inc
Zoning:	General Residential Zone – Schedule 4 (GRZ4)
Overlays:	Significant Landscape Overlay – Schedule 9 (SLO9) Special Building Overlay (SBO) Development Contributions Plan Overlay – Schedule 1 (DCPO1)
Relevant Clauses:	Clause 11 – Settlement Clause 12 – Environmental and Landscape Values Clause 13 – Environmental Risks and Amenity <ul style="list-style-type: none"> <li>• 13.05-1s – Noise Abatement</li> <li>• 13.07-1s – Land use compatibility</li> </ul> Clause 15 – Built environment and heritage Clause 17 – Economic Development <ul style="list-style-type: none"> <li>• 17.02-1s – Business</li> </ul> Clause 18 – Transport Clause 19.02 – Community Infrastructure Clause 21.05 – Environment Clause 21.06 – Housing <ul style="list-style-type: none"> <li>• 21.06-7 – Non-Residential Uses</li> </ul> Clause 21.07 – Economic Development Clause 21.08 – Infrastructure Clause 22.02 – Visual Amenity and Advertising Signs Clause 22.03 – Residential Development Clause 22.04 – Tree Conservation Clause 22.05 – Non-Residential Uses in Residential Areas Clause 52.06 – Car Parking Clause 52.29 – Land adjacent to a Transport Zone, Category 1
Clause 65	Decision Guidelines
Ward:	Kingsley Ward



## 10.2 (cont)



Aerial map of the subject sites as outlined in blue

## BACKGROUND

### History

Planning Permit WH/2012/446 was issued on the 7<sup>th</sup> May 2013 allowing 'change of use to Place of Worship and Place of Assembly and reduction in the required car parking spaces'. The permit was issued with conditional support which regulated the operation of the use through maximum patron numbers, hours of operation and the provision of on-site car parking, all of which will be discussed in greater detail within the below section of the report.

The planning permit was issued following the circulation and closure of a Notice of Decision to Grant a Planning Permit, which provided all objecting parties a 28 day VCAT appeal window at the time of the decision. The notice was sent by letter to the eighteen (18) submitters who provided written objections to the planning application. As no appeals were lodged, the permit was issued, and the use commenced.

The approval was issued by Council at its Council Meeting on 18-March-2013. The use was subsequently commenced and has been operating continuously across the three properties over the past decade.

### WH/2017/375

Planning application WH/2017/375 was refused on 21-July-2018 to *construct a double storey place of worship and place of assembly and reduction in car parking and removal of vegetation.*

## 10.2 (cont)

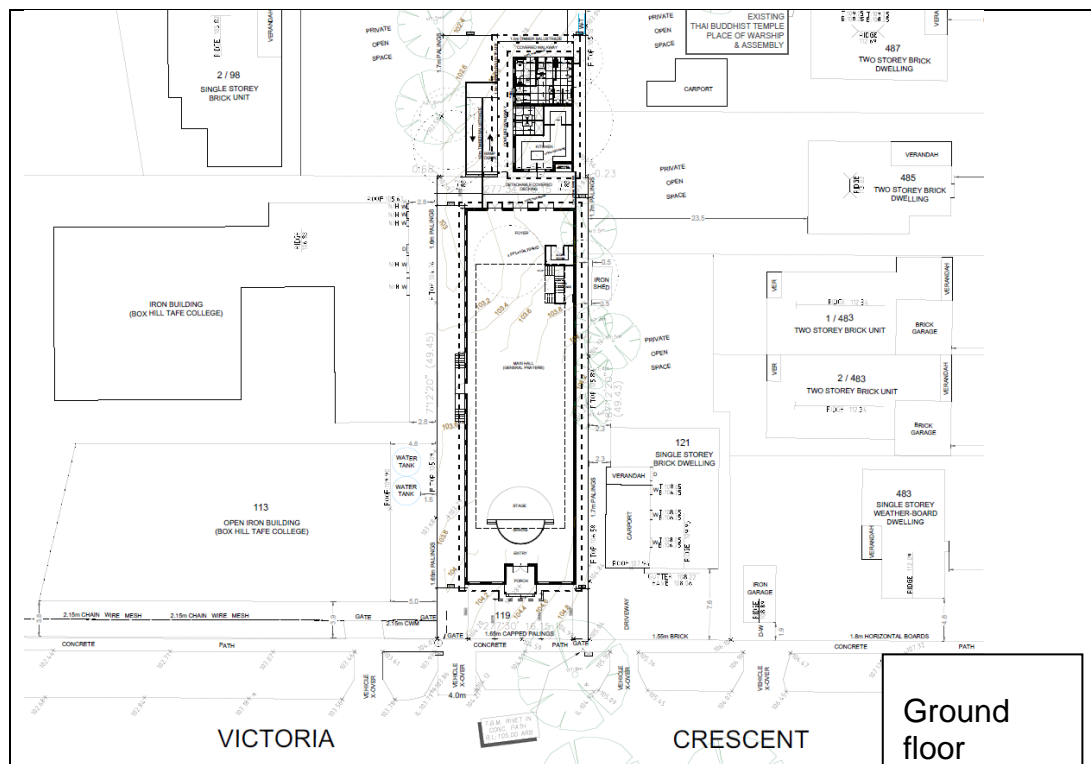
The application attracted twenty two (22) objections which primarily raised concern to the size and scale of the building, intensification of the land use, car parking provision, traffic generation and amenity impacts (alongside other more specific issues). Details of the refused proposal are outlined in the below extract from the officer report on the application:

*The proposed development consists of demolishing the existing dwelling at 119 Victoria Crescent and constructing a new double-storey place of worship building. The building proposes a front setback of 5.79 metres, a setback of between 750mm and 1 metre from the east boundary (over a distance of 40 metres) with a setback of 2.79 to 3.23 metres to the west boundary. The ground level comprises the main hall (general prayers) and the first floor comprises a chanting room and 8 meditation rooms. The proposed floor area of the temple is approximately 833 square metres. The building proposes an overall height of 12.9 metres (east elevation). A detached single storey building to the rear proposes a kitchen and toilets with an overall height of 7.7 metres (north elevation), setback 0.2m (for wall height of 4.9m) to 0.75 metres (for wall height of 4.5m) to the east boundary.*

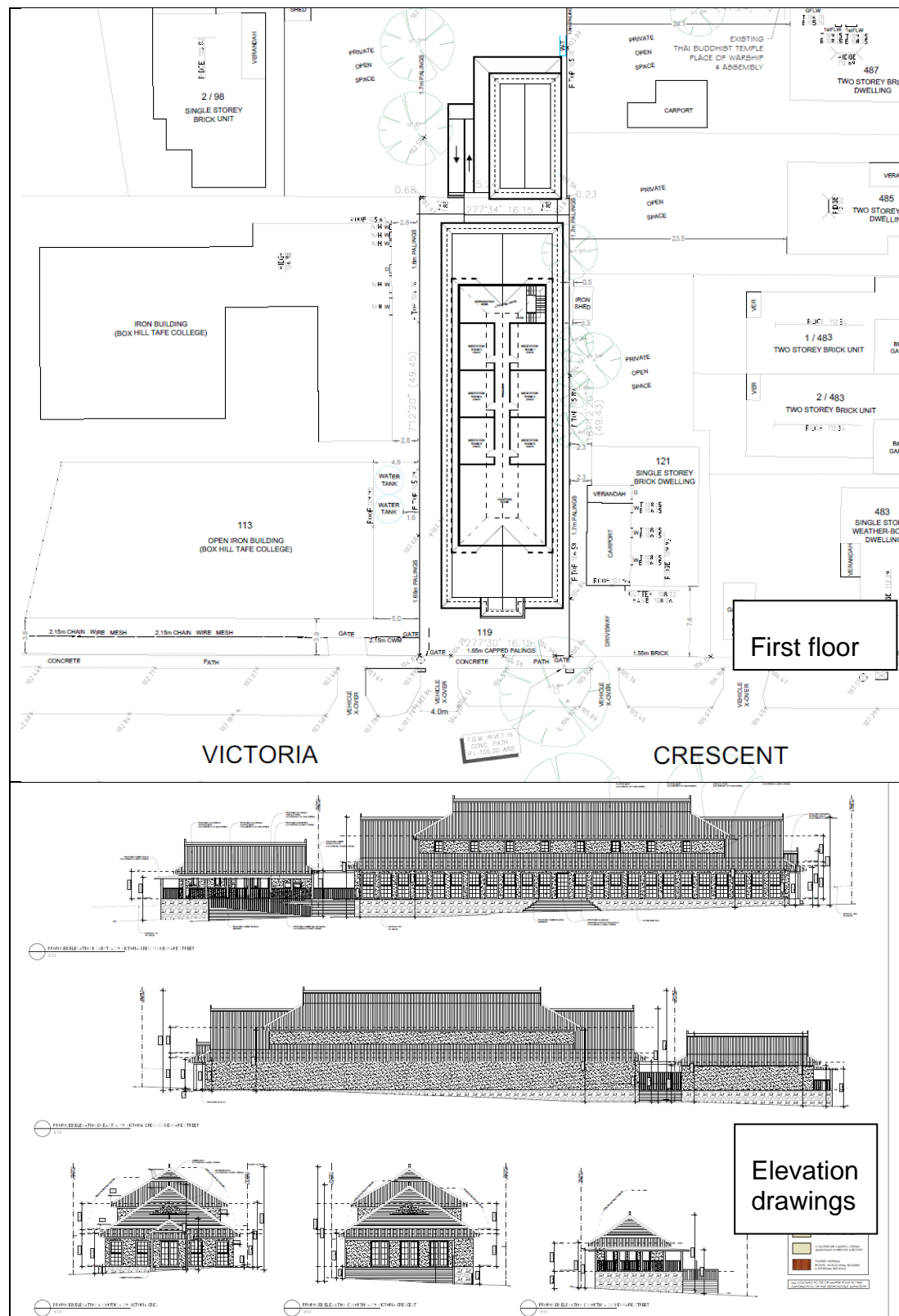
*The existing parking supply for four (4) informal parking spaces at 119 Victoria crescent are proposed to be removed as part of the new construction works. This reduces the provision of on-site car parking to 6 spaces.*

*The building seeks to accommodate a maximum of 100 patrons at the Sunday morning/midday prayer services (current permit allows for 60 persons). The proposal requires 0.3 car spaces per patron permitted, which equates to 30 car parking spaces (with an additional 12 spaces based on an increase of 40 patrons). As these spaces are not provided on site, the proposal also seeks to reduce the statutory car parking requirements.*

The decision plans as part of the older application are also captured below:



10.2 (cont)



## 10.2 (cont)

**THE SITE AND SURROUNDS****Subject site**

The subject site is made up of three separate properties which have been amalgamated for the purpose of the use. This includes 119 Victoria Crescent, 489 Elgar Road and 102 Kenmare Street. Each property contains an existing building/house which has been repurposed to support the use of the site for a 'place of worship' and 'place of assembly' associated with the Thai Buddhist Temple. Each property can be described by the following attributes:

*102 Kenmare Street*

The property contains a 15.2 metre (approx.) frontage to Kenmare Street which currently upholds a small concrete car park which formally supports three (3) vehicle spaces serviced by an existing vehicle crossover on the north-eastern corner of the lot. Beyond the car park, the site contains a single storey, detached weatherboard residential building which has been used for accommodation purposes in association with the place of worship. The rear yard space of the property remains open and is connected to the southern adjoining property (119 Victoria Crescent) via a small pedestrian path and lawn space.

*489 Elgar Road*

The property fronts Elgar Road by a width of approximately 15.1 metres. Similar to the Kenmare Street frontage, the front section of the property supports a small car parking area which upholds four (4) car parking spaces. The site contains a single storey brick building which has been partially extended into the middle/rear area of the site. The building contains an existing shrine and adjoins the property at 102 Kenmare Street. This property and building have been used as part of the place of worship as permitted within the current use permit (WH/2012/446).

*119 Victoria Crescent*

The property contains a 16.4 metre (approx.) frontage to Victoria Crescent. Again, the frontage of the property is used for the purpose of car parking, however in an informal arrangement (no line-marking or similar). The space provided appears to uphold three (3) car parking spaces. The property contains an existing single storey brick building which is currently used for accommodation purposes associated with the place of worship.

**Surrounds**

The surrounding properties contain a number of different land uses which appear to have evolved over time given the site's location adjacent to the Box Hill Metropolitan Activity Centre (MAC). The Box Hill Institute (TAFE) is located on the southern adjoining site to the Victoria Crescent interface which is included within the Public Use Zone. Box Hill Institute also owns and uses the property 113-117 Victoria Crescent for the purpose of practical education which partially adjoins the subject sites' eastern interface. In part



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10.2 (cont)

this property also contains a large car park space located to the western side of the site.

Properties adjacent to the eastern side of 489 Elgar Road are included within the Box Hill MAC and are earmarked as part of the *hospital and western TAFE precinct* under the Box Hill Structure Plan. Accordingly, these properties mostly include medical related land uses which include a Victorian Ambulance depot. The land is zoned within the Residential Growth Zone and therefore also accommodates high density accommodation and housing (high rise apartments).

The remaining adjoining and adjacent properties, including properties in Kenmare Street, are residential with the exception of 483 and 491 Elgar Road which contain or have been approved to contain medical centre land uses. This includes Planning Permit WH/2023/72 relating to 491 Elgar Road issued on 11/09/2023 for works associated with a medical centre (including car parking within the front and rear of the property). Imagery on Council's GIS system show that works are yet to commence. 483 Elgar Road has also obtained a past approval for '*Buildings and works for alterations and additions to an existing medical centre (physiotherapy)*' in 2006 which has been acted upon.

All other properties which share boundaries with the subject site contain single storey, detached residential dwellings in a typical suburban arrangement.

## **PLANNING CONTROLS**

### **Planning Permit WH/2012/446**

As detailed earlier within the report the subject site takes the benefit of Planning Permit WH/2012/446 which was approved on the 7<sup>th</sup> of May 2013 permitting the use of the site for a 'place of assembly' and 'place of worship'.

Noteworthy conditions include condition 3 which restrict the maximum number of patrons to sixty (60), other than six (6) individual events during the year:

Patron numbers at the sites must not exceed 60 at any time except for the following six events, where patron numbers must not exceed 200:

- a. *New Year – one Sunday in January per annum;*
- b. *The Great Assembly of Disciples (Makha Bucha Day) – one Sunday in February or March per annum;*
- c. *Thai New Year Celebration – one Sunday in April per annum;*
- d. *The Buddha's Birthday (Visakha Bucha Day) – one Sunday in May per annum;*
- e. *First Sermon Day, Foundation of Buddhist Order and Start of Buddhist Lent (Asaraha Bucha Day) – one Sunday in July per annum;*
- f. *End of Buddhist Lent (Ogpansa) – one Sunday in October or November per annum;*

## 10.2 (cont)

Condition 4 also restricts the onsite car parking spaces to ten (10).

As the permit has been acted upon, the use of the land has been permitted and continues to run in accordance with the permit conditions above.

**General Residential Zone – Schedule 4 (GRZ4)**

Acknowledging the use of the land does not require further planning permission pursuant to the current planning permit WH/2012/446, a planning permit is triggered only for buildings and works pursuant to the GRZ4.

Pursuant to Clause 32.08-10 (GRZ4) of the Whitehorse Planning Scheme 'A permit is required to construct a building or construct or carry out works for a use in Section 2 of Clause 32.08-2'. The application seeks permission for works associated with a new accommodation building, new single storey place of worship building and an extension to the existing 'shrine' building.

**Significant Landscape Overlay – Schedule 9 (SLO9)**Tree removal

In accordance with Clause 42.03 (SLO9) of the Whitehorse Planning Scheme, 'A permit is required to remove, destroy or lop a tree'.

The following trees are subject to removal as part of this application:

Tree Number	Species	Growth Characteristics	Protection
7	<i>A Prunus cerasifera "Nigra"</i> - <i>B Purple Cherry Plum</i>	6m height and 4 metre canopy spread	Not protected – exempt weed species
28	<i>C Fraxinus angustifolia subsp. angustifolia</i> - Narrow Leaved Ash	9m height and 7 metre canopy spread	Protected species.
34	<i>D Syzygium smithii</i> - <i>E Lilly Pilly</i>	7m height and 3 metre canopy spread	Protected species
35	<i>F Lagerstroemia indica</i> - <i>G Crepe Myrtle</i>	3 metre height and 2 metre canopy spread. 0.44m trunk circumference.	Not protected – does not meet height or trunk circumference threshold.

## 10.2 (cont)

Buildings and works

In accordance with Clause 42.03 (SLO9) of the Whitehorse Planning Scheme, 'A permit is not required to construct a building or construct or carry out works provided the buildings or works are set back at least 4 metres from any tree protected under the provisions of this schedule'.

The development proposes buildings and works within 4 metres of eight (8) protected trees, therefore a planning permit is required. The affected trees are listed below:

Tree Number	Species	Growth characteristics	Protection
3	<i>H</i> <i>Corymbia maculata</i> - <i>I</i> Spotted Gum	20m x 12m	Protected
4	<i>J</i> <i>Pittosporum tenuifolium</i> - <i>K</i> Kohuhu	5m x 3m	Protected
5	<i>L</i> <i>Pittosporum tenuifolium</i> - Kohuhu	6m x 2m	Protected
6	<i>M</i> <i>Pittosporum tenuifolium</i> - Kohuhu	6m x 3m	Protected
7	<i>N</i> <i>Prunus cerasifera</i> "Nigra" - <i>O</i> Purple Cherry Plum	6m x 4m	Protected
12	<i>P</i> <i>Araucaria heterophylla</i> - <i>Q</i> Norfolk Island Pine	14m x 4m	Protected
26	<i>R</i> <i>Laurus nobilis</i> - <i>S</i> Bay Tree	5m x 4m	Protected
37	<i>T</i> <i>Quercus robur</i> - <i>U</i> English Oak	14m x 15m	Protected

**Special Building Overlay (SBO)**

The site is partly covered by the SBO on the western boundary of 102 Kenmare Street and 119 Victoria Crescent. Pursuant to Clause 44.05-2 (SBO) of the Whitehorse Planning Scheme, 'a permit is required to construct a building or to construct or carry out works'. Works associated with the new place of assembly encroach slightly into the overlay on the western side setback of 119 Victoria Road, therefore a planning permit is required.

## 10.2 (cont)

**Development Contributions Plan Overlay – Schedule 1 (DCPO1)**

In accordance with Clause 45.06-1 (DCPO1), *'a permit must not be granted to subdivide land, construct a building or construct or carry out works until a development contributions plan has been incorporated into this scheme'*.

Schedule 1 stipulates both a development infrastructure levy and a community infrastructure levy to Mont Albert which will be applied via conditions on any approval issued.

**Clause 52.06 (Car Parking)**

Based off the current land use approval and planning permit, the site is used for the purpose of a 'place of worship' and 'place of assembly'. Clause 73.04-9 nests a place of worship land use with a place of assembly meaning for the purpose of car parking a place of assembly land use is assessed (as place of worship does not attract a specific car parking rate).

For the purpose of car parking assessment, two columns are provided under Clause 52.06-5 (Car Parking) which apply an empirical measurement for car parking provisions. One column (column B) relates only to land that is included within the *principle public transport network* which identifies that the land is well serviced by public transport infrastructure. This applies to the subject site and therefore the applicable car parking rate is measured from column B of the table.

Car parking requirements associated with a place of assembly land use attract a rate of 0.3 spaces *to each patron permitted* as applied under column B. As the use of the land, and the number of patrons permitted (between 60 and 200) has already been approved under WH/2012/446, no further car parking spaces are required.

Car parking had been assessed and approved under this original planning permit and condition 4 enforces the site must uphold a minimum of ten (10) onsite spaces. Condition 9 further enforces one of these spaces must be an exclusive disability space. The new building arrangement continues to comply with these restrictions having a total of ten (10) onsite spaces with one dedicated disability space.

**PROPOSAL**

The proposal seeks permission for the construction of a new single storey place of worship building on the Victoria Crescent interface, a double storey residential building on the Kenmare Street interface and to reconstruct part of the existing shrine on the Elgar Road frontage. The details can be defined as follows:

Place of worship

- A new single storey place of worship building, is proposed to replace the existing accommodation building on the Victoria Crescent interface.

## 10.2 (cont)

- A new, formalised car park is proposed in front of the building between the street and front façade which upholds a total of five (5) car parking spaces.
- The building affords a front setback of approximately 24 metres to Victoria Crescent which is only broken by a small store building of 3 metres in width and separated from the place of worship.
- Side setbacks include a 2.71m western side setback and 2m eastern side setback of which both are mostly encumbered by pedestrian paths with small garden strips down either side.
- The new building envelope is 250sqm in size which offers a 75sqm increase from the existing building footprint (175sqm).
- A maximum building height of 6.75m is proposed. The design of the building includes a small raised roofing section within the middle roofing pitch which provides highlight style windows for natural day light.
- Both roofing elements are pitched with eaves.
- A number of windows are positioned along the eastern and western facades and the northern most façade proposes a large sliding door spanning the majority of the building width. No windows are proposed on the southern façade.
- A new 1.65 metre high paling fence is proposed along the front property boundary with a 3.6m wide vehicle gate.
- The existing vehicle crossover is proposed for removal and will be replaced by a new wider vehicle crossover slightly more east of the existing crossover.
- Construction materials include face brickwork in a light grey pattern with a corrugated metal roof.
- A new pedestrian path is proposed along the western side boundary which provides access to the place of worship and residential building. The path includes decorative open pergola beams.

Residential building

- A new residential building is proposed to replace the existing residential building on the Kenmare Street interface.
- The new building is proposed to accommodate monks associated with the place of worship.
- The building is double storey with ground and first floor pitched roofing.
- The building affords a 9.2m front setback at ground floor and 10.7m front setback at first floor.

## 10.2 (cont)

- The frontage is split by garden area and a car parking space which includes one disability space.
- Side setbacks include a 1.39m western side setback and 2.1m eastern side setback at ground floor which is extended to 3.81m (west) and 2.2m (east) at first floor.
- A maximum building height of 8.14 metres is proposed.
- Internally the building supports five (5) bedrooms and one study with two bathrooms, a laundry, kitchen and lounge (it is acknowledged the plans suggest six (6) bedrooms likely including the study within this calculation).
- Materials include ground and first floor brick which matches the same colour pattern as the place of worship.
- A 1.8 metre high paling fence is proposed along the front property boundary with an associated vehicle and pedestrian gate.
- The proposed ground floor footprint affords 186sqm of floor area which is a 54sqm increase from the current building stock.

### Elgar Road Shrine building

- The existing enclosed veranda area of the building is sought for demolition and will be replaced by a new amenities area which includes a kitchen, storage and male and female toilets.
- Other than the kitchen, all other amenities are within the existing roof line of the building.
- No new windows are proposed with the extension.
- The new building offers a similar profile to the existing structure.

### Buildings and works within proximity to trees

A number of trees are sited within a 4 metre proximity to the proposed works across all sites. Most of the encroachment is by way of paving associated with either pedestrian paths or new driveway spaces. Only Tree 12 will be encroached by the new building envelope associated with the 'shrine' building, however the encroachment is 5% which is deemed minor under the arboricultural standard (10% or less).

### Tree Removal

It is proposed to remove Trees 28 and 34 which are both protected under the Significant Landscape Overlay. The applicant's arborist report has identified the details of these trees as listed below:

- Tree 28 (*Fraxinus angustifolia subsp. Angustifolia* - Narrow Leaved Ash) stands 9 metres in height with a 7 metre canopy spread. The tree is located within the rear yard of the existing residential building on Victoria Crescent. The trees removal is required due to its conflict with the place of worship building envelope.

## 10.2 (cont)

- Tree 34 (*Syzygium smithii* - Lilly Pilly) stands 7 metres in height with a 3 metre canopy spread. Similarly, the tree is located within the rear yard of the existing building on Victoria Crescent and is likewise in conflict with the place of worship building envelope.

## **CONSULTATION**

### **Public Notice**

The application was advertised by mail to the adjacent and nearby property owners and occupiers and by erecting notices on all street frontages including Victoria Crescent, Kenmare Street and Elgar Road. Seven (7) objections were received immediately following the notice period and a further forty-eight (48) submissions were later received following the lodgement of a proforma style submission post the consultation forum. At the time of writing this report, a total of fifty-five (55) objections have been received.

The issues raised are summarised as follows:

- Car parking reduction and traffic generation (particularly with surrounding land uses).
- Reduction in natural light as a result of the built form.
- Potential for increased patronage.
- Noise pollution (music, gatherings, traffic).

### **Petition of support**

In response to the submissions made following the consultation forum a representative of the Thai Buddhist Temple has submitted a petition of support for the proposed works which includes three hundred and eighty (380) signatures.

### **Consultation Forum**

A Consultation Forum was held on Tuesday 16<sup>th</sup> April 2024. Seven (7) objectors attended the meeting alongside the applicant, the applicant's clients (two people), the Ward Councillor and planning officers.

The consultation forum was chaired by Councillor McNeill and the concerns of the objectors were discussed in detail with all parties afforded the opportunity to provide individual commentary on each concern. The applicant was also provided the opportunity to respond to the objector concerns. Only one additional concern was discussed as part of the forum which related to zoning. Of the issues raised, particular attention was provided to the car parking provision and sunlight/overshadowing concerns. No agreements were reached.

## 10.2 (cont)

**Referrals**

<b>Referral authority</b>	<b>Comments</b>	<b>Response</b>
Melbourne Water (Section 55 determining authority)	No objection subject to conditions.	Conditions to be adopted in the recommended permit above.
Asset Engineering	Not supportive of the Victoria Crescent crossover subject to comments.	The comments provided relate to some outstanding engineering information which had been captured in the latest iteration of plans. Items which have not been resolved by the most recent set of plans will be included as part of conditions on the recommended amended planning permit.
Parks and Natural Environment	Supportive of the vehicle crossover being separated from the street tree by a distance of 6.8 metres alongside tree protection conditions.	Both street trees have been included as part of the Tree Management and Protection Plan which more broadly covers the items requested alongside other tree protection measures.
Transport	Unsupportive of disabled car parking space dimensions and car park arrangement (review of original application plans).	Revised plans have been submitted which modify the car parking bays, disabled parking space and turning isle width in accordance with the comments provided by transport.
Department of Transport (s52 recommending authority)	The Head, Transport for Victoria has considered this application to amend planning permit WH/2012/446 and does not object to the grant of a permit.	



## 10.2 (cont)

**DISCUSSION****Purpose of the Zone (GRZ4)**

The General Residential Zone lists a number of purposes (Clause 32.08) which includes allowing 'non-residential' land use and more specifically 'religious' uses where they *serve local community needs in appropriate locations*. As discussed above, the land use has already been permitted which indicates the site had been reviewed and deemed an appropriate location in relation to the purpose of the zone (Residential 1 Zone at the time of the original planning application assessment).

The use has now been operating for over a decade and clearly serves a local community need given the attendance it attracts over the course of a year. This is reaffirmed by the petition of support submitted to Council on 27/05/2024 which raises a total of 380 signatures and reinforces the community significance of the use.

Further re-development of the land to provide updated facilities on site is therefore appropriate in continuing to facilitate the use of the land in the context of the purpose of the General Residential Zone. The zone further seeks to implement the Municipal Strategic Statement and Planning Policy Framework which will be discussed below. The application remains consistent with the purpose of the zone.

**Consistency with State and Local Planning Policies**

The new buildings will be more fit for purpose for the permitted use of the land than the existing buildings given they provide more appropriate spaces for either living or congregation which supports the functional use of the land parcel. Moreover, the changes do not attract a level of intensification beyond what might generally be expected for a residential area given they continue to take benefit of the existing use approval and do not seek to modify any of the conditions as part of this permit which regulate patron numbers and car parking provisions. The scale, form and height of the new place of worship building is commensurate with the development expectations listed under Clause 15.01 (built environment) which generally prompt consideration into urban design (15.01-1s), building design (15.01-2s) and neighbourhood character (15.01-5s).

These considerations have been achieved through the single storey height of the place of worship I (6.75m), modest footprint which offers a small 75sqm floor space increase from the current building, generous front, side and rear setbacks and sympathetic building design (pitched roofing, eaves, brick material).

Likewise, the new residential building on the Kenmare Street interface conforms with the typical dwelling character experienced within Kenmare Street being it is two storeys in height with appropriate front, side and rear setbacks. The new building affords a generous front garden space which will be well landscaped to align with the existing garden suburban character within the street. These attributes will be discussed in greater detail within the design and built form section of this report however the proposed site arrangement and buildings will harmonize with the housing styles and general character of the area as guided by design policy within Clause 22.05 (Non-Residential Uses in Residential Areas).

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10.2 (cont)

Clause 22.03 (Residential Development) identifies the site within a Garden Suburban character precinct (precinct 8) which provides the following preferred character description:

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

Both new buildings are well articulated through façade treatment, detailed design and boundary setbacks. The large rear open space between the buildings is contributory to the open garden setting anticipated under the statement. This space also has the capacity to hold a number of large, native canopy trees as shown on the indicative landscape plan which shows the replacement of seven (7) Wallangarra White Gum trees. Numerically, the front setbacks (9m to Kenmare Street and 17m Victoria Crescent) provided offer an appropriate transition between the buildings on abutting allotments. The proposal aligns with the expected preferred character of the surrounds.

Given the development will successfully integrate with the streetscape character of both Kenmare and Victoria Crescent the development achieves support under Clause 22.05 (Non-Residential Uses in Residential Areas) which seeks ‘to ensure that the design, scale and appearance of non-residential premises reflects the residential character and streetscape of the area’.

Landscape character and environmental value is consistently reiterated and emphasized through the relevant planning controls. In short, this includes Clause 12 (Environmental and Landscape Values), Clause 21.05 (Environment), Clause 22.03 (Residential Development), and Clause 22.04 (Tree Conservation). In summary, the policy seeks to achieve the retention of, and contribution toward, landscape character.

As part of the site’s configuration, a 36 metre separation is retained between the Kenmare Street residential building and Victoria Crescent. This separation is entirely unencumbered by buildings or paving beyond a small pedestrian path. The application has been accompanied by a landscape plan prepared by Michael Smith and Associates dated 06/12/2023. This plan demonstrates the use of this garden area to accommodate seven (7) new native canopy trees each with growth heights above 10 metres. The variety of species includes six (6) Wallangarra White Gum trees and one (1) Yellow Gum. The arrangement offers a generous compensation from the two smaller trees it seeks to remove (one 9m Fraxinus Angustifolia and 7m high Lilly Pilly). The potential size of the replacement trees are capable of exceeding the height of the place of worship building and residential building, therefore offering landscape contribution to either street interface.

### **Design, Built Form and Amenity**

Whilst not a mandatory assessment, it is useful to assess the construction of the new residential building against the standards and objectives of Clause 55 (ResCode) as a guide for built form outcomes. The same policy would not apply to the place of worship building as the building is not considered a dwelling/residential building, however, design themes and considerations provided by ResCode can be used to demonstrate its acceptability in relation to its residential context. The following themes have been applied:

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10.2 (cont)Visual Bulk and Neighbourhood Character

The single storey form of the place of worship building is in keeping with the scale of the residential surrounds, especially under the context of the TAFE buildings nearby which are far larger buildings. Understandably, a past application (WH/2017/375) had been refused on the site with one of the grounds relating to the size, scale and design of the building. This application presents an entirely different extent of built form. The previous application presented as a three storey high building having a maximum building height of 12.2m. The revised version of the building submitted as part of the current application is nearly half the size being 6.75m in height which is considerate of the surrounding built form pattern. Moreover, the pitched roofing style of the building means the 6.75m height is limited to the peak roof line with the eaves dropping in height to 3.6m. The average height of the building is therefore far less.

The double storey height of the new residential building on Kenmare Street is easily permissible under the General Residential Zone, which employs a maximum building height of 11 metres or 3 storeys. The new residential building conforms with the existing street character given it provides similar front, side and rear setbacks alongside an adequate provision of garden space. There are no outstanding concerns relating to visual bulk associated with the scale of development proposed.

The rear setback is open and provides for a 36 metre separation between the buildings. This space is proposed to cater for a number of native canopy trees which will contribute well to the preferred landscape character of the surrounds, particularly due to their canopy height (10m+) which will exceed the height of either roof form when matured.

Overshadowing

Additional overshadowing is proposed to the western adjoining property 100 Kenmare Street during the 9am time interval. During this time the shadows are cast from the proposed residential building onto an area of SPOS. The shadows dissipate come the 12pm diagram however are expected to overshadow the space to various extents during the 10am and 11am windows as well. During any of these timeframes, the affected property is able to uphold a space of 40sqm (with minimum 3m dimensions) of uninterrupted sunlight therefore complying with the relevant ResCode standard.

Overshadowing is also evident during the 3pm diagram. This includes a minor incursion into the rear SPOS of the properties 491 Elgar Road and 121 Victoria Crescent. It is understood 491 Elgar Road is earmarked for a medical centre land use, however in the event this use is not commenced and the residential land use was continued, the SPOS would continue to uphold a 40sqm space with uninterrupted sunlight. Similarly, the rear SPOS of the property 121 Victoria Crescent is also capable of upholding the minimum space despite some additional overshadowing during this time interval.

It is acknowledged that whilst overshadowing is proposed to both the eastern and western adjoining properties. The extent of overshadowing proposed does not vary the residential code Standard (B21 of Clause 55). Neither building would contribute to an unreasonable extent of overshadowing beyond what would normally be expected for any type of residential development.

## 10.2 (cont)

Overlooking

There are no ground floor windows which trigger the need for screening treatment. The existing boundary fences are 1.7 metres in height or greater which appropriately obscure views from any ground floor window into an adjoining residential space. First floor windows of the new residential building are screened by obscure glazing in accordance with the ResCode standard (B22 of Clause 55).

Side and rear setbacks*Eastern orientation – residential building*

- Ground floor, minimum 2.1 metre setback associated with the residential building which has a maximum wall height of approximately 2.7m. In accordance with the standard a 3m setback is needed and therefore a 0.9m variation is imposed.
- First floor, minimum 2.2 metre setback associated with the residential building which has a maximum wall height of approximately 5.3m. In accordance with the standard a 3.51m setback is needed which imposes a 1.31m variation.

The variations can be supported given the building partially interfaces with an adjoining medical centre land use and the site 489 Elgar Road which is part of the same application. The setback provided is consistent with the general side setback pattern of the street.

*Western orientation – residential building*

- Ground floor, minimum 1.39 metre setback associated with the residential building which has a maximum wall height of approximately 3.6m. In accordance with the standard a 3m setback is needed which imposes a 1.61m variation.
- First floor, minimum 3.81 metre setback associated with the residential building which has a maximum wall height of approximately 6.3m. In accordance with the standard a 3.81m setback is needed which has been met.

The ground floor setback is regular and generally aligns with the existing side setback pattern experienced along the street. The front and rear garden spaces are open and propose canopy vegetation which will be viewable from the street despite the shorter ground floor side setback. The variation at ground floor does not impose any additional amenity impacts to the western adjoining property (no overshadowing or visual bulk).

Both the eastern and western side setbacks of the place of worship building would vary the residential code standard given the greater expectations employed under Schedule 3 to the General Residential Zone (3m minimum setbacks to either boundary). Again acknowledging that the place of worship building is not subject to ResCode assessment, the setbacks afforded are appropriate in any case given they do not unreasonably detract from the existing neighbourhood character of the street and protect the residential amenity of the surrounds. This is particularly the case given the non-

## 10.2 (cont)

residential surrounds along Victoria Crescent which change the built form setting.

Such form includes a warehouse style structure associated with the TAFE on the western adjoining property which is a far more dominant element of the streetscape. The overshadowing diagrams show a minor extent of overshadowing on the eastern adjoining properties SPOS, however this would not vary the overshadowing standard, and therefore would not cause unreasonable amenity impact.

### **Landscaping**

#### Replacement planting scheme

Seven (7) new canopy trees are proposed within the internal garden space of the site. These are of native species and have an anticipated growth height of more than 10 metres meaning, once matured, the trees will contribute to the landscaping background experience from any street perspective. This also offers a suitable compensation for the loss of front garden space within the Victoria Crescent and Kenmare Street frontage caused by the car parking areas.

Additional landscaping is also proposed within the frontage to Kenmare Street, offering an 8 metre high canopy tree alongside shrubs and ground covers. Overall a comprehensive planting scheme is proposed which will soften to the proposed development and contribute well to the existing and preferred landscape character of the surrounds.

#### Tree retention

Alongside the proposed planting schedule, the development allows for the retention of canopy trees 10, 11 and 12 which are all mature and established canopy vegetation greater than 10 metres in height. The retention of these trees achieves compliance with the objectives of the Significant Landscape Overlay – Schedule 9:

- ***To retain and enhance the canopy tree cover of the Garden and Bush Suburban Neighbourhood Character Areas.***
- ***To encourage the retention of established and mature trees.***
- ***To provide for the planting of new and replacement canopy trees.***
- ***To ensure that development is compatible with the landscape character of the area.***

#### *Tree removal*

Council's Arborist has reviewed the removal of Tree 34 (7 metre high Lily Pily) and confirmed the tree is exempt from the provisions of SLO9 given its location within 3 metres of an existing dwelling wall.

Seven (7) trees of greater growth characteristics (height and canopy) are proposed as a replacement to offset its loss within the central garden area of the site and an additional canopy tree in the frontage to Kenmare Street, which will uphold the landscape character into the future. The retention of Trees 10, 11 and 12 will continue to uphold the existing landscape character despite the removal of tree 34. The tree removal aligns with the following

## 10.2 (cont)

decision guidelines of Clause 42.03-5 (SLO9): *The contribution of the tree to neighbourhood character and the landscape.*

- *The need to retain trees that are significant due to their species, age, health and/or growth characteristics.*
- *Where the location of new and existing footings and impervious areas are in relation to the root zone of established trees.*
- *The compatibility of any buildings and works with existing vegetation proposed to be retained.*

Buildings and works within a 4 metre proximity to trees

The application has been reviewed by Council's Arborist who has recommended the proposed works be supported subject to the condition of a tree protection management plan. Council's Arborist has measured the anticipated encroachments into all protected trees. The encroachments have been measured by the extent of any proposed buildings and works within a tree's protection zone (calculated from its diameter at breast height). The relating arboricultural standard refers to 'minor' and 'major' encroachment which are delineated between encroachment levels either less than or greater than 10% of the protection zone. The following encroachments have been measured in relation to trees within 4 metres of proposed works:

<b>Tree</b>	<b>Species</b>	<b>Encroachment</b>	<b>Impact</b>
3	<b>V</b> <i>Corymbia maculata</i> - Spotted Gum	32.3%	proposed carpark, within SRZ, major encroachment
4	<b>W</b> <i>Pittosporum tenuifolium</i> - Kohuhu	0.2%	
5	<b>X</b> <i>Pittosporum tenuifolium</i> - Kohuhu	0.0%	
6	<b>Y</b> <i>Pittosporum tenuifolium</i> - Kohuhu	0.2%	
9	<b>Z</b> <i>Prunus cerasifera "Nigra"</i> - Purple Cherry Plum	6.3%	proposed building, footpath within SRZ, therefore major encroachment
12	<b>AA</b> <i>Araucaria heterophylla</i> - Norfolk Island Pine	5.0%	proposed amenities building, minor encroachment
23	<b>BB</b> <i>Laurus nobilis</i> - Bay Tree	0.0%	
26	<b>CC</b> <i>Quercus robur</i> - English Oak	0.0%	
37	<b>DD</b> <i>Corymbia maculata</i> - Spotted Gum	14.9%	proposed carpark/front fence, not within SRZ, major encroachment

## 10.2 (cont)

From the above assessment, only Trees 3 and 37 are encroached greater than the 10% numeric applied under the Australian Standard.

Council's Arborist recommends the plans be updated to clearly suggest that car parking and pavement be constructed above grade and of permeable material where within the TPZ or SRZ of these trees.

The most current iteration of plans provides part of this annotation in stating new paving will be constructed above grade. A further condition will be recommended to confirm this paving is a permeable material (permeable paving). With these conditions the following decision guidelines are met:

- *Where the location of new and existing footings and impervious areas are in relation to the root zone of established trees.*
- *The compatibility of any buildings and works with existing vegetation proposed to be retained.*

A Tree Management and Protection Plan (TPMP) will also be recommended as part of the conditions to more broadly capture tree sensitive construction methods.

With conditions, the buildings and works can be supported.

## **Response to objections**

### Car parking reduction and traffic generation

The car parking provision has been discussed within the permit trigger section. The assessment is made in accordance with Clause 52.06 (Car Parking) which attributes an empirical car parking rate based on the number of patrons for both a 'place of worship' and a 'place of assembly'. The land owner takes the benefit of an existing land use permit which permits up to 60 patrons at any one time, other than seven yearly events which allow for up to 200 patrons. This permit assessed and approved the car parking provision. No further changes are proposed to the patron numbers on the site and the arrangement continues to uphold the ten (10) spaces needed to comply with the conditions of the permit.

No change is therefore needed to the provision of car parking on site. Contrarily, the new arrangement offers an improved setting given the car parking spaces are now formalised through paved car parks and appropriate line marking. This will allow a more efficient use of the site.

In relation to concerns regarding the traffic congestion, there are a number of land uses within the surrounds which might be contributing to this issue including the high density residential developments within the Box Hill MAC, the Box Hill TAFE and surrounding schools. The proposed amendments, are not considered to create any change to the existing perceived parking concerns, which would likely remain unchanged, even should the amendments not be supported. Whilst the approved land use allows up to 200 patrons, this is restricted to six (6) once off events during the year and is not a regular occurrence.

## 10.2 (cont)

Reduction in natural light and overshadowing as a result of the built form.

Overshadowing has been assessed as part of the built form and amenity section of this report. Whilst some overshadowing is proposed, the extent is minor and would continue to uphold a high level of compliance with the ResCode standard had it been applicable.

In relation to reduction of natural light, Clause 55.04-3 – Daylight to Existing Windows Objective can be used to determine appropriate light courts to any existing habitable room window. Under this standard neither of the buildings encroach onto an existing habitable room window within 3sqm or 1 metre clear to the sky which ensure the light court and provision of daylight to said window remains current. The setbacks afforded to both buildings, alongside the single/double storey form will not result in an outcome which would detract from the provision of natural light to any existing habitable room window on an abutting building.

Potential for increased patronage.

The new place of worship building offers a 75sqm increase in size from the previous building. This is not anticipated to cater for an unreasonable increase in patronage to the site beyond what has already been approved within the original planning permit. The new place of worship building offers a purpose built building which can better cater for the nature of the use given its current operation from a retro-fitted dwelling. The total floor space offered is 250sqm which when measured against a 60 patron capacity equates to 4.1sqm per patron. The space is therefore considered a commensurate scale to the approved patron capacity employed under the current planning permit. The use of the site remains confined to the permit conditions which regulate the maximum number of patrons on the site at any one time. The applicant has confirmed that in the event patron numbers are expected to exceed to the limit imposed by the permit conditions, they seek an alternative venue. Receipts have been provided which demonstrate the use of the Box Hill Town Hall to hold events which exceed the approved capacity under the current planning permit.

Noise pollution (music, gatherings, traffic).

The use of the site has been permitted and cannot form consideration under this application which is only for buildings and works. There are no outstanding concerns associated with the new place of worship building relating to noise emission. The application replaces an existing building on the Victoria Crescent interface which would improve the current noise emissions from the site given the modern insulation and design. There are no concerns with noise emission relating to the construction of a new residential building on the Kenmare Street interface.

**CONCLUSION**

The proposed amendment to Planning Permit WH/2012/446 to include buildings and works (associated with a section 2 use), tree removal and buildings and works pursuant to the SLO9 is an acceptable upgrade to the existing use of the site that continues to satisfy the relevant provisions



**10.2 (cont)**

contained within the Whitehorse Planning Scheme, including the State and Local Planning Policies, the General Residential Zone, Significant Landscape Overlay, Special Building Overlay and Particular Provisions (Clauses 52.06 and 55).

The new buildings proposed as part of the amendment are a commensurate scale to both the residential and commercial setting on the adjoining and adjacent properties.

Whilst the new buildings will result in a different site configuration, this does not come at the expense of unreasonable impact to the sensitive residential land uses which adjoin the site.

Most importantly, the works proposed are in keeping with the existing conditions stipulated by the current planning permit. The new buildings do not offer an opportunity for these restrictions to be perceivably breached. In the event that the use grows in patronage, separate planning permission will be required to amend the current conditions of the permit.

The contents and concerns of the objections have been discussed as part of the consult forum and discussed throughout this report.

It is considered that the application should be approved accordingly.

**ATTACHMENT**

- 1 Current Planning permit and Endorsed Plans
- 2 Decision Plans
- 3 Landscape plan
- 4 Draft complete amended permit

### 10.3 Submission to the New Plan for Victoria

**Department**

City Planning and Development

Director City Development

Attachment

**SUMMARY**

The purpose of this report is to consider Council's submission (Attachment 1) to the engagement on the new Plan for Victoria.

In September 2023, the State government released *Victoria's Housing Statement, The decade ahead, 2024-2034* which included an action to 'update Plan Melbourne...and expand it to cover the whole state'.

The Housing Statement also includes actions to establish local government housing targets and a review of the *Planning and Environment Act 1987*.

A submission to the *Planning and Environment Act* review will be reported to a future Council meeting when further information is made available on the review and its scope.

In November 2023, the state government opened engagement on the new Plan, providing high level topics ('pillars') to focus discussion. Both the state government and Council have undertaken community engagement on the pillars. Whitehorse has also collaborated with the Eastern Region Group of Councils to prepare the Group's submission, '*Voice for the East*'.

In June 2024, the State Government announced draft housing targets. Whitehorse has been set a draft target of 79,000 new homes to 2051.

Council's submission at this engagement phase for Plan for Victoria calls for the State Government to address and acknowledge the challenges that the housing targets present and offers to collaborate on preparation of the Plan for Victoria and finalisation of the housing targets.

This report sets out an overview of the early ideas released by State government on the new Plan for Victoria and seeks endorsement of Council's submission on this information as well as the proposed housing targets.

**RECOMMENDATION**

That Council:

1. Endorses the submission on the new Plan for Victoria and the draft housing targets and submit it to the Department of Transport and Planning.
2. Provides a copy of the endorsed submission on the new Plan for Victoria and the draft housing targets to local members of parliament.

## 10.3 (cont)

3. Offers Council's support to work collaboratively with DTP on the resolution of outstanding issues raised in Council's submission as the Plan for Victoria is progressed.
4. Advocates to achieve the following specific outcomes from Council's submission:
  - a. Implementation of the permanent Significant Landscape Overlay, schedule 9 into the Whitehorse Planning Scheme.
  - b. The State Government to provide Council and the community with the evidence-based data that has informed the draft housing targets. Whitehorse would welcome the opportunity to respond to and provide input to this data, assisting in the finalisation of these targets.
  - c. Ensure that the statewide planning policy elevates sustainability requirements for new buildings in line with the planning scheme amendments lodged by 24 councils, encouraging a move towards net zero carbon development.
  - d. The State Government to work collaboratively with Council, Vicinity Centres and the Suburban Rail Loop Authority to investigate and commit to redevelopment of the Box Hill bus interchange.
  - e. Commitment to delivering a viable statewide mechanism for the provision of social and affordable housing such as mandatory inclusionary zoning, in collaboration with local government.
5. Prepares a submission to State government on the upcoming review the *Planning and Environment Act 1987*.

**KEY MATTERS**

The key matters relevant to this report area:

- The State Government announced the engagement on development of a new Plan for Victoria in November 2023, building on 'Victoria's Housing Statement' (released in September 2023) which included a suite of reforms to the planning system.
- With a focus on housing, the new Plan for Victoria will be grounded in the delivery of 80,000 new homes every year to 2051 (2.24 million new homes in total) to address the housing crisis and population growth.
- The new plan is based on five 'pillars':
  1. Affordable housing and choice
  2. Equity and jobs
  3. Thriving and liveable suburbs and towns
  4. Sustainable environments and climate action
  5. Self-determination and caring for country.

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10.3 (cont)

- The State Government announced draft housing targets for each of Victoria's 79 councils in June 2024. Whitehorse has been set a target of 79,000 new homes to 2051, a 106% increase on the existing housing stock within the municipality (74,200 existing dwellings).
- The new Plan for Victoria and the finalised housing targets are expected to be released at the end of the year.
- As there is currently no draft plan to review, Council's submission is based on the early ideas put forward by the State Government and the limited consultation thus far on the rationale and methodology behind the draft housing targets.
- The concurrent review of the Act is an opportunity to examine aspects of the planning system that need improving as well as reinforce those parts of the Act that work effectively. Of particular consideration is the impact that the review might have on Council's role in planning decisions and on the voice of the community in those decisions
- Council's submission provides recommendations on each of the pillars, with the main areas of concern being:
  - How the social and physical infrastructure and service needs of an increasing population will be planned and adequately funded.
  - How the new homes can be delivered with affordability, and sustainability in mind.
  - The potential impact of delivering this quantum of new dwellings on valued neighbourhood character, landscape character and heritage.

**STRATEGIC ALIGNMENT**

The *Council Plan 2021-2025* calls for advocacy about transport, health, environmental, economic, social and wellbeing improvements. Preparing a submission regarding the early ideas of the new Plan for Victoria contributes towards these advocacy actions and intersects to varying degrees with the eight strategic directions, being:

1. Innovation, Transformation and Creativity
2. A Thriving Local Economy: Business, Employment, Education & Skill Development
3. Our Diverse and Inclusive Community
4. Our Built Environment; Movement, and Public Places.
5. Sustainable Climate & Environmental Care
6. An Empowered Collaborative Community
7. Health and Wellbeing
8. Governance and Leadership

## 10.3 (cont)

**Policy**

The Plan for Victoria will influence existing and future policies and strategies across various areas of Council such as transport, sustainability, natural environments, community development, economic development, leisure and recreation, placemaking, aging communities, early years, youth and cultural services, infrastructure provision to name a few. Specific strategic planning policies and strategies that will be significantly influenced may include, but not be limited to:

- Structure plans for activity centres
- Housing and neighbourhood character strategies
- Environmental strategies relating to development, climate adaptation, biodiversity, tree protection, water management and the like
- Transport strategies
- Community and development infrastructure plans
- Economic development strategies
- Heritage studies
- Open space planning

Ultimately it is envisaged that Plan for Victoria will be reflected in and implemented through the State and regional tiers of the Planning Policy Framework and the planning controls contained in planning schemes.

backgroundAs part of a suite of planning reforms introduced in 2023, the State Government announced that it would be replacing the current metropolitan strategy *Plan Melbourne 2017-2050*, with the first-ever statewide strategy, Plan for Victoria. This announcement came amidst population forecasts for Victoria which will see the State grow to more than 10 million by the year 2051, with more than 8 million residing within the capital.

Plan for Victoria intends to build on a number of foundations:

- The existing urban growth boundary
- Evolution of the 20-minute neighbourhood
- Victoria's 2045 net-zero emission target
- Suburban Rail Loop and its precincts
- Strong protection of the natural environment and green wedges, as well as industrial and commercial land
- Investment in social and affordable housing
- Victoria's Housing Statement.

### 10.3 (cont)

The State Government will use the following five pillars to guide the new Plan for Victoria:

1. *Housing affordability and choice*
2. *Equity and jobs*
3. *Liveable and thriving neighbourhoods*
4. *Sustainable environments and climate action*
5. *Self-determination and caring for country.*

The State Government released draft housing targets for all 79 councils in June, to guide councils on planning for housing in the coming decades. Whitehorse has been set a target of 79,000 new homes to 2051. The targets have been calculated, based on:

- *An area's proximity to jobs and services*
- *Level of access to existing and planned public transport*
- *Environmental hazards like flood and bushfire risk*
- *Current development trends and places already identified for more homes (like the Suburban Rail Loop Precincts, for example).*
- *Demonstrated development potential in established regional cities in Victoria*

Submissions on Plan for Victoria and the housing targets are required to be lodged with the Department of Transport and Planning by 30 August 2024. The draft housing targets are to be finalised after consultation on Plan for Victoria closes. These finalised targets will be integrated into the new strategy and unveiled as part of the new Plan for Victoria, set to be released at the end of this year.

State government has also announced an imminent review of the *Planning and Environment Act 1987*. It is understood that scope and timeframes for this review will be announced shortly.

### **Discussion and options**

The new Plan for Victoria recognises that the State will experience significant growth over the coming decades and as such, this new strategy will need to capture changing trends and adopt sustainable solutions to ensure that Victoria's reputation for liveability is not compromised.

Council's submission has been developed with input from Council officers, Councillors and the community. The submission is generally supportive of the very broad ideas and objectives put forward so far. However, the submission acknowledges the challenges that lie ahead in the implementation of these ideas and acknowledges the interrelationships between the pillars and conflicting priorities.

### 10.3 (cont)

Whilst Council acknowledges the housing crisis and supports the creation of a more diverse and affordable market, this new Plan must consider the 'pillars' equally to secure a sustainable, prosperous and vibrant future for Victoria.

Council notes with the proposition put forward in the Housing Statement, to "build more homes and they'll be more affordable" however this equation does not reflect the full complexity of the challenges associated with housing delivery. The vision to 2051 must look beyond this priority and ensure that there is a balanced approach across all pillars to shape the future of Victoria.

There is an opportunity through the submission to reinforce Council's advocacy on several platforms such as State-led approaches to:

- *Stronger tree protection*
- *Forward-thinking environmentally sustainable development provisions*
- *Box Hill transport interchange redevelopment*
- *Mechanisms for provision of affordable housing*
- *Providing transparency and engagement on the development of the housing targets.*

Ultimately, the submission seeks the opportunity for further discussions and input on Plan for Victoria and the housing targets.

## **SUPPORTING REPORT DETAILS**

### **Legislative and Risk Implications**

As with the current metropolitan strategy, *Plan Melbourne*, councils and agencies across the State will have to have regard to the policy directions contained in the finalised document. There is a risk that the Plan for Victoria plan may not meet Council's or the community's expectations and aspirations.

Further, review of the Act may result in changes to matters such Council's role in decision making, community engagement and third party appeal rights.

### **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*.

Equity and inclusion appear to be encompassed by the five pillars that are proposed to set the framework for Plan for Victoria.

### **Community Engagement**

The State Government is inviting submissions on Plan for Victoria through an online form, a survey, and 'pop-up' sessions held across the State.

### 10.3 (cont)

Workshops have already been conducted with industry leaders, local governments, and community groups.

Council officers have reviewed the information available and discussed the plan with the community at two pop-up sessions in April at Box Hill Gardens and at Brentford Square shopping centre. Community feedback from these sessions is broadly summarised in Attachment 2 and has been considered in drafting Council's submission. The community was strongly encouraged to provide feedback directly to the State Government via the Engage Victoria online platform.

The Department of Transport and Planning has indicated a commitment to engaging with Traditional Owners "to embed their voices, rights and aspirations in strategic decision making and planning processes." The Department wants to genuinely engage with Traditional Owners and First Peoples Communities toward greater Self-determination, reflection of Treaty, and to better protect Country.

Council is unsure as to the level of community engagement and consultation on Plan for Victoria beyond August and towards the anticipated release date of the finalised plan and housing targets toward the end of 2024.

### **Financial and Resource Implications**

Officer time to prepare Council's submission and to attend pop-up sessions has been absorbed in the recurrent budget. However, the implementation of the new plan at a local government level is likely to require additional resources in reviewing existing strategies and policies for example.

### **Innovation and Continuous Improvement**

There are no Innovation and Continuous Improvement matters arising from the recommendation contained in this report.

### **Collaboration**

The preparation of the submission required internal collaboration with many teams across Council. Additionally, Council officers met with community members at two pop up sessions that were held in April and a briefing and workshop with Councillors in May and July.

The Eastern Region Group of Councils (ERG) (including Knox, Manningham, Maroondah, Whitehorse and Yarra Ranges) have worked collaboratively on the preparation of a submission on behalf of the eastern region. This has involved several workshops and community pop up sessions to inform the '*Voice for the East*'.

There is an expectation that Council will be given the opportunity to collaborate further with the State Government, specifically the Plan for Victoria team as the finalisation of the targets and plan progresses.



## 10.3 (cont)

**Conflict of Interest**

The *Local Government Act 2020* requires members of Council staff, and persons engaged under contract to provide advice to Council, to disclose any direct or indirect interest in a matter to which the advice relates.

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

**Conclusion**

The State Government has sought feedback from the community, industry leaders and local government. Whilst there is no draft Plan to comment on as yet, the State Government have released “big ideas” and draft housing targets. Council seeks further consultation and the opportunity to provide comments on the draft Plan.

The new Plan for Victoria will guide the growth and development of the State to 2051. Council supports the ideas and aspirations of the plan in principle but acknowledges the challenges that lie ahead. Council welcomes the opportunity to play a more active role in the finalisation of the housing targets and the new Plan for Victoria, as well as in the review of the *Planning and Environment Act 1987*.

**ATTACHMENT**

- 1 Draft Council Submission to Developing a Plan for Victoria Submission
- 2 Summary of Community Comments

## 10.4 Urban Forest Strategy Actions Progress Report

**Department**

Parks and Natural Environment

Director Infrastructure

Attachment

**SUMMARY**

The purpose of this report is to provide an update on the implementation of actions from the Whitehorse Urban Forest Strategy 2021-2031 (UFS). The UFS was endorsed in September 2021 with the following vision and objectives:

**Vision: A diverse, healthy and resilient urban forest**

Objective 1: Protect the urban forest across private and public land.

Objective 2: Expand the urban forest and adapt to climate change.

Objective 3: Enhance biodiversity.

Objective 4: Build community capacity to learn from each other, protect and enhance the urban forest.

Objective 5: Build on Council's knowledge base.

An associated Urban Forest Strategy Action Plan (Action Plan) was developed to implement the UFS. The Action Plan describes actions, funding estimates and timeframes for delivery.

Key targets of the UFS include to increase tree canopy to 27% by 2031 and tree canopy cover to 30% by 2050 for vegetation taller than 3m in height.

This report presents a status update including:

- High level summary of results to date.
- Budget program highlights and completed actions.
- Issues encountered.

Good progress is being made on the Action Plan and a summary with a traffic light status indicator is provided in Attachment 1.

## 10.4 (cont)

**RECOMMENDATION**

That Council:

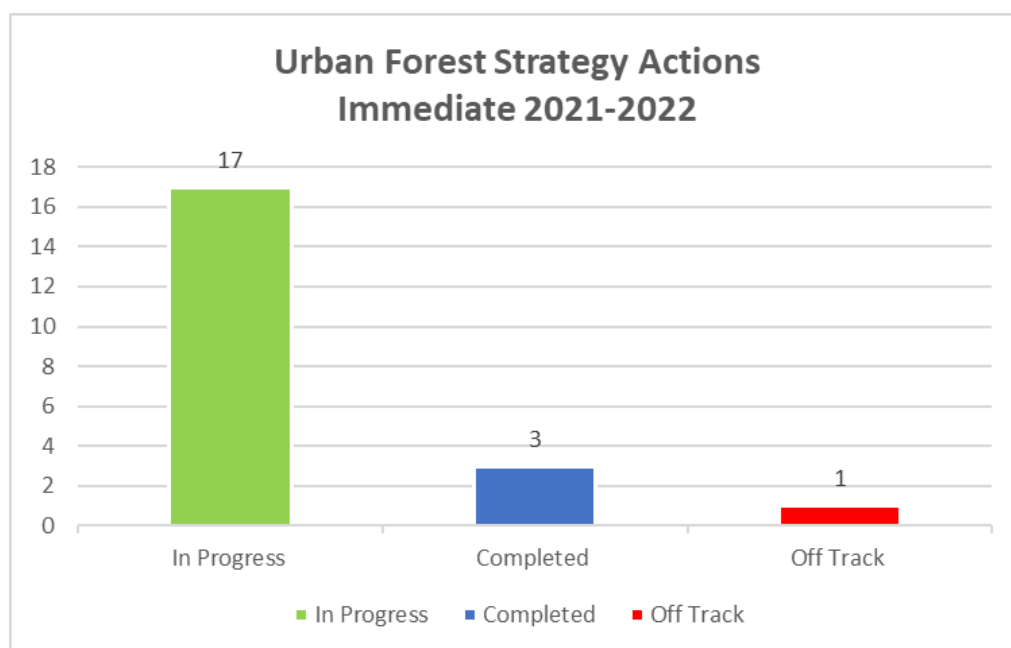
1. Notes the report on progress of the implementation of the Urban Forest Strategy Action Plan.
2. Endorses a change to Action 5.4 of the Urban Forest Strategy Action Plan from 'Collaborate across sectors and regions to achieve better monitoring outcomes through Living Melbourne' to 'Collaborate across sectors and regions to achieve better monitoring outcomes.'

**KEY MATTERS**High level summary of results to date

The Action Plan has 58 actions. The actions are listed to commence under the following timeframes, depending on funding and resources:

- Immediate (21 actions) - In progress, already commenced.
- 1-2 years (26 actions) - Commenced - depending on the level of difficulty and funding available - prior to 30 June 2023.
- 3-5 years (8 actions) - Commenced – depending on the level of difficulty and funding available - between 1 July 2023 and 30 June 2026
- 5-10 years (3 actions) - Commenced – depending on the level of difficulty and funding available - between 1 July 2026 and 30 June 2031

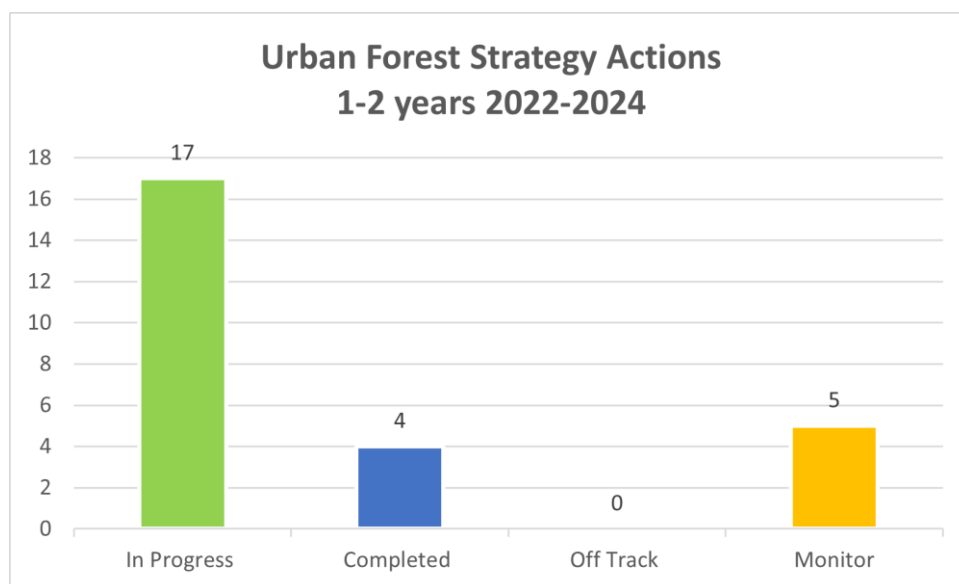
Details are provided on the Immediate and 1-2 years actions with an overall status provided on all actions in Attachment 1.

Immediate – Commenced Actions

## 10.4 (cont)

- Seventeen actions are in progress, and it is relevant to highlight a number of these will remain in progress as they will continue to be undertaken over the life of the UFS including actions supporting planting, events, workshops or advocating.
- Three actions have been completed:
  - Action 1.2 - Integrate tree inventory into Council's asset management system to better manage funding, scheduled works program and auditing processes.
  - Action 1.11 - Review Landscape Design Guidelines for new development.
  - Action 5.1 - Extend the street tree inventory to include all council managed trees within high traffic areas of public open space including the identification of vacant sites.
- One action is highlighted as off track.
  - Action 5.4 - Collaborate across sectors and regions to achieve better monitoring outcomes through Living Melbourne. The Living Melbourne program has ceased, and it is recommended that this action be amended to: Collaborate across sectors and regions to achieve better monitoring outcomes.

In 2022 Living Melbourne funding and facilitation ceased and an advisory group was formed to review the ongoing structure, governance model and funding. It is recommended that this action be changed reflecting this and remove the reference to Living Melbourne. This will allow for opportunities to explore different projects, options, or collaborations. It would therefore not preclude Council from being involved in Living Melbourne projects in the future.

Summary of progress on 1-2 years actions

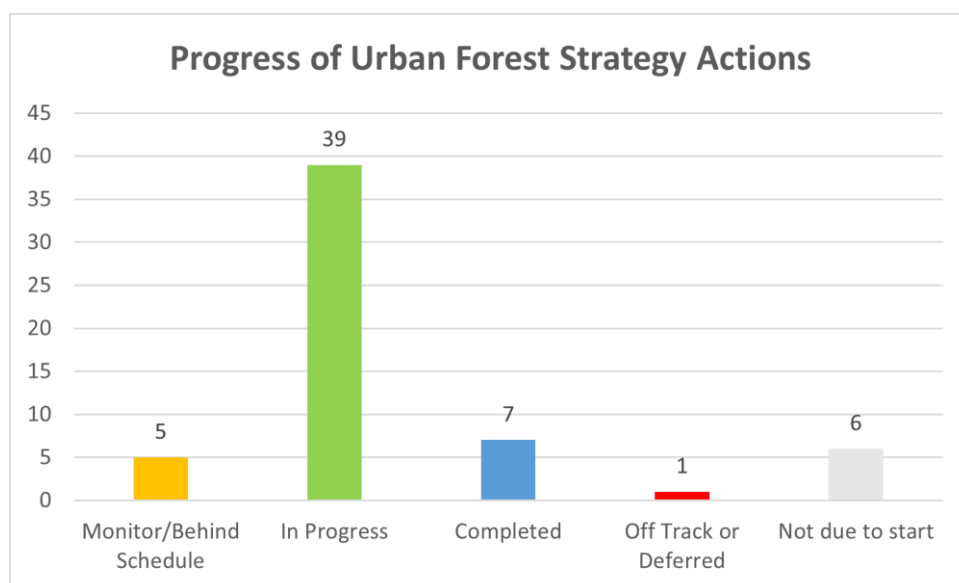
## 10.4 (cont)

Seventeen actions are in progress.

- Four actions have been completed:
  - Action 1.3 - Develop a purpose-built tree and urban forest asset management program.
  - Action 2.6 - Develop an integrated water management strategy to encourage the use of water sensitive urban design as appropriate incorporated use of stormwater for passive irrigation in streets and open spaces wherever possible.
  - Action 3.6 - Map habitat street trees and artificial hollows to better manage those trees to protect wildlife.
  - Action 4.12 - Develop an interactive online map with individual tree data to raise awareness of the value of our urban forest, such as the City of Melbourne Urban Forest Visual interactive map.
- Five actions are being monitored as they are at risk of falling behind, with four of these directly related to Power Line Clearance projects. More detailed analysis will be undertaken on these actions as part of the revision of the existing Interim Urban Forest Policy – Tree Management Plan. This is in progress and as part of this review, it will involve further consultation with the community and stakeholders which should assist the process for delivery of these actions.

Summary of the progress of UFS Actions

Below is a summary of the 58 UFS actions currently being implemented.



## 10.4 (cont)

Budget program highlights and completed actions.Tree management software

Council's acquisition of a purpose-built tree and urban forest asset management software program has helped to improve the management of funding, scheduled works, risk, and auditing processes. The software program enables Council to track all street and park trees within the municipality and captures all works undertaken on these trees (removal, pruning, replacement, replanting and watering). After an initial data capture of street trees, officers within the Arbor and Landscape teams have been utilising the software to record all works, plantings, and operational services. There is capability within the system to record private trees.

Recently the software has been utilised to set up a customer facing urban forest dashboard which is available to the community and residents, highlighting many key aspects of tree related activities (pruning, watering, planting). It also includes interactive maps to identify trees, shows the number of trees across suburbs and general species information. Officers have used the software to identify and record hollows in the system to support and protect wildlife. The use of the software and subsequent updating and promotion of 'Our Urban Forest' webpage and social media have been important tools to raise awareness and support the value of the urban forest.

The software has also enabled increased capacity and efficiency for auditing of powerline clearances in line with the regulations. The system is used to record scoping, works, auditing, and photographs of every street tree.

Integrated Water Management Strategy (IWMS)

In September 2022, Council endorsed the IWMS which was an identified action from the UFS. The IWMS seeks to improve the way water is managed in the municipality and build resilience into the future. The IWMS has a vision and three outcomes including targets to measure performance against each of the outcome areas as well as a five-year implementation plan that sets out clear initial actions towards achieving the vision.

The 2023/2024 budget process approved funding to start implementation of the actions. Most of the first-year actions have centred on management and maintenance of IWM assets. This has included:

- Asset audits of current Council Water Sensitive Urban Design (WSUD) assets to assess functionality and recommend improvements.
- Assessment of required WSUD maintenance tasks and costs, to inform future operational budgets, lifecycle management requirements and renewal costs.

These tasks have confirmed ongoing maintenance costs for these assets and supporting operating budgets have been allocated in the 2024/25 Budget.

#### 10.4 (cont)

Further actions have focussed on strengthening partnerships, with stakeholders, supporting community and advocacy.

- Officers have continued participation in the Department of Environment Energy and Climate Action (DEECA) IWM Forums for the Dandenong and Yarra Catchments. This year has seen the endorsement from all forum partners of the Catchment Scale IWM (CSIWM) action plans and associated Monitoring and Evaluation Reporting and Improvement (MERI) Plan.
- Officers supported and attended Blackburn Lake Sanctuary Advisory Committee at the Clean Waterways Expo, which included Environment Protection Authority (EPA), Melbourne Water and Yarra Valley Water.
- Continued to advocate for better IWM outcomes for Big Build and major projects eg North East Link and Suburban Rail Loop.
- Represent Council as part of the Gardiners Creek Regional Collaboration (GCRC) meetings and project working groups.

Current actions in progress for 2024/25 financial year:

- A consultant is engaged to assess high-level feasibility assessment of stormwater harvesting and large WSUD opportunities. Further prioritising of these opportunities is anticipated once identified.
- Officers participating in workshops on the development of a new collaboration in the Mullum Mullum Creek and associated corridor.

#### Good Landscape Design Guide (GLDG)

Officers have updated the Landscape Design guidelines for new development. The GLDG identifies when a landscape design plan is required as part of a planning permit application. The guide promotes Environmentally Sustainable Design (ESD), principles and assessment tools, the importance of retaining vegetation and provides resources to support applicants through this process. The tool is suitable for residential, commercial, and industrial developments.

#### Collaboration and Networks

Council officers have been involved in several partnerships that are not only supporting work locally but working across catchments and municipal boundaries.

Gardiners Creek Regional Collaboration (GCRC) has involved various stakeholders from neighbouring councils, Melbourne Water, Yarra Valley Water, Deakin University, sporting, and community organisations that have involved cross collaboration over many projects that support biodiversity, water management, data capture and grant funding. This process has also now begun in Mullum Mullum and supports the same practices.

The Council Alliance Sustainable Built Environment (CASBE) – Continue to work together with participating CASBE member Councils to advance how Environmentally Sustainable Development (ESD) is addressed in the planning scheme. The proposed amendment is awaiting authorisation by the Minister. In the interim further projects are being developed and progressed.

#### 10.4 (cont)

Gaining feedback from peers at industry networks such as Council Arboriculture Victoria (CAV) and Nursery and Garden Industry Victoria (NGIV) has given a greater understanding of opportunities and issues facing the natural environment and has been a positive way to promote the delivery of actions from the UFS.

#### In Progress summary

Several actions are in progress and to date some key projects that are underway and will conclude this financial year include:

- Tree mapping – Officers have been capturing standalone park trees to add to the Council tree inventory to improve risk management and strategically plan for future plantings. The database reached an important milestone recently with over 100,000 trees mapped in Council's streets, parks, and reserves.
- Biodiversity Inventory and Monitoring – Tasks involved in this project include:
  - Establishing a revised KPI Framework to assist with site based and regional biodiversity monitoring.
  - Revision of the actions within the Biodiversity Strategy to ensure they are consistent and captured within the UFS.
  - As the framework and revisions are confirmed, apply the outcomes to our Biodiversity monitoring to quantify our Biodiversity Inventory.
- Green Corridors Plan – The first corridors plan will focus on Gardiners Creek. The process will look to identify opportunities that will strengthen the corridor and improve connectivity such as increasing canopy cover, biodiversity values, vegetation connectivity, and promoting community participation especially on private land e.g. Gardens for Wildlife. This will provide a template to be utilised in other corridors within the municipality subject to funding.
- Tree Management Policy - Revise the existing Interim Urban Forest Policy – Tree Management Plan and consult with the community on the development of a new Tree Management Policy.

#### **STRATEGIC ALIGNMENT**

The UFS supports the legislative responsibilities listed under the *Local Government Act (LGA) 2020* and the *Climate Change Act 2017* that both require Council to consider climate change in its policies, strategies, services, and asset management.

The *Local Government Act 2020* contains overarching principles, which requires councils to: 9(2)(c) To promote the economic, social, and environmental sustainability of the municipal district, including mitigation and planning for climate change risks.



#### 10.4 (cont)

The UFS contributes to the collective efforts of Council in supporting the priorities and delivery of the Whitehorse 2040 Community Vision with an emphasis on Theme 5: Sustainable Climate and Environmental Care. The Urban Forest Action Plan is a 10-year implementation plan detailing funding and timeframes for delivery. Review of progress of the UFS actions will enable the Strategy to align with corporate plans and continue to support the delivery of other strategies/plans focussed on the environment including the Integrated Water Management Strategy 2022-2042 and the Climate Response Strategy 2023-2030.

#### **Whitehorse Community Vision 2040**

##### **Theme 5: Sustainable Climate and Environmental Care**

We will grow and improve the unique biodiversity and landscape of Whitehorse.

##### **Key Priorities 5.1, 5.2 and 5.3**

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.

5.3: Consider our natural environment when making decisions including creeks, wetlands, lakes, bushlands, flora, and fauna.

#### **Council Plan 2021-2025: Year Two**

##### **Strategic Direction 5: Sustainable Climate and Environmental Care**

**Objective: Council will take a leadership role in addressing climate change and ensure we protect and enhance our natural environment.**

- Sustainably manage, enhance, and increase trees and vegetation in Council's streetscapes, parks, and gardens, with species that enhance neighbourhood character, support biodiversity and are adaptable to a changing climate.

##### **Catchment Integrated Water Management Plans**

This UFS aligns with the State Government prepared Dandenong and Yarra Catchment Integrated Water Management Plans.

##### **Policy**

The implementation of the UFS is supported by the following endorsed Council plans/strategies:

##### **Whitehorse Climate Response Strategy 2023-2030**

This Strategy commits Council to a new set of energy and emissions related targets. These new targets together with other sustainability strategies, will help drive a broad range of environmental, sustainable and climate outcomes within Whitehorse.

## 10.4 (cont)

**Whitehorse Open Space Strategy (WOSS) 2007**

The Whitehorse Open Space Strategy sets out a cohesive direction for the future provision, planning, design, and management of publicly owned land that is set aside for leisure, recreation, and nature conservation purposes. An updated draft WOSS is currently out for public consultation.

**Interim Urban Forest Policy – Tree Management Plan**

Outlines how trees are maintained and managed on public land owned and managed by Council including street trees and park trees.

**Whitehorse Biodiversity Strategy 2014**

Addresses biodiversity conservation and managed actions undertaken by Council.

**Whitehorse Neighbourhood Character Statements 2014**

As part of the Whitehorse Neighbourhood Character Study (2014) identified the urban and environmental elements that contribute to Whitehorse's character. Three-character statements were identified – Bush environment, Bush suburban and Garden suburban.

**Wildlife habitat connectivity across the City of Whitehorse (Report)**

Baseline information prepared that included a preliminary analysis of existing biodiversity and wildlife habitat connectivity to inform future plans & policies within Whitehorse.

**BACKGROUND**

The UFS was endorsed in September 2021 and includes the most recent data collected on canopy cover in 2014 and 2018 within the Cooling and Greening Study, undertaken by RMIT supported by the Department of Environment Land Water and Planning (DELWP now known as DEECA). This data reported that Whitehorse experienced a decline in canopy cover from 20.7% (2014) to 18.4% in (2018). The Strategy highlights several challenges that can result in a decline in canopy cover such as an increase in urbanisation, population growth and climate change. To combat the reported decline, the UFS highlighted a vision, five objectives and an associated Action Plan. The Action Plan implementation has begun and for this report the detail on the delivery of these tasks is provided on the immediate and 1-2 year actions. In implementing the Action Plan officers have experienced several issues that have impacted reporting on the targets and completing several actions.

Issues encountered.LiDAR (Light Detection and Ranging)

The UFS commits to utilising the metric canopy cover percentage to reach the target. Canopy cover can be used to evaluate the health of the urban forest. The UFS includes the most recent data collected on canopy cover in 2014 and

#### 10.4 (cont)

2018. Unfortunately, DEECA did not commit to repeating this process, so an updated set of data has not been available for comparison.

Council therefore funded a LiDAR project to measure and update the canopy status and the data is currently being delivered and reviewed. A further report on the canopy targets will be prepared.

In June 2024 the Minister for Planning extended SLO9, until 23 December 2024. This is also relevant to support officers in continuing to provide information to the State Government on how the Whitehorse blanket tree protection controls have made a substantial difference in protecting the natural environment after the reported decline in canopy in 2018 as part of the Cooling and Greening Study.

#### Powerline Clearance

Council is required under Electricity Safety Act 1998 and Electricity Safety (Electrical Line Clearance) Regulations 2020 to maintain electric line clearance between powerlines and vegetation as specified by Energy Safe Victoria (ESV).

It is evident this process continues to be a challenge in maintaining, growing and improving tree canopy, placing increasing pressure on the health and extent of the urban forest. It has resulted in several actions within the UFS falling behind schedule as officers try to implement and investigate ways to minimise the impact of these regulations.

As the Interim Urban Forest Policy – Tree Management Plan is reviewed and updated, further consultation with the community will assist in understanding a preferred method on approaches like asymmetrical planting to set a clear direction on street planting design, especially where historic ‘avenue’ plantings are concerned. It is hoped through this process that improved engagement with utility providers can be achieved so investigation on opportunities for cable bundling of powerlines to negate the impact of vegetation clearing requirements can be considered.

#### Big Build Projects

The State Government’s Big Build projects of Level Crossing Removal Project (LXRP), Suburban Rail Loop (SRL) and North East Link Project (NELP) continue to consume substantial officer time to achieve the best results for the natural environment. Acquisition of open space and subsequent removal of trees will continue to counteract Council’s ability to meet its KPI’s and targets around planting and improving canopy. The acquisition of Sinnott Street reserve and sections of Box Hill Gardens as part of the SRL at Burwood and Box Hill affect existing green corridor plans as concern grows on construction development works affecting any new plantings and projects. The planned removal of the Valda Street wetlands and associated vegetation, although to return after completion of the NELP, will have a sustained effect on wildlife and biodiversity for a significant period. It is hoped that improved visibility around SRL draft concept plans will enable more Council officer input and advice, and appropriate planning to improve outcomes during this process.

## 10.4 (cont)

### **Discussion and Options**

This report details the progress to implement the UFS Action Plan with 52 of the 58 actions listed as commenced in the UFS Action Plan with the remaining six not due to start.

Several issues have been highlighted throughout the report impacting five actions that are being monitored. Four actions are related to Power Line Clearance projects. Further consultation with the community and stakeholders during the revision of the existing Interim Urban Forest Policy – Tree Management Plan will assist the process for delivery of these actions.

One action is highlighted as off track. Action 5.4 - Collaborate across sectors and regions to achieve better monitoring outcomes through Living Melbourne. This action is recommended to be changed to:

- Collaborate across sectors and regions to achieve better monitoring outcomes.

This recommended change to the action reflects greater opportunities to explore different projects, options, or collaborations while not precluding further involvement with Living Melbourne. If it was to remain unchanged, it is unlikely there would be any further progress to report.

### **SUPPORTING REPORT DETAILS**

#### **Legislative and Risk Implications**

The UFS identifies a range of responsibilities under various legislation and regulations related to trees and vegetation management that are relevant to Council which include:

- The UFS supports the legislative responsibilities listed under the Local Government Act (LGA) 2020 and the Climate Change Act 2017 that both require Council to consider climate change in its policies, strategies, services, and asset management.
- Whitehorse Planning Scheme - Overlays
- Electricity Safety Act 1998 and Electricity Safety (Electrical Line Clearance) Regulations 2020
- Whitehorse City Council Electric Line Clearance Management Plan (ELCMP)

#### **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, however it is important to note the UFS had extensive community engagement during development, and the vision, objectives and actions were influenced by feedback received from the community.

#### 10.4 (cont)

Revision of the existing Interim Urban Forest Policy – Tree Management Plan will involve further consultation with the community to strengthen and develop a new Tree Management Policy to support ongoing actions and canopy targets with the UFS.

#### **Financial and Resource Implications**

There are no financial or resource implications arising from the recommendations contained in this report.

The 2023/2024 budget provided funding to start implementation of the actions listed in the Action Plan which is in addition to existing operating budgets that support work in this area.

Officers will prepare budget proposals for consideration as required to continue to implement the actions of the UFS and IWMS.

This report highlights the importance of maintaining existing budgets to continue progress through the actions, demonstrating the results of encouraging work that has begun.

#### **Innovation and Continuous Improvement**

The UFS and associated Actions has provided the opportunity for continuous improvement and innovation especially through service delivery and planning.

Adoption of the Tree Management Software Program has provided:

- Improved capacity to manage risk and auditing processes.
- Increased efficiency for Council officers in the field to utilise the software to program and monitor works.
- An integrated source of data for other departments to utilise while planning other Council projects.

The data capture of park trees in the database has expanded the inventory and provided additional opportunities for species and diversity analysis to enable a better understanding of our urban forest, while also improving risk mitigation.

The addition of the Urban Forest dashboard on the Council website provides an opportunity for promotion and education for the community. It provides easily accessible information about what our urban forest consists of and what Council is doing to support it.

#### **Collaboration**

The delivery of the actions within the UFS is a collective effort from various departments across the organisation. Feedback was provided on the progress of these actions from officers within City Planning and Development, Parks and Natural Environment, Environmental Sustainability, Leisure and Recreation Services and the GIS team, who continue to support the objectives and actions within the UFS.

#### 10.4 (cont)

There are many external stakeholders involved in supporting the delivery of the UFS actions with Council officers. Council's Parkland Advisory Committees are involved in many actions and support Council to deliver outcomes such as revegetation projects and maintenance of our urban forest. Working across the catchment and neighbouring boundaries is a highlight through collaborations such as Gardiners Creek Regional Collaboration, Council Alliance for a Sustainable Built Environment (CASBE), Melbourne Water and other local government colleagues. Council and community groups continue to be involved in collaboration through the Environment and Sustainability Reference Group (ESRG), KooyongKoot Alliance, Bellbird Residents Advocacy Group (BRAG) and Combined Residents of Whitehorse Action Group (CROWAG).

#### **Conflict of Interest**

The *Local Government Act 2020* requires members of Council staff, and persons engaged under contract to provide advice to Council, to disclose any direct or indirect interest in a matter to which the advice relates.

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

#### **Conclusion**

The purpose of this report is to provide an update on the implementation progress of the actions from the Urban Forest Strategy 2021-2031. To date 52 of the 58 actions in the Action Plan have commenced and seven actions have been completed. One action has been reported off track with an alternate recommendation in this report which allows for greater collaboration and opportunities in monitoring outcomes.

For the next steps, Council officers will:

- Continue to implement the remaining UFS actions listed within year 3 where funding and resources are available.
- Undertake a revision of the existing Interim Urban Forest Policy – Tree Management Plan and consult with the community on the development of a new Tree Management Policy.
- Complete the delivery of the LiDAR products, and undertake further analysis to monitor, track and understand canopy changes. Once completed, report back to Council on the results in late 2024.

As actions are completed, the Our Urban Forest webpage and social media opportunities will be used to update the community.

Council officers will undertake this reporting annually to Council at the conclusion of each financial year. In addition, officers propose a similar traffic light report for the IWMS at the conclusion of the 2024/25 financial year.

#### **ATTACHMENT**

- 1 UFS Actions Status Report - Aug 2024

## 10.5 Retail Gas Contract for Council Operations

**Department**

City Services

Director Infrastructure

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**SUMMARY**

The purpose of this report is to inform Council of the current gas procurement requirements for Council's operations and to outline options for the next contract term commencing on 1 July 2025. Procurement of gas is time sensitive and providers operate in a fluctuating market leading to:

- Offers with an expiry of three to five business days for acceptance of a preferred offer following Best and Final Offer (BAFO).
- Contracts over \$1 million require Council approval with longer than five days needed for the matter to be placed on the agenda and then considered at a Council meeting.

Gas supply is a regulated market with options only via a retailer and associated price for different contract terms. While some of the pricing models are complex with calculations related to volume and peak and off-peak rates, the supply specification is relatively simple.

Given the routine nature gas procurement and the regulated supply arrangements, it is recommended that Council authorises the Chief Executive Officer to enter into contract(s) for the supply of gas for Council operations from 1 July 2025 to allow Council to maximise the opportunity to secure the most financially viable contract term and rates.

**RECOMMENDATION**

That Council:

1. Notes that the supply of gas for Council operations is regulated and procurement for this commodity is subject to restrictive tender offer arrangements; and
2. Authorises the Chief Executive Officer to accept a tender for the supply of gas for Council operations for the next contract term commencing 1 July 2025.

## 10.5 (cont)

**KEY MATTERS**

Council currently has two retail gas contracts as per below:

- Small Market Gas - PA Contract 2506/0641 – Council Contract 30453  
Contract term: 1 July 2022 to 30 June 2025  
Retailer: AGL  
There are approximately 43 small market gas sites. These are all of the Council facilities with gas, except for the large market gas sites.
- Large Market Gas – Council Contract 30551  
Contract term: 1 July 2024 to 30 June 2025  
Retailer: Shell Energy

The large market gas sites are Aqualink Box Hill and Aqualink Nunawading. These contracts are in place as per Council's Procurement Policy.

The procurement of gas and its prices can be influenced by a variety of factors including:

- Seasonality and decisions on when is the optimal time is to engage the gas market.
- Availability of local gas in different regions in particular, along the Eastern seaboard.
- International gas market and Australia's role in the gas trade.
- Global events that can impact gas supply.

These factors affect the best time to enter the market and procure gas, especially in a market where gas commodity prices are expected to continually rise and influenced by the length of the contract. Council's next gas procurement will explore different:

- Procurement methodologies, including collaborative, individual-tailored and/or hybrid.
- Gas requirements and volumes across the day and year, and specific sites.
- Contract clauses like take-or-pay (i.e. minimum gas volumes to be procured).
- Duration of contract terms.

Once these contract parameters are explored and set for the procurement, the market will provide a range of responses for consideration and there will be tight timeframes between receiving and approving the preferred offer. There is normally a three to five business day turn-around to accept the contract conditions and to sign the contract.

To address these procurement constraints, authorisation is sort for the Chief Executive Officer to accept a tender to procure gas for Council operations for the next contract term commencing 1 July 2025.



## 10.5 (cont)

**STRATEGIC ALIGNMENT**

This procurement is for gas supply to support the provision of Council services at the relevant Council facilities.

**Policy**

Council's Procurement Policy is of relevance.

Council's Climate Response Strategy 2023-2030 includes actions to reduce Council's reliance on gas for its operations and thus mitigate the financial implications of increasing gas prices.

**BACKGROUND****Discussion and Options**

Unlike the electricity market where there are a number of generation options with differing climate impacts, there is only one type of gas that is supplied.

The use of gas and the transition away from gas are being considered in accordance with Council's Climate Response Strategy 2023-2030 and Environmentally Sustainable Design (ESD) Policy for Council Buildings and Infrastructure. This is due to gas being a non-renewable energy, contributing to Council's corporate greenhouse gas emissions profile and gas pricing is expected to continually increase.

Council needs an arrangement for the procurement of gas as long as there is a need for gas at Council facilities and the recommended authorisation to the Chief Executive Officer is required to enable Council to engage with the market in a competitive manner.

**SUPPORTING REPORT DETAILS****Legislative and Risk Implications**

There are no legislative implications for this report. The most significant risk to be managed is to ensure there is a safe and reliable competitively priced supply of gas for provision of services at the Council facilities.

**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**

The energy sector is one where prices are constantly evolving, making estimating the value of gas used by Council difficult to assess. There are a

### 10.5 (cont)

range of variables related to the usage at each site, peak and off-peak demand and different pricing structures used by each retailer.

Based on the most recent tender outcomes, it is estimated that the contract cost for large market sites is approximately \$790,000 including network charges and GST per annum. For small market sites, the current contract value is approximately \$135,000 including network charges and GST per annum. The actual expenditure for these contracts will depend on final gas volumes consumed.

The total budgeted expenditure for gas across all Council sites was \$656,708 for 2023/24. For 2024/25, the budgeted amount has increased to \$735,683.

The 2024/25 budget was prepared before the current estimated contract costs were known. Therefore, the difference between the budgeted amount and expected contract expenditure will need to be accommodated as part of the budget reforecasting process.

The gas supply contract value is a function of the gas price and the term of the contract. Pricing variability is expected, linked to the length of supply agreement, hence uncertainty regarding total contract value and the recommendation to authorise the Chief Executive Officer to award a contract, which depending on the contract term, may be more than \$1 million.

### **Innovation and Continuous Improvement**

There are no direct Innovation and Continuous Improvement matters arising from the recommendation contained in this report. By authorising the Chief Executive to accept an offer for the supply of gas will allow officers to respond to market offers.

### **Collaboration**

Options being considered include collaborative procurement arrangements.

### **Conflict of Interest**

The *Local Government Act 2020* requires members of Council staff, and persons engaged under contract to provide advice to Council, to disclose any direct or indirect interest in a matter to which the advice relates.

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

### **Conclusion**

It is recommended that Council authorises the Chief Executive Officer to enter into gas procurement arrangements for Council's operations for the next contract term commencing 1 July 2025.

**10.6 Contract 30571 - Microsoft Enterprise Agreement Renewal 2024**

**Department** Information Technology  
Director Corporate Services

Attachment

**SUMMARY**

This report is to recommend the preferred partner for the supply of a three-year Microsoft Enterprise Agreement. Every three years, Council enters an Enterprise Agreement (EA) with Microsoft under which Council is entitled to use and deploy Microsoft software. This software is foundational to its operations and service delivery.

It is recommended that Council continue to purchase Microsoft licences using the EA established by the Municipal Authority of Victoria (MAV). The tender process included five vendors which were selected to participate from the MAV EA panel. Vendors offer a management percentage over official Microsoft pricing and value-add services. This is the only way to procurement Microsoft licences.

Council's expenditure on Microsoft has been increasing over the past three years which is due to:

- Global increases to the costs set by Microsoft for licences ranging from 9-20%.
- Increased demand for Microsoft PowerBI licences – Microsoft's data analytics and data visualisation tool.
- Roll out of email access to all staff which has increased the number of licences required. This increases staff's accessibility to community.
- Roll out of Microsoft Teams Calling to replace older legacy technology and increase staff accessibility to community.
- Increased requirements for strengthened cyber security software.

Council has tried to offset these increases with the aim of reducing annual increases to align with the rate cap. This was not possible in this scenario.

**RECOMMENDATION**

That Council accepts the tender and signs the formal contract document for Contract 30571 for SoftwareOne Australia Pty Ltd (ABN 18 151 340 608), for the supply of software licensing and subscriptions and to sign an Enterprise Agreement with Microsoft Operations PTE Limited of Department 551, Volume Licensing 438B Alexandra Rd #04-09/12 Block B Alexandra TechnoPark Singapore 119968, in the amount of \$2,962,889.42, including GST for a period of 3 years.

## 10.6 (cont)

**BACKGROUND**

In April 2020, Municipal Authority of Victoria (MAV) led a tendering process on behalf of Victorian local government. During May 2020, the MAV completed the tender process (contract NPN 2.17-3) to update this panel and subsequently, selected five preferred suppliers from which Council can choose for procurement. The preferred suppliers all have a unique set of pricing and value-add offerings.

In September 2021, Council purchased Microsoft licences from Insight Enterprises Australia for the fixed period of 3 years. This purchase was completed by accessing the MAV collaborative panel contract and allowed Council to amortise the cost over the period in addition to paying software assurance (maintenance). The contract expires in August 2024.

Over the past three years, Council's requirement for licencing has increased due to the following factors:

- Increased demand for PowerBI licences – Microsoft's data analytics and data visualisation tool.
- Roll out of email access to all staff which has increased the number of licences required. This increases staff's accessibility to community.
- Roll out of Microsoft Teams Calling to all staff to replace older legacy technology and increase staff accessibility to community.
- Increased requirements for strengthened cyber security software.

Council has therefore changed the composition of its licencing requirements to address the change in demand and is replacing some of the existing third-party vulnerability scanning and endpoint protection software. This will realise an associated offset in cost (\$75k per annum). Further benefits include increased security synergies of using Microsoft-provided security monitoring and response services, compliance tools for safeguarding sensitive data, investigate and respond to legal requirements, audit, and data & information governance.

**Discussion and Options**

Enterprise Agreements are aimed at large businesses and offer significant cost savings based on business size categories. An EA enables the purchase of required software licenses with payment amortised over a three-year period rather than an upfront lump sum. A condition of signing an EA is the uptake of Software Assurance, which provides the following benefits to Council:

- All future upgrades at no additional cost.
- Training credits.
- Technical support and problem resolution.
- License step-up – incremental cost and needs change.

## 10.6 (cont)

Tender Process

The tender process included five vendors which were selected to participate. Vendors offer a management percentage over official Microsoft pricing and value-add services. This is the only way to procurement Microsoft licences.

To assist in the selection of a preferred License Solution Partner from the MAV panel, the following criteria were selected:

- Financial benefit
- Demonstrated knowledge
- Value-add services
- Experience
- Credibility

The outcome of the evaluation resulted in SoftwareONE being the preferred vendor. SoftwareONE demonstrated value add by assisting the Council to better understand the offerings available with the cloud-centric EA agreements and better assisted the Council to identify savings and right-sizing for the licence renewal options.

The offered price was the lowest making the total offer best value for Council and forms the recommendation contained within this report.

**Benefits**

- Additional license discount from Microsoft (10% Year 1-2, 5% Year 3)
- Realised cost savings by eliminating third-party vulnerability scanning and endpoint protection (\$75k per annum).
- Locking in acknowledged sector best pricing.
- Dealing with an existing, known, reliable suppliers (MAV preferred, tried, and tested).
- Updates, support, new version rights.

Options

Council has limited options as the market of Microsoft suppliers is limited. Ultimately to not appoint this contract. A summary of the options and considerations are summarised below:

## 10.6 (cont)

Option: Do not appoint contract	Re-sign to an Enterprise Agreement
<ul style="list-style-type: none"> <li>• Council would lose access to core communication channels and systems. This would detrimentally impact service delivery.</li> <li>• No support; Council unlicensed.</li> <li>• No access to emails, Microsoft Teams, and all other M365. Online services.</li> </ul>	<ul style="list-style-type: none"> <li>• Year 1 and 2 discount.</li> <li>• Continuous access to state-of-the-art software.</li> <li>• Ongoing support.</li> <li>• Increased functionality i.e. security and compliance tools</li> <li>• Enhancements to Council's security and user experience through single sign-on (SSO) and multi-factor authentication (MFA).</li> </ul>
This option is not considered viable.	This option is recommended.

**Financial and Resource Implications**

The table below outlines the budget and expenditure on Microsoft licencing for the contract period (including GST). The proposed expenditure is budgeted for in the organisational operational technology budget. The cost of Microsoft licencing is increasing above CPI and rate cap. This process has attempted to mitigate the increased costs but still results in an increase in budget of 18% from FY24/25 to FY25/26 and a 4% increase from FY25/26 to FY26/27.

Factors which contributed to the costs increase in the past three years:

- Increase in M365 computer user count from 700 to 935. This is due to Council ensuring all staff have an email account and are accessible.
- Increasing Microsoft license costs above CPI and rate cap with limited choice for Councils to offset the increase.
- Migration of phone systems to Microsoft Teams Phone platform. The increase in cost for this contract is offset in the budget by a decrease in cost for the previous system.
- Increase in number of PowerBI Pro license which is used to improve Council's data analysis.

## 10.6 (cont)

\$ include GST	Budget	Actual	Comment
FY23/24	724,000	751,267	Budget was set before the introduction of MS Teams Calling and PowerBI. This was offset in cost reduction of the old telephony system.
FY24/25	904,893	Forecast 973,207	<p>The forecast actual spend in FY24/25 increased 30% from FY23/24. The FY24/25 expenditure is not like-for-like and is offset in cost reduction of \$80,000 where Council is transition security services from other contracts into this one. This reduces the increase to 19% and is due to:</p> <ul style="list-style-type: none"> <li>• 9% increase from Microsoft (applies to all customers);</li> <li>• 10% increase in Teams Calling, PowerBI &amp; Security and Compliance additional functionality.</li> </ul> <p>The forecast is an 8% budget overrun for Microsoft licences. This will be offset with spend reduction within the technology budget.</p>
FY25/26	973,207	N/A	The budget does not increase from planned expenditure in 24/25 under this new contract.
FY26/27	1,016,472	N/A	4% increase is aligned to CPI and 1.25% above current rate cap.
FY27/28 (1 month)	84,706*	N/A	*This is the 1-month spend pending new contract in August 2027.

## 10.6 (cont)

**Innovation and Continuous Improvement**

Microsoft is at the core of Council's technology operations and is fundamental to enabling organisational innovation and continuous improvement.

**Collaboration**

The MAV contract is a collaboration of many Councils for the purpose of collaborative procurement.

**Conflict of Interest**

The *Local Government Act 2020* requires members of Council staff, and persons engaged under contract to provide advice to Council, to disclose any direct or indirect interest in a matter to which the advice relates. Council officers involved in the preparation of this report have no conflict of interest in this matter.

**Conclusion**

Microsoft is a core system for Council and supports all aspects of service delivery. It is recommended that Council appoint the preferred supplier for the term of three years. This follows a diligent assessment of best value.

**ATTACHMENT**

## 1 MICROSOFT LICENCING

**Whitehorse City Council designates this attachment and the information contained in it as Confidential Information pursuant to Section 3 (1) g(ii) of the *Local Government Act 2020*. This ground applies because the matter concerns contractual information.**



## 10.7 Records of Informal Meetings of Councillors

### Department

Governance and Integrity

Coordinator Governance

### RECOMMENDATION

That Council receives and notes the Records of Informal Meetings of Councillors.

### Pre-Council Meeting Briefing – 12 August 2024 – 6.30pm – 6.37pm

Matter/s Discussed:	Councillors Present	Officers Present
<ul style="list-style-type: none"> <li>Council Agenda Items – 12 August 2024</li> </ul>	Cr Massoud (Mayor)	S McMillan
	Cr Davenport (Deputy Mayor)	J Green
		L Letic
	Cr Barker	S Sullivan
	Cr Carr	S White
	Cr Cutts	V Ferlaine
	Cr Lane	F Nolan
	Cr Liu	S Lozsan
	Cr McNeill	K Woods
	Cr Munroe	
	Cr Skilbeck	
Others Present: N/A		
Disclosures of Conflict of Interest: Nil		
Councillor /Officer attendance following disclosure: N/A		

## 10.7 (cont)

<b>Councillor Briefing – 19 August 2024 – 6.30pm - 8.10pm</b>		
<b>Matter/s Discussed:</b>	<b>Councillors Present</b>	<b>Officers Present</b>
<ul style="list-style-type: none"> <li>• Current Councillor Budget Requests Review – August 2024</li> <li>• Capital Works 2023/24 End of Year Update – Briefing Presentation</li> <li>• Urban Forest Strategy Actions Progress – Presentation Report</li> <li>• Draft Council Meeting Agenda Items – 26 August 2024</li> </ul>	Cr Massoud (Mayor) Cr Davenport (Deputy Mayor) Cr Barker Cr Carr Cr Cutts Cr Lane Cr Liu Cr McNeill Cr Munroe Cr Skilbeck Cr Stennett	S McMillan S Cann J Green L Letic N Brown V Ferlaino A Acklin L Gibson K Woods
<b>Others Present: N/A</b>		
<b>Disclosures of Conflict of Interest: Nil</b>		
<b>Councillor /Officer attendance following disclosure: N/A</b>		

**11 Councillor Delegate and Conference / Seminar Reports****11.1 Reports by Delegates and Reports on Conferences / Seminars Attendance**

**Department** Governance and Integrity  
Director Corporate Services

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Verbal reports from Councillors appointed as delegates to community organisations/committees/groups and attendance at conferences and seminars related to Council Business.

**RECOMMENDATION**

That Council receives and notes the:

1. Reports from delegates, and;
2. Reports on conferences/seminars attendance.

**12 Confidential Reports**

**13 Close Meeting**