



WHITEHORSE
CITY COUNCIL

Whitehorse City Council

AGENDA

Council Meeting

on

Monday 17 February 2025 at 7:00 PM

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

Members: Cr Andrew Davenport Mayor
Cr Prue Cutts Deputy Mayor
Cr Peter Allan
Cr Blair Barker
Cr Daniel Griffiths
Cr Jarrod Gunn
Cr Kirsten Langford
Cr Jason Martin
Cr Kieran Simpson
Cr Ben Stennett
Cr Hayley Weller

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TABLE OF CONTENTS

1	WELCOME.....	5
2	APOLOGIES.....	5
3	DISCLOSURE OF CONFLICTS OF INTEREST.....	5
4	CONFIRMATION OF MINUTES OF PREVIOUS MEETING.....	5
5	URGENT BUSINESS.....	5
6	REQUESTS TO SPEAK.....	5
7	PUBLIC QUESTION TIME.....	5
8	PETITIONS.....	5
9	NOTICES OF MOTION.....	5
10	COUNCIL REPORTS.....	6
10.1	1-7 Chapel Street, Blackburn– Use and Development of the land for dwellings and ground floor retail in a Commercial 1 Zone and reduction in the car parking requirements.....	7
10.2	1-7 Chapel Street, Blackburn – Amendment to Permit - Use and develop the land for the purpose of a three storey (four level) office building with at grade and basement car parking, associated internally illuminated / business signs and car parking dispensation.....	53
10.3	440-442 Burwood Highway, Vermont South (LOTS 1 & 2 LP 95139)– Construction of an apartment building and removal of trees.....	69
10.4	Contract 30566 - Aqualink Learn to Swim Programming (EOI).	98
10.5	Whitehorse Community Grants Program 2025/26 Update.....	105
10.6	2024/25 Q2 Quarterly Performance Report.....	117
10.7	Records of Informal Meetings of Councillors.....	121
11	COUNCILLOR DELEGATE AND CONFERENCE / SEMINAR REPORTS.....	124
11.1	Reports by Delegates and Reports on Conferences / Seminars Attendance.....	124
12	CONFIDENTIAL REPORTS.....	125
13	CLOSE MEETING.....	125

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 3 February 2025

RECOMMENDATION

That the minutes of the Council Meeting 3 February 2025 be confirmed.

5 Urgent Business

6 Requests to Speak

7 Public Question Time

8 Petitions

9 Notices of Motion

10 Council Reports

10.1 1-7 Chapel Street, Blackburn– Use and Development of the land for dwellings and ground floor retail in a Commercial 1 Zone and reduction in the car parking requirements

Department City Planning and Development
Director City Development

WH/2022/648
Attachment

SUMMARY

Planning permit applications WH/2022/648 and WH/2003/14097/B were deferred at the Council meeting on the 3rd of February 2025 to seek further advice from officers, an addendum is attached with this advice.

This report provides Council with an assessment of planning permit application WH/2022/648 at 1-7 Chapel Street, Blackburn, which seeks the approval of a multi storey mixed use building in a Commercial 1 Zone and a reduction in car parking requirements.

The application proposes the use and development of the land for an 8 to 9 storey development comprising two tower forms containing 168 apartments and two retail tenancies at ground floor above three levels of basement car parking. The site will provide for two vehicle access points, one from Railway Road and the other via the laneway from Chapel Street with several pedestrian access points from Railway Parade and the rear laneway from Chapel Street.

This application also results in the need to amend an existing planning permit WH/2003/14097/B, to reduce the amount of car parking provided on site and to temporarily supply some of the parking for the existing office use on another site. There is a further report to Council on this amended permit application.

The key considerations include the acceptability of the uses and the built form and appearance of the development, having regard to the zoning, policy and character of the area and the wider Blackburn activity centre; the impacts of traffic parking and road safety; and whether the proposal would result in unacceptable offsite amenity impacts on surrounding uses.

As part of the process, the application was advertised, and a total of 38 objections were received. The objections raised issues with the scale of the building, exceedance of discretionary heights under the Design and Development Overlay (DDO), car parking and traffic impacts, loss of views, overshadowing, overlooking, decrease in privacy and security, impacts during construction and impacts on property values. A Consultation Forum was held on Thursday 23rd of May 2024 and chaired by former Lake Ward Councillor Denise Massoud, at which the issues were explored, however no resolution was reached between the parties. Objector concerns have been addressed in further detail throughout the report.

10.1 (cont)

The application was referred to Head, Transport for Victoria, in their capacity as a determining referral authority. Their scope of consideration has regard to land use and transport integration. The Head, Transport for Victoria, did not object to the application subject to conditions to being included on the decision.

This report assesses the application against the relevant provisions of the Whitehorse Planning Scheme, including the purpose and decision guidelines of the Commercial 1 Zone, Design and Development Overlay Schedule 8, Development Contributions Plan Overlay Schedule 1 and Clauses 52.06 (Car Parking), 52.34 (Bicycle Parking), Clause 58 (Apartment Developments) and Clause 65 (Decision Guidelines).

An addendum to the report provides further advice on submissions received from residents on the following topics:

- (a) Podium height and bulk impacts
- (b) Height under the Design and Development Overlay Schedule 8
- (c) Transition of height
- (d) Setbacks to east and northern boundaries
- (e) Overshadowing and loss of light and rain to terraces
- (f) Overlooking, security and privacy
- (g) Loss of trees
- (h) Traffic
- (i) Protection of Heritage Buildings
- (j) Clarification on overall height.

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

RECOMMENDATION

That Council:

- A Being the Responsible Authority, having caused Application WH/2022/648 for 1-7 Chapel Street, BLACKBURN to be advertised and having received and noted the objections is of the opinion that the granting of a Planning Permit for the 'Use and Development of the land for dwellings and ground floor retail in a Commercial 1 Zone and reduction in the car parking requirements', is acceptable and should not unreasonably impact the amenity of adjacent properties.
- B Issue a Notice of Decision to Grant a Permit under the Whitehorse Planning Scheme to the land described as 1-7 Chapel Street, BLACKBURN for the 'Use and Development of the land for dwellings and ground floor retail in a Commercial 1 Zone and reduction in the car parking requirements', subject to the following conditions:

Amended Plans Required

- 1. Before the development starts, amended plans must be submitted to and approved by the Responsible authority, in digital format. Once approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale, with dimensions,

10.1 (cont)

and be generally in accordance with the decision plans dated 28 November 2023, but modified to show:

- a) A 1.8m high barrier along the eastern edge of apartment balconies 3.12 & 3.13.
- b) Mailboxes to be clearly delineated within the lobby of each building.
- c) Overlooking diagrams to ensure that the SPOS areas of Apartments 3.01 and 3.02 do not overlook into neighboring SPOS.
- d) Rainwater tank capacity to be depicted on the plans and annotated for reuse/retention purposes.
- e) A façade strategy in accordance with Condition 5.
- f) An amended Wind Report in accordance with Condition 9.
- g) Any changes required under the amended sustainability management plan in condition 10.
- h) A Carparking Management Plan in accordance with Condition 11.
- i) An amended Waste Management Plan in accordance with Condition 12
- j) A Construction Management Plan in accordance with Condition 15.

Layout not altered.

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

Landscaping

3. The garden and recreation areas shown on the endorsed plan and schedule must only be used as gardens and recreational areas and must be maintained in a proper, healthy and orderly condition at all times to the satisfaction of the Responsible Authority. Should any tree or plant be removed or destroyed it must be replaced by a similar tree or plant of similar size and variety.

Parks and Natural Environment

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

10.1 (cont)

- a) Tree protection zone distances:
 - i. Tree 1 – 3.8 metre radius from the centre of the tree base.
- b) Tree protection zone measures are to be established in accordance with Australian Standard 4970-2009 and including the following:
 - i. Erection of solid chain mesh or similar type fencing at a minimum height of 1.8 metres in height held in place with concrete feet.
 - ii. Signage placed around the outer edge of perimeter the fencing identifying the area as a TPZ. The signage should be visible from within the development, with the lettering complying with AS 1319.
 - iii. Mulch across the surface of the TPZ to a depth of 100mm and undertake supplementary watering in summer months as required.
 - iv. No excavation, constructions works or activities, grade changes, surface treatments or storage of materials of any kind are permitted within the TPZ unless otherwise approved within this permit or further approved in writing by the Responsible Authority.
 - v. All supports and bracing should be outside the TPZ and any excavation for supports or bracing should avoid damaging roots where possible.
 - vi. No trenching is allowed within the TPZ for the installation of utility services unless tree sensitive installation methods such as boring have been approved by the Responsible Authority.
 - vii. Where construction is approved within the TPZ, fencing and mulching should be placed at the outer point of the construction area.
 - viii. Where there are approved works within the TPZ, it may only be reduced to the required amount by an authorised person only during approved construction within the TPZ, and must be restored in accordance with the above requirements at all other times.

Façade Strategy

5. Before the development starts, a Façade Strategy must be submitted to and be to the satisfaction of the Responsible Authority. When approved this will form part of the endorsed plans. All materials, finishes and colours must be in conformity with the approved Façade Strategy to the satisfaction of the Responsible Authority. The Facade Strategy for the development

10.1 (cont)

must be generally in accordance with plans prepared and endorsed by Jackson, Clements Burrows Architects and detail:

- a) A concise description by the architect of the building design concept and how the façade works to achieve this.
- b) Schedule of colours, materials and finishes, including the colour, type and quality of materials showing their application and appearance. This can be demonstrated in coloured elevations or renders from key viewpoints, to show the materials and finishes linking them to a physical sample board with clear coding.
- c) External building materials and finishes not resulting in hazardous or uncomfortable glare to pedestrians, public transport operators and commuters, motorists, aircraft, or occupants of surrounding buildings and public spaces to the satisfaction of the Responsible Authority.
- d) Elevation details generally at a scale of 1:50 illustrating typical podium details, entries and doors, typical privacy screening and utilities, typical tower detail, glazing, window detail and any special features which are important to the building's presentation.
- e) Cross sections or other method of demonstrating the façade systems, including fixing details indicating junctions between materials and significant changes in form and/or material.
- f) Information about how the façade will be accessed and maintained and cleaned, including planting where proposed.
- g) Example prototypes and/or precedents that demonstrate the intended design outcome indicated on plans and perspective images to produce a high-quality built outcome in accordance with the design concept.
- h) Details of the east-facing, on-boundary wall, which is to be treated with finishes, textures or other design elements to provide a high quality finish which does not diminish the ability of the eastern adjoining lot to be simultaneously constructed to this wall.

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

Asset Conditions

6. All stormwater drains and on-site detention systems are to be connected to the legal point of discharge to the satisfaction of the Responsible Authority prior to the occupation of the building/s. The requirement for on- site detention will be noted on your stormwater

10.1 (cont)

point of discharge report, or it might be required as part of the civil plan's approval.

7. Detailed stormwater drainage and/or civil design for the proposed development are to be prepared by a suitably qualified civil engineer and submitted to the Responsible Authority for approval prior to occupation of the development. Plans and calculations are to be submitted with the application with all levels to Australian Height Datum (AHD). All documentation is to be signed by the qualified civil engineer.
8. Stormwater that could adversely affect any adjacent land shall not be discharged from the subject site onto the surface of the adjacent land.

Wind Report

9. Prior to the endorsement of plans under Condition 1 of this permit, an amended Wind Assessment Report to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. Once approved, the amended Wind Assessment Report will be endorsed and will form part of this permit. The amended Wind Assessment Report must be generally in accordance with plans endorsed under Condition 1, as well as the Wind Impact Assessment prepared by ViPac and dated 8 November 2022, but modified to show:
 - a) Full assessment of the decision plans dated 28 November 2023.

The provisions, recommendations and requirements of the endorsed Wind Assessment Report must be implemented and complied with to the satisfaction of the Responsible Authority.

Sustainable Management Plan

10. Prior to the endorsement of plans, an amended Sustainability Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. Once approved, the amended Sustainability Management Plan will be endorsed and will form part of this permit. The amended Sustainability Management Plan must be generally in accordance with the existing Sustainability Management Plan, but modified to include, show or address:
 - a) Provide a Preliminary BCA Section J / NatHERS Energy Efficiency Report as an appendix to the SMP, including information regarding artificial lighting, window tinting, Window SHGC and U values, double glazing, etc. Modelling of commercial areas should show section J compliance, and a representative sample of modelled residential apartments should demonstrate commitment to a minimum 7-star average energy rating.

10.1 (cont)

- b) Provide a Daylight Assessment for the development that is consistent with the Section J / NatHERS energy efficiency report.
- c) Provide a commitment to Electric Vehicle (EV) charging as per the following (in addition to existing commitments in the SMP):
 - i. Provide a dedicated EV distribution board(s) in each residential carpark storey that is capable of: supplying a minimum 7 kW (32 Amp single phase) dedicated circuit to each residential car parking space; and,
 - ii. Supply a minimum 22 kW (32 Amp three phase) dedicated circuits to 5% of office car parking spaces, to accommodate company vehicles primarily garaged in the building;
 - iii. Electrical infrastructure and load management strategy to allow for future installation of EV charging to a minimum of 25% of all office and commercial parking spaces.
 - iv. A strategy for load sharing and managing the maximum demand load of the development so that it does not exceed the site capacity.
 - v. Dedicated space for cable trays to support the future installation of EV cabling from the distribution board to the edge of each applicable car parking space.
 - vi. Additional EV infrastructure, as required, which may include power use metering and communication systems, increased electrical capacity, and conduit installations.
 - vii. Motor cycle, moped, electric bicycle or scooter parking: A 10-15 Amp charging outlet to every 6 applicable parking spaces.
 - viii. Shared or Communal Space EV Charging: A minimum of 1 Active EV charging unit (minimum 22 kW, 32 Amp three phase) should be installed at a shared or communal parking space, and shown on the plans. Shared or communal EV charging spaces should be located in highly visible, priority locations.

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

Car Park Management Plan

11. Before the development commences, a Car Park Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the Car Park Management Plan will be endorsed and

10.1 (cont)

will form part of this permit. The Car Parking Management Plan must address, but not be limited to, the following:

- a) The allocation of 200 car parking spaces associated with the residential use, 5 car spaces associated with the retail use and 100 car spaces associated with the office use.
- b) Details to ensure the separation of the car parking spaces and to limit any parking conflict and incorrect use of allocated parking.
- c) The management of the car park use including the operational details, design and location of any entry / exit barriers, location of parking, ownership structure, security and mechanisms to limit conflict with the approved medical centre land use.
- d) Details of wayfinding, cleaning and security of the end of trip bicycle facilities.
- e) Any signage associated with short-stay parking, allocated parking and directional wayfinding signage.
- f) Loading/unloading of vehicles associated with the use being undertaken wholly on site with no vehicles being parked in Wellington Road or other streets.
- g) Details of electric vehicle charging capability.

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

Waste Management

12. Before the development commences, an amended Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The Waste Management Plan must be generally in accordance with the Waste Management Plan submitted with the application, prepared by Leigh Design, dated 20 December 2023, but modified to show:

- a) Hours of waste collection pickup

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

14. The approved WMP will be the model for adoption in this development and the design & as-built aspects need to account for what is approved in the WMP. Any revision of the WMP or changes to the approved waste system of the development requires Council approval.

Construction Management Plan

10.1 (cont)

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

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

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

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

Department of Transport

16. Unless otherwise agreed to in writing by Head, Transport for Victoria, prior to the commencement of any works (other than excavation and retention works), a fully dimensioned Functional Layout Plan (FLP), traffic signal plan and functional staged Road Safety Audit (RSA) must be prepared to the satisfaction of Head, Transport for Victoria. The FLP must be prepared in accordance with Austroads' guidelines and include:
- a) The lengthening of the existing U-turn lane (east approach) and right turn declaration lane (west approach) at the intersection of Whitehorse Road and Chapel Street.
 - b) Associated remodelling of traffic signals at the intersection of Whitehorse Road and Chapel Street. This remodelling will include the provision of controlled right turn phase for right turn movements into Chapel Street and U-turn movements on Whitehorse Road.
 - c) Impacted services and trees to be removed or relocated.
 - d) Associated signage and line marking.
17. Subsequent to the approval of the FLP and prior to the commencement of any roadworks within the arterial road reserve the applicant must submit the detailed engineering design plans to Head, Transport for Victoria for review and approval. The detailed design plans must be prepared generally in accordance with the

10.1 (cont)

approved FLP and functional stage Road Safety Audit to the satisfaction of Head, Transport for Victoria.

18. Unless otherwise agreed in writing by Head, Transport for Victoria, before the occupation of the permitted development, all works required by Head, Transport for Victoria as per the approved detailed design plans must be completed to the satisfaction of and at no cost to Head, Transport for Victoria.

Yarra Valley Water

19. The owner of the subject land must enter into an agreement with Yarra Valley Water for the provision of water services.
20. The owner of the land must enter into an agreement with Yarra Valley Water for the provision of sewerage services.

Use Conditions

21. The amenity of the area must not be detrimentally affected by the use or development, including through:
- a) The transport of materials, goods or commodities to or from land.
 - b) The appearance of any buildings, works or materials.
 - c) The emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, wastewater, waste products, grit or oil.
 - d) The presence of vermin.

All to the satisfaction of the Responsible Authority.

22. The use must comply at all times with the *State Environment Protection Act 2021*.

General Conditions

23. Buildings or works must not be constructed over any easement without the written consent of the relevant Authorities.
24. All building plant and equipment on the roofs, terraces areas, common areas and public thoroughfares are to be concealed to the satisfaction of the Responsible Authority. The construction of any additional plant, machinery or other equipment, including but not limited to all service structures down pipes, aerials, satellite dishes, air-conditioners, equipment, ducts, flues, all exhausts including car parking and communication equipment must include appropriate screening measures to the satisfaction of the Responsible Authority.
25. All mechanical exhaust systems for the car park hereby approved must be located and sound attenuated to prevent noise and

10.1 (cont)

general nuisance to the occupants of the surrounding properties, to the satisfaction of the Responsible Authority.

26. All pipes, fixtures, fittings and building services servicing any building on the land must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.
27. The car parking areas and accessways as shown on the endorsed plans must be formed to such levels so that they may be used in accordance with the plan, and must be properly constructed, surfaced, drained and line-marked (where applicable) to the satisfaction of the Responsible Authority.
28. The car parking areas and driveways must be maintained to the satisfaction of the Responsible Authority.
29. The nature strip must be reinstated where any existing vehicle crossover is redundant, at no cost and to the satisfaction of the Responsible Authority.
30. Except with the prior written consent of the Responsible Authority, council assets must not be altered in any way.
31. All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.
32. Existing street trees must not be removed or damaged except with the written consent of the Responsible Authority.

Development Contributions Conditions

33. 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 not more than 21 days prior to the grant of a building permit under the *Building Act, 1993* or the commencement of 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.
34. 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.

Expiry Conditions

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

10.1 (cont)

- a) The development is not commenced within three (3) years from the date of issue on this permit.
- b) The development is not completed within six (6) years from the date of this permit.
- c) The use is not commenced within five (5) years from the date of completion of the development.

The Responsible Authority may extend the periods referred to above if a request is made in writing before the permit expires or within six (6) months afterwards for commencement or within twelve (12) months afterwards for completion.

- 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*.

MELWAYS REFERENCE MAP 47 K9

Applicant: 1 Chapel Street Pty Ltd
 Zoning: Commercial 1 Zone
 Overlays: Design and Development Overlay Schedule 8
 Development Contributions Plan Overlay Schedule 1

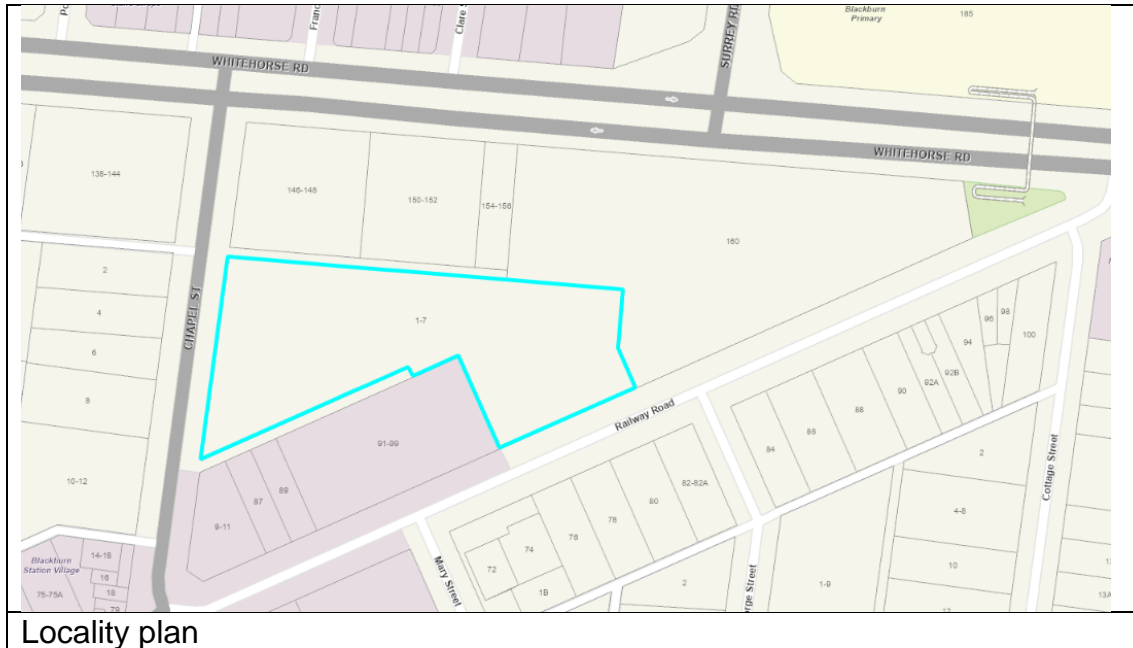
Relevant Clauses:

- Clause 11 Settlement
- Clause 11.03-1L Activity Centres
- Clause 11.03-1L-01 Blackburn Neighbourhood Activity Centre
- Clause 12 Environment and Landscape Values
- Clause 15 Built Environment and Heritage
- Clause 15.01-5L-01 Tree Conservation
- Clause 15.03-1L Heritage Conservation
- Clause 16 Housing
- Clause 16.01 Residential Development
- Clause 16.01-1L Housing Change
- Clause 17 Economic Development

- Clause 34.01 Commercial 1 Zone
- Clause 43.02 Design and Development Overlay (Schedule 8)
- Clause 45.06 Development Contributions Overlay (Schedule 1)
- Clause 52.06 Car Parking
- Clause 52.34 Bicycle Facilities
- Clause 58 Apartment Developments
- Clause 65 Decision Guidelines

Ward: Lake Ward

10.1 (cont)



Locality plan

BACKGROUND

History

Previous Permits

The subject site has been subject to the following previous permits:

- WH/2003/14097 was issued on the 1st of October 2003 for the Use and develop of the land for the purpose of a three storey (four level) office building with at grade and basement car parking, associated internally illuminated/business signs and car parking dispensation, generally in accordance with the accompanying endorsed plans and subject to the following conditions.
- This permit was amended on 5 February 2005 and introduced new landscape areas, relocation of substation, alterations to ground level, additional shower rooms and additional tea rooms as well as new glazing, louvre and aluminium materials added.

Current planning applications under consideration

- Permit amendment (WH/2003/14097/B) is currently under consideration with Council to reduce car parking. This is explained in further detail later in this report.

The Site and Surrounds

Site

Council officers have conducted an inspection of the site and surrounds.

The subject site is located at 1-7 Chapel Street. The site has a unique shape, with a frontage of 74.21m to Chapel Street to the west, an interface of 54.13m to Railway Road to the south, a depth to the north of 101.19m and

10.1 (cont)

a combined rear width of 36.91m for a total site area of 7,247m². The site experiences a fall in natural ground level from the north-west to south-east.

The site is currently occupied by a three-storey office building (Approved by permit WH/2003/14097) which fronts the Chapel Street boundary. Car parking for this use is provided to the rear of the site, which is accessed via a crossover from Railway Road. The site also provides for a secondary access way via the laneway from Chapel Street to the south of the existing office building. The site contains some vegetation throughout the site, which does not require a planning permit for its removal.

The site is encumbered by 6 easements which are located around the rear and south of the existing office building and provide for access, electricity and sewerage purposes. A S173 agreement regarding the construction, maintenance and the implementation of a carriageway easement for the laneway from Chapel Street to the south of the existing office building on the site is registered on the certificate of title for the site. This does not have any consequential impact on the site or the proposal.



Figure 1 – Aerial view of the subject site

Surrounds

The site forms part of the Blackburn Megamile (West) Activity Centres area (BAC). The BAC provides for an appropriate location for residential and commercial development compatible with the character of the area. The site has undergone significant growth in recent years, with the immediate surrounding context as follows:

10.1 (cont)

Adjoining properties

Property	Site description	Approvals
1-7 Chapel Street, Eastern Abuttal	Multi storey office building on the western portion of the subject site.	WH/2003/14097 was issued on 1 October 2003 for the development that currently occupies the western half of the site.
146-156 Whitehorse Road, Northern Abuttal	Multi storey building (and part vacant) used for car sales and motor vehicle repair.	<p>WH/2021/223 – Construct a building and construct or carry out works to the existing building. Application to rebuild showroom and service centre across all three sites.</p> <p>WH/2021/223/A – Amendment to the above permit to reduce scope of works to 150-156 Whitehorse Road</p> <p>WH/2021/223/B – Amendment to increase the size of the buildings and works and the use of the site in line with the original approval</p>
160 Whitehorse Road, Northern and Eastern Abuttal	Development of 4 towers consisting of 7-8 storeys above 3 levels of basement parking (with one sub-basement/ground floor level) consisting of a small scale supermarket, several retail shops and 289 apartments.	<p>Planning Permit WH/2019/346 was issued on 13 December 2019 for the current development on the site.</p> <p>This application has had several amendments, however the overall fundamental aspects of the development remain the same.</p>
76-82 Railway Road, Southeast abuttal	Single and double storey buildings used for a range of industrial uses.	Several permits have been issued for these sites for different uses (microbrewery and coffee roasters) and minor buildings and works.
91-99 Railway Road, Southwest abuttal	A 4-storey office building consisting of an office use.	A planning permit WH/2006/176 was issued on the 23 January 2007 for the construction of a five-storey building with a three-storey basement car park. This was amended on 2 July 2020 to allow for a six-storey building. The development allowed under this permit has not yet been constructed.

10.1 (cont)

PROPOSAL

The application proposes the use and development of the land for an 8 to 9 storey development comprising two tower forms containing 168 apartments and two retail tenancies at ground floor above three levels of basement car parking. The site will provide for two vehicle access points, one from Railway Road and the other via the laneway from Chapel Street with several pedestrian access points from Railway Parade and the rear laneway from Chapel Street.

The facets of the application are described in further detail below:

Dwellings

The application proposes 168 dwellings on the site. These are broken down as follows:

- 64 one-bedroom apartments.
- 97 two-bedroom apartments.
- 7 three-bedroom apartments.

The development will include a ground level outdoor communal courtyard and an internal common area at level 7.

Retail premises

Two retail premises will be located at Ground Level on the Railway Road frontage of the site. These premises will be of 302m² and 126m² and accessed directly from the footpath. No details have been provided as to the specific uses (i.e. café or retail shop), however will fall under the broader definition of 'retail'.

Built Form**Podium and ground floor**

The ground level is proposed to be on the south boundary to Railway Road and run for near the entirety of the boundary, with a 6m gap in the centre for pedestrian access and an 8.3m wide gap on the east side for bicycle and vehicular access. The ground level will be predominately window fronting Railway Road, providing visibility into the retail premises located within this section.

The podium is proposed as 3 storeys with a maximum height of 12.93m, with a width of 51.1m which will extend for near the entirety of the front boundary. The podium will be on the boundary of all levels along Railway Road, 18m in length on the west boundary and 10m in length on the east.

Towers

The towers will be located above the podium with a height of 8 storeys for building A and 9 storeys for building B. The towers will be detached at ground level, separated by the communal entrance and garden for the

10.1 (cont)

dwellings. From level 1 the towers will be connected with internal access between them up to Level 7. The towers will incorporate two distinct forms through design and materiality above the podium, with a recessed centre, to provide a high level of separation across the site.

The towers will provide for an on-boundary street frontage to Railway Road up to level 2, 3m setback up to Level 5, 4m setback at level 6, 4.9m setback at level 6, 6.1m setback at level 7 and 14m setback at level 8. Side setbacks will remain consistent throughout the development ranging from 4.5m-9.35m. To the southeast corner, Building B will be on the boundary up to Level 2 and increases to 11.58m setback as the building ascends. Rear setbacks will be consistent across the entire tower at 5.5m for building A and 4.5m for building B.

Each level of Building B is accessed via an internal lift core, while building A will be serviced by two lifts, one reaching level 8 and the other to level 7. A common area balcony is provided on level 6, while an internal common lounge and an external outdoor common garden is provided on level 7.

Landscaping

Landscaping is proposed throughout all external areas of the Ground Floor, balcony planters fronting Railway Road and at the Level 7 outdoor common area. This includes the provision of trees at the ground floor common area, boundaries and public thoroughfare along the south of the development as well as street trees.

Car Parking and Access

The site will be serviced by 3 levels of basement car park, with a total of 305 spaces. The parking specifics will be broken down as follows:

- 200 resident spaces, (95 located on B2 and 105 located on B3).
- 100 Office spaces (87 regular and 2 DDA located on B1 and 11 located on B2) to be utilised by the existing office building on the site. This is discussed in further detail below).
- 5 retail spaces located on B1.
- 2 DDA spaces located on B1.
- There will also be 30 bicycle parking spaces at Ground Level and 46 provided at B2 (total of 76)

The car parking will be accessed via the existing crossover, which is to be widened, from Railway Road on the south-east corner of the site and via a secondary access from the Right of Way from Chapel Street in the south-west corner of the site.

10.1 (cont)

PLANNING CONTROLS**Applicable planning controls and the relevant decision guidelines.**

The following sets out why a permit is required based on the applicable planning controls of the Whitehorse Planning Scheme (Scheme), what the applicable decision guidelines require to be considered and a list of the relevant policies and provisions in relation to this application.

Zone**Clause 34.01 (Commercial 1 Zone)**

The subject site is located within Clause 34.01 (Commercial 1 Zone) which provides the following purpose:

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

Under the provisions of the Commercial 1 Zone at Clause 34.01 of the scheme, a planning permit is required to:

- Use of the land for a dwelling, as the frontage at ground level exceeds 2 metres.
- Construct a building or construct or carry out works.

A permit is not required for the use of the site for the retail premises.

Overlays**Clause 43.02 (Design and Development Overlay)**

The site is located within the Design and Development Overlay, which provides the following purpose:

- To implement the Municipal Planning Strategy and the Planning Policy Framework
- To identify areas which are affected by specific requirements relating to the design and built form of new development.

Under the provisions of the Design and Development Overlay at Clause 43.02-2, a permit is required to:

- Construct a building or construct or carry out works.

The site is located within Schedule 8 of the DDO (Blackburn Neighbourhood Activity Centre and Megamile (west) Major Activity Centre).

10.1 (cont)

An assessment of the proposal against the Design and Development Overlay Schedule 8 is undertaken in further detail below.

Clause 45.06 – Development Contributions Plan Overlay – Schedule 1 (DCPO1)

The site is located within the Development Contributions Plan Overlay Schedule 1 which provides the following purpose:

- To implement the Municipal Planning Strategy and the Planning Policy Framework
- To identify areas which require the preparation of a development contributions plan for the purpose of levying contributions for the provision of works, services and facilities before development can commence.

While the DCPO1 does not trigger a planning permit as such, it requires levy's payable as per the summary of costs set out within the Schedule to the DCPO. A condition will be added onto the permit ensuring the requirement of the DCPO is met. It is to be noted that the amendment C241whse, which implemented the Development Contributions Plan Overlay, was gazetted on the 21st of December 2023, however as no transitional provisions apply, the DCPO will apply to the proposal.

The site is located within the Blackburn Charge Area (Charge Area 10) which is the area between Springfield Road to the north, Canterbury Road to the south Middleborough Road to the west and a range of streets to the east that runs along the Blackburn/Nunawading suburb boarder.

The proposal will provide for an increase of 15,281m² of residential area and 429m² of retail area and the development infrastructure levy will apply for these uses.

10.1 (cont)

Particular Provisions**Clause 52.06 (Car Parking)**

Under the provisions of Clause 52.06, a planning permit is required to:

- Reduce the number of car parking spaces required under Clause 52.06-5 or in a schedule to the Parking Overlay.

Pursuant to Clause 52.06, a planning permit is required to reduce the minimum number of car parking spaces required for a use. As specified within the Parking Overlay, the Column B rates under Clause 52.06 are applicable.

The table below outlines the uses proposed, the number of car parking spaces required under Column B and the number of car parking spaces proposed.

Land Use	Rate	Measure	No./Sq m	Parking Required	Parking Provided	Difference
Residential	1	To each 1 or 2 bedroom dwellings	161	175 total	200	+25
	2	To each 3 or more bedroom dwelling	7			
Retail	3.5	Per 100sqm of leasable floor area	429m ²	15	5	-10
Office	N/A	N/A	N/A	N/A	100	N/A
Total				190	305	-10

The development requires a planning permit for the reduction of 10 spaces for the retail use on the site, with 15 spaces required and only 5 provided.

10.1 (cont)

Clause 52.34 – Bicycle facilities

Clause 52.34 sets the requirements for the provision of bicycle parking and end of trip facilities. The following statutory bicycle parking rates are required for the development:

Land Use	Rate	Measure	No./Sq m	Bike Parking Required	Bike Parking Provided	Difference
Dwelling – Resident	1	To each 5 dwellings in developments of four or more storeys	175 dwellings	35	30 at Ground Floor 44 in basement 2	
Dwelling – Visitor	1	To each 10 dwellings in developments of four or more storeys	175 dwellings	17		
Shop – Employee	1	To each 300m ² of leasable floor area if it exceeds 1000m ²	429m ²	1		
Shop – Shopper	1	To each 500m ² of leasable floor area if the leasable floor area exceeds 1000m ²	429m ²	1		
Total				53	76	+21

As evidenced above, the development provides surplus of 21 bike spaces, and as such, a permit is not required under Clause 52.34-2

CONSULTATION**Public Notice**

The application was advertised by mail to the adjacent and nearby property owners and occupiers and by erecting notices to the Chapel Street and Railway Road frontages. Following the advertising period 38 objections were received.

10.1 (cont)

The issues raised are summarised as follows:

Objection	Response
Scale and size of building	An assessment of the scale, size and bulk of the development is undertaken in further detail below.
Exceedance of the discretionary heights under the DDO	An assessment of the height under the DDO is undertaken in further detail below.
Car parking and traffic impacts	Car parking and traffic impacts are assessed in further detail further below in the assessment section of this report.
Loss of views	As found in previous VCAT decisions, loss of views cannot form part of planning application, and as such, this does not form part of this assessment.
Overshadowing	Overshadowing is assessed in further detail below
Overlooking	Overlooking has been assessed in further detail below.
Decrease in privacy and security.	The development has been designed to ensure that privacy and security of existing neighbouring residences will be maintained.
Impacts during construction	A Construction Management Plan has been recommended to be added as a condition, which will manage issues such as noise, hours of operation, dust and waste control and construction vehicle matters, to ensure minimal impact on surrounding properties.
Decrease in property values	As found in previous VCAT decisions, loss of property values cannot be considered as part of a planning application and as such, this does not form part of this assessment.

Consultation Forum

A Consultation Forum was held on 23 May 2024, chaired by former Lake Ward Councillor Denise Massoud and attended by the permit applicant, planning officers and a number of the objectors. At the consultation forum, the issues were discussed in depth, however no resolution was reached. All objections remain outstanding.

Referrals

External

Referral Authority	Type	Response
Department of Transport	Section 55 (Determining)	No objection, subject to conditions.
Yarra Valley Water	Advice	No objection subject to conditions.

10.1 (cont)

Internal

Internal Department	Response
Transport Engineer	The application was referred to Transport Engineering multiple times throughout the application process. The latest iteration of the plans, Transport Engineering had no objection and required no conditions to be included on any decision.
Waste	Council's Waste team had no objection subject to conditions. These have been included in the recommendation.
Assets Engineer	Asset provided a response that a Report and Consent – Land Liable to flooding is required before they can be satisfied. Report and Consent is assessed through the building process. Asset's major concern was that a Report and Consent may require changes to any endorsed planning plans. If this occurs, it will be managed through an amendment to the permit. As such, this cannot form part of the refusal ground for this application. As such, standard asset engineering conditions will be added onto any permit issued.
Parks and Natural Environment	Comment was provided on the street tree on Railway Road reserve. PNE had no objection, subject to conditions relating to the tree protection measures. These have been included within the recommendation.
ESD Advisor	Council's ESD advisor had no objection to the application subject to conditions, including the submission of an amended Sustainability Management Plan. This has been included within the recommendation.
Heritage Advisor	The application was referred to Councils Heritage Advisor, due to the proximity to the Heritage Overlay next door. This is discussed in further detail in the assessment section below

Internal Referrals**Heritage**

Due to the Heritage Overlay affecting the site to the south. Advice was sought from Council's Heritage Advisor which is provided below:

Heritage Status

The land at 91-99 Railway Road contains part of three former 2-storey shops constructed in the early 1890s. They were included in the Heritage Overlay in the early 2000s and are of historical and aesthetic significance to the City of Whitehorse.

The former shops were incorporated into the existing large commercial development in the early 2000s, when the rear sections were demolished, leaving approximately 3.0m of the original building projecting from the

10.1 (cont)

main façade of the new building. Two new sections of similar proportions were constructed either side of the original building on the street boundary, providing an element of scale that relate to the original building. The three elements now stand proud of the predominately fully glazed principal façade. While the loss of the major part of the original buildings is perhaps regrettable, the prominence given to the original facades relative to the main building, and the respectful scale and form of the flanking elements, does provide a degree of prominence to the original building.

Comments of the proposal

Under the provisions of Cl.22.01 of the Planning Scheme, development on sites adjacent to heritage buildings and places should be sympathetic to the heritage place in terms of its bulk, setbacks, materials, colour schemes and form. While it is acknowledged that the modern development on the heritage site is significantly larger than the original 2-storey shops, it does respond to the scale and form of the original building through the flanking projecting elements, and the main building is simple in form and detail and is setback to create a form of backdrop to the original buildings.

The proposal for Building A at 1-7 Chapel Street, while incorporating a form of delineation between the lower 3 levels and the remainder of the building, through a combination of setbacks and colour, does not, in my view, provide a reasonable relationship to the adjacent heritage building. Despite some degree of separation between the original shops and the proposed development, it is suggested that a stronger connection be made to the original 2-storey form through more a simply detailed and clearly defined treatment of the lower 3 levels. The current design of projecting balconies with façade setbacks of varying depths set between solid projecting bays of varying widths, is overly complex relative to the simple forms employed by the earlier 19th century building. I suggest that a simpler form be employed, but that the length still be articulated through the use of vertical recessed elements between the major street front components.

The amended plans, which form the decision plans, are an improvement on the impact of the development on the existing heritage building on the adjacent site. Further assessment can be found below.

Traffic

A memorandum/expert opinion was sought by Council from an external traffic consultant in relation to the existing car parking and construction period car parking. In relation to the car parking provided, (residential, retail and existing office on site) the external advice was satisfied with the amount provided, including the parking reduction for the retail use. It is noted that an amendment to a condition on permit WH/2003/14097 is required, however this is assessed under a separate amendment to this permit.

10.1 (cont)

In terms of amount provided for the residential use, the memorandum outlined that the 200 car spaces provided satisfies the requirement. Further, the parking space reduction for the retail use was acceptable, as these would generally be allocated for customer parking and given the context of the location, it is likely the majority of customers would be walk up from the residences in the immediate vicinity. Further, the amount provided within the level 1 development, combined with the existing in the basement of the office building (which are being retained) for the office was considered an acceptable outcome.

In terms of car parking during the construction period, the traffic advice provided a recommendation on a Construction Car Parking Management Plan, which details alternative parking locations and supply, pedestrian access paths to the office use and confirmation of licence agreements (at least in draft) with the owners of the alternative parking locations. This, however, is assessed in the application for amendment WH/2003/14097/B, which is the formal application for the temporary reduction and relocation of parking for the office that is being retained during the construction.

Urban Design

External advice was sought from Urban Design Consultants. In their latest advice post amendment, the urban design advice provided comments and recommendations relating to the following themes:

Setbacks

Recommendation

- Reduce the east west dimension for each of the two retail tenancies by 1m to ensure the primary pedestrian lobby entrances for Building A and B are readily visible from the Chapel Street footpath the satisfaction of Council.
- Enhance the proposed link as a social space through enhanced provision of seating areas within planter and shopfront integration.

Wind Amenity

Recommendation:

- That the wind report standards be updated to incorporate the expectations outlined in the Urban Design Guidelines of Victoria (not referenced in the report though a reference document within the Planning Scheme) to incorporate the following outcomes through revisions to plans:
 - A revised wind report and plans is produced that achieve conditions in the ground level shared gardens and sitting areas and Level 7 rooftop terraces suitable for sitting for extended periods throughout the year in both wet and windy conditions consistent with expectations outlined in the Urban Design Guidelines for Activity Centres.

10.1 (cont)

- Upgrades to façade treatments and interface treatments to ensure there are no additional detrimental wind speed impacts to:
 - That the entry to retail tenancies as a minimum achieve standing level comfort conditions.
 - i. The Railway Road footpaths
 - ii. the communal spaces of adjoining office or residential development to the northeast or west to the satisfaction of Council.
 - That the entry to retail tenancies as a minimum achieve standing level comfort conditions

Offsite overshadowing impacts

Recommendation:

- Amend the plans to the satisfaction of Council to ensure that there is no overshadowing of the south side of Railway Road from the kerb to buildings between the hours of 10am and 2pm at the September Equinox.

Design expression

Recommendation:

- Reconfigure the upper-level setbacks and abutting units to enhance amenity and landscape expression of building upper levels to the satisfaction of Council.

Layouts of units and amenity

Recommendation:

- I would recommend Reduce the scale of the POS to Unit 1:18 and 2:18 in each instance to 8sqm.

Bicycle Provision

Recommendation:

- Ensure end of travel facilities and suitable gradient and access arrangements to bicycles are provided for the office to the satisfaction of council.
- Ensure the proposed office lift exit is weather protected to the satisfaction of council and achieves acceptable standards for standing.
- Reconfigure the ground level to expand the bike store to accommodate all residential bicycle needs to the satisfaction of council. (this may be facilitated for example through measures such as the relocation of the mail room reconfiguration of services and reduction in adjoining units from 2 bedroom to one bedroom)

The recommendations are discussed in depth in the assessment below.

10.1 (cont)

DISCUSSION

Discussion below has been undertaken on the assessment of the proposed development with the provisions of the Whitehorse Planning Scheme. As previously referenced planning report, a separate application for an amendment to an existing permit (WH/2003/14097/B) is currently with Council for reduction in car parking provided for the existing office use and to temporarily provide parking on another site. Assessment for this amendment is undertaken in a separate Council Report, however, it is important to note the relationship between the two.

Consistency with Policy Framework**Zone**

The subject site is located within Clause 34.01 Commercial 1 Zone (C1Z). The purpose of the C1Z is to create a vibrant mixed use commercial centre while providing for residential uses at densities complementary to the role and scale of the commercial centre within which it is located. The purpose of the C1Z also seeks to implement the Municipal Planning Strategy and the Planning Policy Framework.

The proposed use and development is considered to be generally consistent with the purpose of the zone as it relates to the implementation of the associated policy framework within the PPF, LPS and MSS. The use will provide for a density of residential use that is complementary to other developments within the area, aligning with the role and scale of the wider Blackburn Activity Centre while providing a variation of housing types. Further, the retail uses, in conjunction with the residential uses, will serve a local community need for not only the residents of the proposed building, but residents of the neighbouring site and staff of neighbouring businesses.

With regards to the existing office use on the site, the site benefits from two separate street frontages, with the office fronting Chapel Street and the proposed development fronting Railway Road. This, combined with separate vehicle access to the proposed building and the office parking being provided in the new building, will ensure that the existing office use will be able to be maintained. This will ensure that the two uses will be able to coexist on the one site, while maintaining separation and not cause impact upon each other.

The design of the building will ensure that vehicle, pedestrian and cyclist movement along Railway Road will be maintained, with separate rubbish storage area and loading/unloading sections which will ensure minimal impact on the operation of the road network. With respect to the design of the building, it is considered to be an acceptable outcome within the context of the site and the emerging character of other surrounding sites, in terms of height, built form and architectural design. Further details of this are discussed in further detail below.

It is to be noted that decision guidelines of Commercial 1 Zone require the consideration of overshadowing and overlooking on adjoining land within Residential Zones, with the site to the east (160-168 Whitehorse Road)

10.1 (cont)

being within the Commercial 1 Zone and as such, consideration of these amenity impacts do not fall under the zoning. However, these are assessed in further detail below.

Planning Policy Framework

The Victorian Planning Framework seeks to direct new development to existing urban areas and specifically to established urban areas that have good access to public transport and facilities. The creation of 20-minute neighbourhoods within a 20-minute walk, is a key objective of the Victorian planning system. A method to achieve this objective is to encourage diversity of housing and increased densities in Major Activity Centre and near existing railway stations.

Plan Melbourne: Metropolitan Planning Strategy is the state level metropolitan planning strategy to manage growth and change to 2050. This encourages redevelopment of underutilised land, particularly urban renewal areas within close proximity to employment, various services and public transport infrastructure.

The proposal responds to the objective of Clause 11.03-1S for the concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres that are highly accessible to the community.

The proposed building is designed to respond to the context to minimise offsite impacts to the public realm through overshadowing, wind, visual bulk and massing. It will assist in establishing Railway Road as an urban environment that is enjoyable and functional, and facilitate accessibility, in conjunction with the development at 160 Whitehorse Road. Further, the building will achieve an appropriate design and siting outcome, with the height providing a transition across the 160 Whitehorse Road development and the approved development at 91-99 Railway Road as the streetscapes progress south-west from 160 Whitehorse Road as the 'anchor point' on the corner across the site to the approved development at 91-99 Railway Road. Overall, the proposal is consistent with the built form objectives under Clause 15.01-1S (Urban Design and Clause 15.01-2S (Building Design)).

The site is located with an abundance of public transport options around, including bus and train routes, as well as access to Morton Park (500m) and Blackburn Lake Sanctuary (1.8km) providing outdoor public space for recreational needs and leisure. There are also 5 gyms located within 500m, providing space for all weather recreation. As such, the development will assist in this pocket of Blackburn achieving the objective of Clause 15.01-4S (Healthy Neighbourhoods).

The development will also provide a range of housing types, with one, two and three bedrooms throughout the levels, as well as DDA accessible apartments. This, combined with the site being located within an area identified as one as an established urban area on an underutilised urban land in the form of a car park. With the higher density development will revitalise this site, while retaining its original use of the car park within the new development. This, combined with the accessibility of the site to public

10.1 (cont)

transport and services, will ensure that the proposed development meets the objective of Clause 16.01-1S (Housing Supply).

Lastly, the proposed commercial retail stores located at Ground Level, will assist in providing small scale shopping opportunities close to residential sites that meet the needs of local residents and workers in a convenient location, meeting the strategies of Clause 17.02-1S (Business).

Clause 16 (Housing) seeks to ensure activity centres can accommodate additional housing growth, through increased housing densities in locations within walking distance of public transport and local services. The site is located approximately 500m from Blackburn Station, with a range of bus stops providing access to multiple bus routes located on major roads surrounding the site. The proposed site will therefore provide for higher density residential options, in a design that is consistent with emerging character of other dwellings in the area (as seen at 160 Whitehorse Road). This, combined with the adequate access to services that the site enjoys, ensures that the development meets the objectives of Clause 21.06.

Clause 17 (Economic Development) seeks to ensure that additional retail floorspace allows for improved access to retail goods and services by the community while encouraging innovation in retailing and promote new retail formats where it can be demonstrated that consumer trends are evolving. The proposed retail shops at ground level will allow for access to local retail options for not only residents of the proposed dwellings, but neighbouring residences, consistent with the plaza at 160 Whitehorse Road development, which provides for a range of retail options, including grocery, food and drink and fitness facilities. As such, the two proposed retail premises will align with the strategic policy of Clause 17.

Policy under Clause 16.01 (Residential Development) builds on the Municipal Strategic Statement to ensure that development within the municipality is consistent with the housing objectives of Clause 21.06. It seeks to ensure that development contributes to preferred neighbourhood character and to accommodate the population increases in the municipality in the areas identified as being able to sustain higher density based on environmental and infrastructure considerations. The proposed development, will provide for an additional 168 apartments in the area, offering a range of dwelling types proposed which will provide for diversity of housing stock for different population types in the Blackburn area (i.e. elderly single dwelling households or larger families). This is important as Blackburn is one of the major villages in the municipality, ensuring that services and infrastructure can be provided. As such, the development meets the policy of Clause 21.06.

The policy under Clause 11.03-1L-01 (Blackburn and Megamile (west) Activity Centres) seeks to strengthen the Blackburn Activity Centre as its role as An Urban Village centred around Blackburn Railway Station and the shopping centre. This is to be achieved through a strong sense of place and identity as a local shopping village and a community meeting place while. This is to include higher density residential housing options which are in accordance with the character of the Blackburn Village. The proposed

10.1 (cont)

development aligns with the policy outlined within Clause 11.03-1L-01, as it will provide for more housing stock on the periphery of the Blackburn Station Shopping Centre in a block that has experienced significant development over recent years, as evidenced at 160 Whitehorse Road, and 91-99 Chapel Street redevelopment amongst other approvals. As such, the development will align with the objectives of this policy.

Land use

As stated earlier in the report, the site is located within the Blackburn Neighbourhood Activity Centre, which is of a local importance as a neighbourhood village, providing for a range of uses and a diversity of housing options, particularly above ground floor.

Dwellings

The proposed dwellings are predominately located behind the main entry point of Railway Road at ground level and through the upper levels of the building. The use of the dwellings aligns with the purpose of the Commercial 1 Zone as well as policy contained within the Local Planning Policy Framework by providing higher density residential dwellings, in an Activity Centre that has connections to services and public transport.

Noise from the development is expected to not exceed noise levels from other residential developments nearby (namely 160 Whitehorse Road), with noise emissions from the development expected to comply with the acoustic criteria outlined within Australian Standards. This was confirmed with an Acoustic Report submitted with the application. Conditions have been included within the recommendation to ensure compliance with noise emissions, and ongoing assessment during construction to be provided by Council. Due to the above, the development is unlikely to provide noise impact to surrounding developments.

Waste storage for the residences is located within two separate bin storage areas (one for each building) within the Basement 1 area. Collection will occur internally within the basement, with each stream (garbage, food organics, recycling and future glass recycling) to have a maximum 3 collections per bin area per week, totalling 24 collections a week (with hard waste to be at request) via private collection. Given the residential waste collection is internal to the building, it is unlikely to impact on amenity of surrounding uses. No hours have been included for collection, which will be addressed by way of permit condition to ensure that collection times is satisfactory to Council.

As such, the use of the dwellings aligns with the strategic direction of the Blackburn Activity Centre and unlikely to impact on the amenity of surrounding uses.

Retail

The use of the two retail premises at ground floor is a Section 1 use in the zoning, and as such, no permit is required for their use. However, it is to be noted that given the limited size of these two retail spaces, it is considered they will be a positive addition to the site for visitors and residents. Further,

10.1 (cont)

with the retail uses fronting directly onto the street, activation will be maintained, enhancing public amenity and pedestrian experience along this area. Lastly, the retail uses provide an adequate separation from the residential apartments to ensure that no amenity impact will occur to future residents of the dwellings through noise, waste, smell, or other emissions. As such the use of the retail stores is satisfactory in the context of the area.

Design and Built form.

In assessing the appropriateness of the proposed built form, officers refer to the decision guidelines of the Commercial 1 Zone, impact on the heritage building of neighbouring sites, as well as the objectives and strategies outlined under Clauses 15.01-1S (Urban Design) and Clause 15.01-2S (Building Design).

It is acknowledged that there is a strong level of policy support for higher density development of the subject site within the northern point of the Blackburn Activity Centre and as such, there is a strong support for higher density residential development.

Entries and Street Interface

The buildings primary pedestrian entry is located from the Railway Road Frontage, into an open landscaped communal garden area, which provides two pedestrian entries into each building. Secondary entrances from the public realm occur from the laneway running from Chapel Street to provide access into the western building, with each retail premises providing separate access from Railway Road.

The main point of entry to access the residential towers are off the sides of the residential recessed behind the front facades of the shops, providing separation from the non-residential uses as well as the vehicle access, which will provide a clear and legible sense of address that is identifiable from the street. The secondary entrances off the rear laneway will provide for a convenient secondary point of access, particularly for residents of the western apartments in Building B.

The ground level has been designed to provide a street presence to Railway Road with the retail uses with the active retail land uses maintaining a direct interface with the pedestrian network along Railway Road, enhancing the public realm and user experience along this area. This will be a continuation, and operate in conjunction with, the recently finished active frontage of the 160 Whitehorse Road development, which provides a supermarket, retail and public plaza along Railway Road to the north.

This outcome is generally consistent with the objectives outlined within Clause 15.01-1S and Clause 15.01-2S as well as Objective 5.2.3 of the Urban Design Guidelines by providing the main pedestrian access at ground level and clearly accessible from the street and providing for clear sightlines from the building lobbies to the outside common area and subsequently the street/

Overall, the proposed building entries and street interfaces respond to the context of the street and improve the public realm experience, with these

10.1 (cont)

outcomes further supported by the urban design advice received for the application.

Built form and context.

The proposal aligns itself with the purpose of the zone, by providing a residential use and development at a density complimentary to the role and scale of the Blackburn Commercial Centre.

The surrounding environment has been considered as part of the design, by positioning the towers lower than the development at 163 Whitehorse Road, but higher than that approved at 91-99 Railway Road, which will assist in providing a transition away from Whitehorse Road toward the lower scale nature of the Blackburn Station Village. This will ensure that the building is consistent from a streetscape perspective in the transition of buildings southeast along Railway Road.

The other interfaces, of the existing office building on the western portion of the site and the existing car dealership and workshop at 146-156 Whitehorse Road provide for a 2-4 storey-built form and interface other streets to the proposed building. The design of the proposed building will provide an adequate backdrop nestled behind these buildings.

As such, the development in its current form, is considered to be satisfactory in responding to the context of other developments/recent approvals, within the immediate area.

Podium design

The street setbacks of the ground, first and second floors remain consistent with a cantilever over the vehicle entrance to the basement and a 'bridging cover' over the pedestrian entrance. This, combined with the architectural expressing and differing materials provided, provides a clear separation from the podium, as it progresses to upper levels, without overwhelming the streetscape and ensuring that the podium maintains a human and pedestrian scale within the public realm setting.

The height and materiality used for this podium is similar to that of the podium at 160 Whitehorse Road, as well as the lower levels of 91-99 Railway Road to the south-west ensuing that the framing of the podiums will be held as the streetscape transitions to the Blackburn Neighbourhood Centre.

The use of differing material colours between the two buildings podiums, with Building A having lighter materials and Building B darker, will assist in providing an appropriately scaled separation, to minimise building bulk, with the 'connector section' in between both buildings, being recessed, breaks up the podium façade.

The utilisation of the ground floor of the podium level for retail will ensure that the building engages with the public realm and streetscape, creating a level of activation between the street and the tenancies, which is supportive from a public realm and planning perspective.

10.1 (cont)

It is considered that the design of the podium, through height, materials, and activation from the streetscape, will provide an adequate interface from the streetscape as the development progresses to the upper levels of the buildings.

Upper level design

While the upper levels provide for connection inside, externally they maintain an appearance of two separate forms, with differences in height, material and noticeable subtle differences in architectural expression. This creates, combined with the break in the façade of the balconies and the associated planter boxes, the appearance of physical separation and a break in the façade, which reduces the extent of massing across the frontage from Railway Road, when viewed from the public realm.

The two separate built forms will provide an 8-storey form for the eastern building (building A) and a 9-storey form for the western building (building B). From a siting and scale perspective from level 6 and above will provide a gradual setback from Railway Road, meaning the higher stories are located further into the site, with the 9-storey form located on the northwest corner of the site, adjacent to the non-sensitive uses of the office buildings and Lexus car dealership. This arrangement allows for minimal impact to the neighbouring residential uses at 160 Whitehorse Road to the east and minimising building bulk from the public realm along Railway Road.

The upper levels provide adequate setbacks from the neighbouring residential uses at 160 Whitehorse Road, with a consistent setback of 5.5m to the north and 4.8m to the east. This level of setback is consistent with what is provided for the apartment development at 160 Whitehorse Road, ensuring the proposed will be consistent with the emerging character of the surrounding area.

The design of the proposed build provides a level of built form as envisaged under the policy directions outlined earlier in this report and is balanced with a refined architectural massing and design detail, which creates a high-quality outcome for the Blackburn Activity Centre area, while consistent with recent developments within the immediate area, namely 160 Whitehorse Road.

As such, due to the above, the design of the proposed towers is considered acceptable.

Heritage

The site itself is not directly affected by a Heritage Overlay, however, surrounding properties are affected by Heritage Overlay as detailed below:

- 91-99 Railway Road – Heritage Overlay Schedule 68

This overlay applies to the mid-section of the property to the south-west of the subject site, with the significance of the site being the 2-storey façade of the 19th century shops. The remainder of the site has been developed over the last in more recent years to include a three-storey office, which is the headquarters of the Salvation Army.

10.1 (cont)

Clause 15.03-1L (Heritage Conservation) applies to development on properties adjacent to Heritage Overlays and is required to be assessed as part of this application.

As advised above, Heritage Advice was undertaken on a previous rendition of the plans, with the proposed development providing a more simplistic and subtle design compared to the previous (refer images below).



Figure 2: Proposed built form in context with the heritage building



Figure 3: Previous design subject to Heritage Assessment in context with the heritage building

Clause 15.03-1L provides that development on sites adjacent to Heritage Buildings should be sympathetic to the heritage place in terms of its bulk, setbacks, materials, colour scheme and form and not 'mock' the heritage building style.

It is considered that the design currently before Council (figure 2 above) provides for a simpler and less complex design with no projecting elements that will detract from the significance of the heritage building at 91-99 Railway Road.

10.1 (cont)

Further, as outlined in the site and surrounds section earlier in this report, 91-99 Railway Road has an approved development for a 6-storey development (2 additional to the current layout) which will provide for more prominent built form on this site. This will ensure further minimal impact of the subject site adjacent to the heritage building.

Overall, due to the above, the proposed development, in its current form, is considered to be sympathetic to the heritage place adjacent to the site, meeting the policy of Clause 15.03-1L.

Design and Development Overlay Schedule 8

The Design and Development Overlay, which applies to the site, provides for specific requirements relating to the design and built form for developments within the area. Schedule 8 to the DDO (The Blackburn Neighbourhood Activity Centre and Megamile (West) Major Activity Centre) provides for design objectives and built form outcomes to the relevant precinct's (outlined in detail above).

The relevant precinct that the site is within *DDO8-C - Properties fronting Albert St, Chapel St and on the south side of Railway Road* (hereby known as 'applied precinct') provides for a preferred maximum height of 11-15 Metres and a preferred street setback of 3-5 metre landscaped front and side street setbacks, with the following built form outcomes:

- Improve the quality of streetscape treatment and landscaping, particularly along Whitehorse Road between Ceylon and Cottage Streets.
- Create a high quality design of the public and private realms to provide a strong and consistent image for the MegaMile
- Avoid subdivision and support consolidation of sites to accommodate larger format buildings.
- These sites should have customer and delivery vehicular access, landscaping and car parking that is not visually obtrusive when viewed from the street (preferably underground).

Given the context of this site however, the location of the proposed building is to be fronting Railway Road and not Chapel Street. Discretionary consideration should then be given to the precinct *DDO8-C - Properties fronting Whitehorse Road and on the north side of Railway Road* (hereby referred to as 'discretionary precinct') to ensure that it conforms with the built form outcome of the neighbouring properties fronting Railway Road. This precinct provides also provides for a 15m preferred maximum building height, however provides for no front setbacks and the following built form outcome:

- Development must consider Clause 22.09 Blackburn and MegaMile (west) Activity Centres, where applicable.
- Active frontages along Whitehorse Road and Railway Road with weather protection where possible.

10.1 (cont)

- Upper levels are setback to reduce building bulk, and to allow for a transition in height to adjoining residential areas and maintain residential amenity.

Height

Both the applied precinct and the discretionary precinct provide for a preferred maximum building height of 15m. It is to be noted that a 'preferred maximum height' is not a mandatory height and can be exceeded in appropriate situations. In this instance, it is important to consider the context of the surrounding area, as well as developments on other sites.

Building A will provide for a maximum height of 27.07m, while building B will have a maximum height of 30.27m, which sit above the maximum preferred height control by 12.07m and 15.27m respectively.

When the discretionary heights under the DDO are proposed to be exceeded, it must be demonstrated that the development will continue to achieve the Design Objectives and Built form outcomes of this schedule and any local planning policy requirements and must:

- Achieve high or superior architectural quality.
- Achieve innovation with respect to environmental sustainability.
- Involve innovative approaches to heritage fabric.
- Achieve an equivalent or better design outcome.
- Minimise impacts on amenity.
- The design response to the site context.
- Achieve specific urban design outcomes as vista retention, protection of the public realm from excessive shadowing, or transition to other land, or achieving specific outcomes.

In consideration of the context of the area, this particular pocket of the Blackburn Neighbourhood Activity Centre has undergone significant change over recent years. 160 Whitehorse Road (to the west) having been redeveloped between 2020-2022 with a building that provides a maximum height of 30m at Building D, which transition down to Building's C, B and A (the last two of which interface the subject site).

Further, the site to the west, at 91-99 Railway Road, provides for an office development of 4 storeys, however, has approval for a development that will provide a 6-storey form with a height of approximately 21m to the interface of the subject site and 23m to the western side of the site.

The proposed height of the development, while exceeding the preferred character, will allow for a transition in height from 160 Whitehorse Road, across the site and to 91-99 Railway Road (once built to 6 storeys) and provide an appropriate character outcome for the area.

10.1 (cont)

Setbacks

With respect to setbacks, the relevant precinct (for buildings fronting Chapel Street) provides a preferred street setback of 3 metre landscaped front setback, while the discretionary precinct (fronting Railway Road) provides for a no front setback from the street. The development provides for no front setback, with the ground floor built on the boundary to Railway Road, which is consistent up to level 2, before providing a gradual setback for the upper levels. While the 3m street setback applies, as the building fronts Railway Road, no front setback will ensure that it is more consistent with the other buildings fronting Railway Road.

The surrounding properties within the DDO8-C properties that are on the north side of Railway Road provide for no setbacks at the first handful of floors, similar to the proposed, which will ensure that the front setback of the development from Railway Road will be consistent with that of surrounding properties. It is therefore submitted that an outcome of no front setbacks under the discretionary precinct is a preferred outcome.

This will ensure that the street setback will be conforming across the sites on the north side of Railway Road, ensuring that the character and appearance of the streetscape is consistent and as such, providing an acceptable outcome.

Built form outcomes.

With regards to built form outcomes for the discretionary precinct, the development provides for two retail premises at Ground Floor, which provide for clear glazing along the Railway Road interface. This, combined with the pedestrian and vehicular entrance also located along this frontage, will ensure activation along the street frontage, which will provide for an improved outcome then the current car park. This will further be consistent with surrounding properties, which provide for activated frontages through retail, office space and an open pedestrian plaza to the north.

The upper levels, from levels 3-5 are setback behind the podium, with levels 5+ providing for a sloped roof/wall from the front, which will provide a reduction in building bulk as well as an adequate transition from the larger development at 160 Whitehorse Road to the east, across the site and further to the west down Whitehorse Road.

Overall, due to the above, the development is considered to be consistent with the Design and Development Overlay Schedule 8.

Landscaping

The landscaping provided will provide for an adequate internal amenity within the ground floor shared courtyard as well as along the north, east and west boundaries, to provide a softened appearance at ground level from neighbouring properties as well as better internal amenity for these residents. Further, enhanced street tree planting will be undertaken along the nature strip, to provide an enhanced landscape experience and better amenity from the public realm along Railway Road.

10.1 (cont)

The landscaping provided on the site at Ground Level is predominantly internal, which will provide a high level of internal amenity for the residences utilising the outdoor communal area within the shared courtyard, with new street trees proposed along the Railway Road interface. It is noted that the site currently has no landscaping, so even at an internal level, combined with improved street tree planting, will increase what is currently evident. Planting will also be included along the pedestrian access from the ROW at the rear, which access the building and the rear access of the existing office building on site. This area, with the provision of canopy trees and adequate planting provided, will provide an immersive landscaped pedestrian experience for the residences of the building utilising the communal open space area and accessing the building. Further, landscaping, with the inclusion of one canopy tree, will be provided at the upper communal area at level 7, for the enjoyment of the residences.

Overall, the landscaping provided is supported, with the provided detailed landscape plan showing the development provides for landscaping that responds to its site context and creates attractive spaces while maintaining character and amenity of the area in accordance with Local Policy of Clauses 15.01 and 22.07. Conditions have been included within the recommendation to ensure that the landscaping is appropriately implemented, maintained and replaced if necessary.

Parking and Traffic

Car Parking Assessment

As described above, the development requires a reduction of 10 car parking spaces associated with the food and drink premises use on the site while exceeding the requirement for the dwelling component of the development. When assessing a parking reduction, consideration must be given as follows:

The likelihood of multi-purpose trips within the locality

Given the size and location of the two retail shops (within a proposed residential building) the major portion of the trade will be from residents of the proposed building, nearby apartment developments, as well as workers from neighbouring business and those who have already travelled to the area for other purposes. As such, the demand associated with the retail component will be considerably reduced as a result of multipurpose trips.

The variation of car parking demand likely to be generated by the proposed use.

It is considered that the proposed use will generate different car parking over time. It is a reasonable assumption that the likelihood of car parking associated with the retail component of the development will be during the day Monday-Saturday (inclusive). This is at a time where the residential visitor demand will be low, and as such, on street parking in the area will have a higher availability.

10.1 (cont)

The short-stay and long-stay car parking demand likely to be generated by the use over time.

Given the size of the retail tenancies on the site, it is anticipated that the uses will generate a short-term parking demand as such, the on-street parking would be deemed appropriate. Staff have been provided with 5 parking spaces on the site.

The availability of public transport in the locality of the land

The site is provided with excellent access to public transport networks with train and bus services located within close proximity to the site, as evidenced by the site's location within the Principal Public Transport Network. As such, the range of public transport services that are available and accessible to staff, residents and their visitors is convenient and likely to provide an adequate alternative option to the motor vehicle. Overall, the access to public transport is considered satisfactory.

The convenience of pedestrian and cyclist access to the land

Both Railway Road and Chapel Street provide pedestrian footpaths on both sides of the road which are considered to be in adequate condition for pedestrian utilisation. The main pedestrian access to the development will provide a clear, safe and direct link to and from the surrounding pedestrian network.

Further the site has good access to the surrounding bicycle network which can be utilised by residents, staff and visitors, with appropriate bicycle storage within the development.

These facilities are expected to provide a viable means of alternative sustainable transport that will reduce future reliance on private motor vehicles.

Overall, due to the above the parking provided within the development, and the associated reduction of the parking for the food and drink premises, is considered an acceptable outcome.

Traffic generation and surrounding road/transport network**Proposed development traffic generation**

Given the sites excellent accessibility to public transport, it is expected to generate the following residential daily rate (as outlined within the Traffic Impact Assessment provided with the application documents (Prepared by Ration Consultants and dated 21 December 2023):

- Four vehicle movements per dwelling with one car space; and
- Six vehicle movements per dwelling with two car spaces.

This results in a daily traffic volume of 736 vehicle movements per day. The majority of this traffic is expected to be in the AM and PM peak.

10.1 (cont)

Retail traffic generation to/from the site will be limited to the turnover of the spaces allocated to the staff. As such, this is only to generate vehicle movements in the AM and PM peaks hours only.

Numerically, the residential and retail uses will provide for the following traffic generation:

	AM Peak	PM Peak
Residential		
Arriving Trips	15 vph	44 vph
Departing Trips	59 vph	30 vph
Total Residential Trips	74vph	74vph
Retail		
Arriving Trips	5vph	0vph
Departing Trips	0vph	5vph
Total Retail Trips	5vph	5vph
Total Combined Trips		
	79vph	79vph

(Note: vph – vehicles per hour)

Empirical data collected by the traffic assessment submitted with the application indicate that office developments located in inner city and middle urban locations (such as Blackburn) with good access to public transport services generate parking at the following rates:

- 2 vehicle trips per space per day; and
- 0.38 vehicle trips per parking space in the AM peak hour and 0.43 vehicle trips per parking space in the PM peak hour.

Office trips are mainly arriving in the morning peak (10% out and 90% in) and departing in the afternoon peak (90% out and 10% in). The existing use of the office would therefore generally result in the following traffic generation:

	AM Peak	PM Peak
Arriving Trips:	67	8
Departing Trips	7	76
Total Trips	74	84

The proposed layout will result in a reduction of approximately 25 spaces from the existing arrangement which would result in a reduction of traffic generation for the office use then the current arrangement.

With the residential and retail trips, combined with the expected trips of the office use, it is estimated that the proposed development will result in 153vph in the AM peak and 163vph in the PM peak. The traffic analysis submitted

10.1 (cont)

with the application indicates that traffic distribution will be evenly allocated, with estimated 25% in each orientation.

This analysis, combined with mitigating works on the surrounding network approved by the DOT as part of the development at 160 Whitehorse Road, the proposed development is not expected to create adverse traffic impacts in the precinct or on the local road network/infrastructure.

Vehicle Access Arrangements and Car Park Layout

Parking for all the new uses is provided within a three-level basement, with access from Railway Road on the southeast corner of the site, and a separate access off the ROW leading from Chapel Street to the west of the site, which will be primarily utilised by vehicles utilising the office parking. This outcome of separate parking access for the two separate uses is an appropriate outcome, as it will avoid potential on site conflict between vehicles, as well as reduce traffic from Railway Road of vehicles of the office users accessing the site.

Council's Transport Engineering Department were generally accepting of the basement layout car park with most changes (such as dimensions being shown or site visibility triangles being annotated on the plans). Further, the swept path diagrams provided show that the layout is satisfactory.

In terms of the car parking design standards, access within the proposed basement levels generally satisfies the design standards outlined in Clause 52.06-9 including car space dimensions, access ways and ramp gradients.

Due to the above, the parking access arrangements and car park layout is considered appropriate.

Parking arrangement with existing office on site

Currently the site provides for a 116-space car park, which services the existing office on site. With the construction of the apartment building, this development will provide 100 parking spaces across Basement levels 1 and 2 for the existing office, to offset the removal of the at grade park. This is considered an appropriate number for the existing office and, combined with the parking in the basement of the existing building, will provide for a total of 192 parking spaces for the office and be in accordance with the rate required under the scheme.

During construction of this site, the parking for the office that is being displaced as part of the construction will be mitigated with a minimum 36 spaces being provided on another site within proximity to the existing office, which will continue to operate during construction of the proposed development. This is a permit trigger in its own right; however, this will be assessed under the application to amend the existing planning permit (WH/2003/14097/B), which is currently under consideration. As stated above, upon completion of the proposed development, parking for the office will be provided within the basement of the apartment development.

10.1 (cont)

Bicycle Parking

The application proposes a total of 74 bike spaces across ground level and basement level 2, exceeding the requirement by 21 spaces for both the residential and shop uses combined. It is to be noted that the development does not provide for End of Trip facilities. Considering that the requirement for shop is for 2 spaces, and that shower facilities will be provided within the dwellings, it is considered that a dedicated EOT facility for the bike parking is not necessary.

Overall, the development will comfortably meet the requirements of Clause 52.34.

Amenity**Wind**

A wind tunnel study conducted by VIPAC Engineers was undertaken on the original composition of the development, which provided for a more robust and sharp-edged form than the considered scheme. A condition is recommended to be included on permit for an amended wind report to ensure that the development, in its current form, will provide no internal or offsite amenity impacts with respect to wind conditions.

Council's Urban Design consultant has recommended that an amended wind report be provided that achieve conditions in the ground level garden and sitting areas, as well as the rooftop terrace at Level 7, for sitting throughout the year. Further, it is also recommended that upgrades to the façade treatments and interface treatments to ensure no additional wind speed impacts to the entry of the retail tenancies as a minimum achieve standing level comfort conditions. These can be addressed by way of permit conditions.

Overall, it is considered that, through conditions, the development will achieve adequate wind outcomes to limit off site amenity impacts.

Overlooking

The development's SPOS areas have been designed, through setbacks, with 1.7m high balcony screening and balcony shelves, to ensure that no overlooking into neighbouring SPOS areas within the 9m range will occur.

From the plans, it is unclear if the habitable room windows from apartments 3.10 and 3.11 will not have any overlooking potential into the SPOS of 2 of the level 1 apartments to the east. A condition will be added to ensure that this is shown to be compliant.

Safety and security

While it is acknowledged that the development provides some walls and balconies near to boundaries adjacent to neighbouring balconies, at 160 Whitehorse Road, where balconies are within proximity at a similar level. Safety and security can be addressed by the inclusion of a 1.8m high screen along the edge of the balconies to apartment's 3.12 and 3.13, to increase security to the corresponding apartments at 160 Whitehorse Road and

10.1 (cont)

ensure that these SPOS areas cannot be accessed. This can be addressed by way of permit conditions.

Overshadowing

Overshadowing diagrams have been prepared by the applicant at hourly intervals between 9am-3pm at the September Equinox. The diagrams include a 2d modelling of the existing shadowing and the proposed as well as 3D shadowing for the proposed arrangement.

Public Shadowing – Railway Road

The development will provide for increased shadowing to the north side footpath of Railway Road from 10am and the southside from 2pm on September 22nd. Recommendation 3 of the Urban Design referral was for amended plans to ensure that there was no overshadowing to the southside of Railway Road to the kerb to buildings between the hours of 10am and 2pm at the September equinox.

The proposed shadowing, however, provides for an increase of this area at 2pm, solely on the nature strip between the kerb of the road and the footpath, with no increase of shadowing to the footpath pre 2pm (as evidenced in TP10-221) of the decision plans. As this area is not the public footpath, it is considered satisfactory. Further, this section of Railway Road is bound by light industrial, and office uses, and not retail uses which utilise the on-street space, such as café or restaurant's (such as South Parade adjacent to Blackburn Station), indicating it is not a high pedestrian trafficable area where amenity should be enhanced. As such, a slight increase of overshadowing is considered acceptable.

Residential Shadowing

Upon review of the shadow diagrams, it is noted that a number of the apartments to the east will receive increased overshadowing from the proposed building. The overshadowing increase will begin at 2pm at the Spring Equinox and impact the SPOS of the following properties:

- Two apartments on Level 1 in building B of 160 Whitehorse Road increase at 2pm and 3pm
- 2 apartments on level 2 and 2 apartments on level 3 in building B of 160 Whitehorse Road increase at 3pm

The images below demonstrate the extent of shadowing onto the SPOS of these apartments in comparison to the areas which will receive increased shadowing from the endorsed plans of this development.

10.1 (cont)

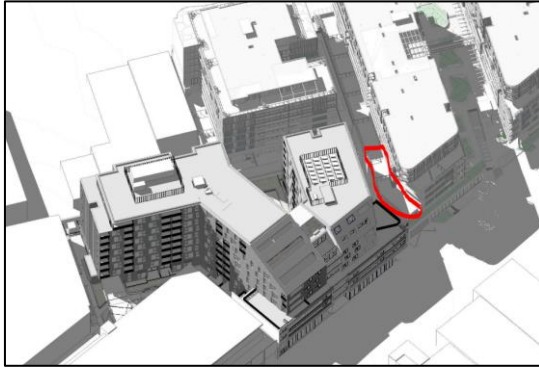


Figure 4: Proposed shadow showing 2pm increase in red



Figure 5: Comparison photo of plans at Level 1 of 162 Whitehorse Road

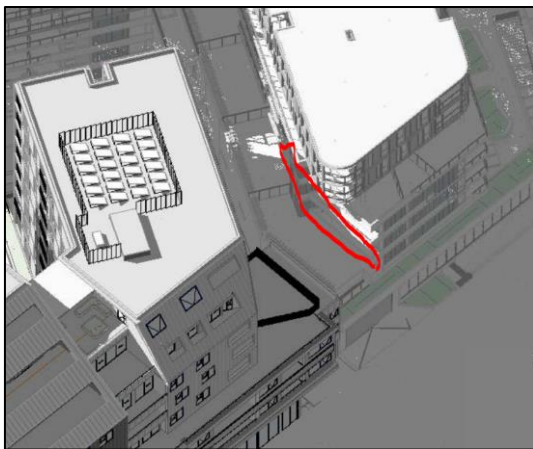


Figure 6: Proposed shadow showing 3pm increase in red



Figure 7: Comparison photo of plans at Level 2 of 162 Whitehorse Road

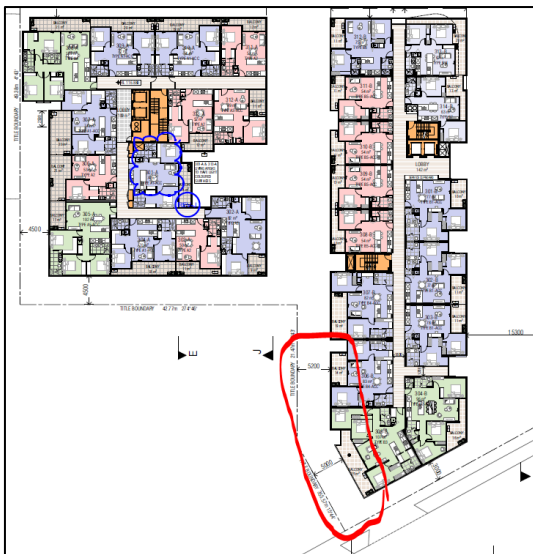


Figure 8: Comparison photo of plans at Level 3 of 162 Whitehorse Road

10.1 (cont)

Overall, the increase of shadowing of two SPOS/balconies in their entirety (being one at Level 1 and one at Level 1) is an acceptable outcome, in considering the amount of SPOS interface to the site.

Further, the subject site, including the neighbouring apartment building, is Commercial Zone, which centres on higher density residential development, with the site located within the Blackburn Activity Centre. Decision guidelines within the Commercial 1 Zone must consider impacts to dwellings in residential zones, however as the neighbouring site is within a Commercial Zone, this does not apply to these neighbouring apartments. As such, the Commercial Zone is not one where residents should expect a level of residential amenity as one would in the General Residential or Neighbourhood Residential Zone's, where developments such as that proposed, are a common occurrence.

Overall, the increase in overshadowing to neighbouring residential properties is considered to be a reasonable outcome.

Visual Bulk

The proposed development maintains direct interfaces with residential land to the north and east. These have been clearly detailed within the application materials. The design response has been carefully considered to ensure that the proposal would not result in unacceptable visual bulk and massing through the provision of acceptable side and rear setbacks, materials used and architectural detailing. This is further detailed within the built form assessment above and generally supported by the urban design advice received for the application.

Clause 58 Assessment

An in-depth Clause 58 Assessment has been undertaken in Appendix 3 of this report. The development is highly compliant with the objectives and standards with most of them being met with the exception of 2 of the technical standards:

- Clause 58.05-1 (Standard D18) - Accessibility Objective
- Clause 58.07-1 (Standard D26) - Functional Layout Objective

These are assessed in more detail in the appendix, however in summary, they are still highly compliant with the respective objectives and will still maintain a positive outcome for future residents.

Objectors Concerns not Previously Addressed

Loss of views

Previous VCAT decisions have set a precedent indicating that 'no one is entitled to the right of a view'. As such, loss of views from neighboring properties as a result of a new development cannot form part of the consideration of a planning permit application.

10.1 (cont)

Decrease in property values

It is a longstanding principle contemplated through VCAT decisions, that the perceived loss of property value by objectors is not a matter which can be sustained when assessing an application for a planning permit. This also applies to any objections relating to finding tenants and difficulty in selling existing properties.

Impact during construction

A condition has been included to be added onto the permit for a Construction Management Plan which will address impacts on the site and surrounds during construction, dust and noise control amongst other matters. Hours of operation and noise limits are in part bound by EPA regulations and are otherwise managed through the Construction Management Plan.

CONCLUSION

The proposal for 'Use and Development of the land for dwellings and ground floor retail in a Commercial 1 Zone and reduction in the car parking requirements' is an acceptable response that satisfies the relevant provisions contained within the Whitehorse Planning Scheme, including the State and Local Planning Policies, the Commercial 1 Zone, Design and Development Overlay Schedule 8, Clause 52.06 (Car Parking), Clause 58 (Apartment Developments) and the General Decision Guidelines of Clause 65.

A total of 38 objections were received as a result of public notice and all of the issues raised have been considered as required.

It is considered that the application should be approved with a Notice of Decision to be issued, subject to necessary Planning Permit Conditions.

ATTACHMENT

- 1 1-7 Chapel Street, Blackburn - Decision Plans
- 2 1-7 Chapel Street, Blackburn - Landscape Plans
- 3 1-7 Chapel Street, Blackburn - Facade Strategy
- 4 1-7 Chapel Street, Blackburn - Clause 58 Assessment
- 5 1-7 Chapel Street, Blackburn - Addendum to Council Report
- 6 Related to Attachment 5 - Addendum Neighbouring Property Endorsed Plans for 160 Whitehorse Road, Blackburn

10.2 1-7 Chapel Street, Blackburn – Amendment to Permit - Use and develop the land for the purpose of a three storey (four level) office building with at grade and basement car parking, associated internally illuminated / business signs and car parking dispensation.

Department City Planning and Development
Director City Development

WH/2003/14097/B
Attachment

SUMMARY

This report provides Council with an assessment of the application for amendment to planning permit WH/2003/13097 at 1-7 Chapel Street, Blackburn, which seeks approval to amend the existing permit to reduce the amount of car parking provided on site and to temporarily supply some of the parking for the existing office use on another site. The need for this amendment is to allow for a mixed-use development on the eastern portion of the site, proposed under application WH/2022/648. Further details of the relocation of the car parking during construction and then the reduction post development is provided in further detail in the body of this report.

The key considerations include the acceptability of the offsite relocation of the parking during construction of the apartment development, the amendment to the existing permit for reduced parking provided overall for the existing office use and the associated post development location of the replacement parking.

The application has been assessed against the relevant planning policies contained in the Whitehorse Planning Scheme, including the purpose and decision guidelines of the Commercial 1 Zone, Clause 52.06 (Car Parking) and the general decision guidelines of Clause 65.

The application is considered to be an acceptable amendment to the permit, and it is recommended that the application for amendment be supported as per the recommendation below

RECOMMENDATION

That Council:

- A. Being the Responsible Authority, having not caused Amendment Application WH/2003/14097/B for 1-7 Chapel Street, BLACKBURN to be advertised is of the opinion that the granting of an amendment to Planning Permit WH/2003/14097 is acceptable and should not unreasonably impact the amenity of adjacent properties.
- B. Issue an amended planning permit under the Whitehorse Planning Scheme to the land described as 1-7 Chapel Street, BLACKBURN for the Use and develop the land for the purpose of a three storey (four

10.2 (cont)

level) office building with at grade and basement car parking, associated internally illuminated / business signs and car parking dispensation as per the following amendments:

1. Update permit preamble to read:

- Use and develop the land for the purpose of a three storey (four level) office building with at grade and basement car parking, associated internally illuminated/business signs and car parking dispensation and provision of parking on another site, generally in accordance with the accompanying the endorsed plans and subject to the following conditions.

2. Amend to the existing conditions as follows:

- Remove Condition 1a)
- Add new condition 1f) to read:
 - Prior to the commencement of any construction or buildings and works associated with WH/2022/648, proof of an agreement for rights of access to 36 alternative car parking spaces must be provided to the satisfaction of the Responsible Authority.
- Remove condition 4
- Amend condition 17 to read:
 - Provision of car parking must be made available on site as follows:
 - 94 car parks during the construction of the mixed use development under planning permit WH/2022/648
 - 194 car parks post development of the mixed use development under planning permit WH/2022/648
- New S173 Agreement:

42. Before the development allowed under this amended permit starts, the owner of the land (Owner) and the owner/s of the land at 111 Whitehorse Road, Blackburn must enter into an agreement with the Responsible Authority under section 173 of the *Planning and Environment Act 1987*. The agreement must provide the following:

- a. Unless with the written consent of the Responsible Authority, the Owner of the subject land and the owner of the land at 111 Whitehorse Road, Blackburn must make a minimum 36 car parking spaces on the land at 111 Whitehorse Road, Blackburn freely available and accessible at all times between the hours of (6am-8pm, Monday-Friday) to users of the office at the subject site:

10.2 (cont)

- I. from the time any of the existing at-grade car parking spaces on the land are unable to be accessed as a result of, or incidental to, constructing the development allowed under the amended permit;
- II. throughout the duration of the construction of the development allowed under the amended permit; and
- III. until such time an occupancy permit is issued for the building constructed on the land under the amended permit under the *Building Act 1993*.

The Owner of the land must pay all of the responsible authority's reasonable legal costs and expenses of this agreement, including preparing, reviewing, executing and registering the agreement on title.

- 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*.

MELWAYS REFERENCE MAP 48 REF A9

Applicant:	1 Chapel Street Pty Ltd
Zoning:	Clause 34.01 - Commercial 1 Zone
Overlays:	Clause 43.02 – Design and Development Overlay Schedule 7 Clause 45.06 – Development Contributions Overlay Schedule 1
Relevant Clauses:	
Clause 11	Settlement
Clause 11.03-1L	Activity Centres
Clause 11.03-1L-01	Blackburn Neighbourhood Activity Centre
Clause 18	Transport
Clause 34.01	Commercial 1 Zone
Clause 52.06	Car Parking
Clause 65	Decision Guidelines
Ward:	Lake Ward

10.2 (cont)

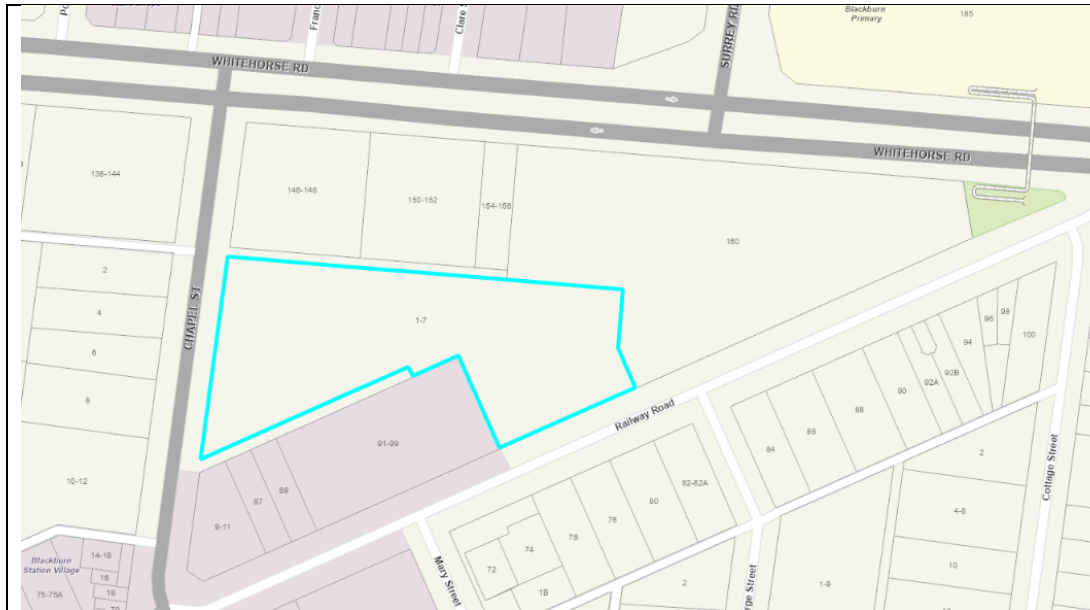


Figure 1 – Location Map (Subject site outlined in blue)

BACKGROUND

History

Application history

The site has extensive planning history, with a number of permits having been issued for a range of major (buildings and works) and minor items (signage, telecommunications mast etc.). The three relevant applications are as follows:

- WH/2003/14097 was issued on the 1st of October 2003 for 'Use and develop the land for the purpose of a three storey (four level) office building with at grade and basement car parking, associated internally illuminated/business signs and car parking dispensation'. This permit is the one that is subject to this amendment.
- Amendment to the above permit (WH/2003/14097/A) was issued on 8th of February 2005 which included some minor amendments to the development of the office (internally changes and relocation of substation and landscaping).
- A current application (WH/2022/648) for the development of a multi-storey mixed use building containing retail tenancies and 168 apartments, above three levels of basement parking. Part of this basement parking is proposed to be allocated to this office use.

The Site and Surrounds

Site

Council officers have conducted an inspection of the site and surrounds.

The subject site is located at 1-7 Chapel Street. The site has a unique shape, with a frontage of 74.21m to Chapel Street to the west, an interface of 54.13m to Railway Road to the south, a depth to the north of 101.19m and

10.2 (cont)

a combined rear width of 36.91m for a total site area of 7,247m². The site experiences a fall in natural ground level from the north-west to south-east.

The site is currently occupied by a three-storey office building (Approved by permit WH/2003/14097) which fronts the Chapel Street boundary. Car parking for this use is provided to the rear of the site, which is accessed via a crossover from Railway Road. The site also provides for a secondary access way via the laneway from Chapel Street to the south of the existing office building. The site contains some vegetation throughout the site, which does not require a planning permit for its removal.

The site is encumbered by 6 easements which are located around the rear and south of the existing office building and provide for access, electricity and sewerage purposes. A S173 agreement regarding the construction, maintenance and the implementation of a carriageway easement for the laneway from Chapel Street to the south of the existing office building on the site is registered on the certificate of title for the site. This does not have any consequential impact on the site or the proposal.

The site where car parking is to be provided during construction is at 111 Whitehorse Road, Blackburn (known as the Blackburn Hotel), approximately 350m north-west of the subject site. This site is currently operating as an existing hotel, with a large number of parking at the rear of the site, accessed via Whitehorse Road.



Figure 2 – Aerial view of the subject site

Surrounds

The site forms part of the Blackburn Megamile (West) Activity Centres area (BAC). The BAC provides for an appropriate location for residential and commercial development compatible with the character of the area. The site

10.2 (cont)

has undergone significant growth in recent years, with the immediate surrounding context as follows:

Adjoining properties

Property	Site description	Approvals
146-156 Whitehorse Road, Northern Abuttal	Multi storey building (and part vacant) used for car sales and motor vehicle repair.	WH/2021/223 – Construct a building and construct or carry out works to the existing building. Application to rebuild showroom and service centre across all three sites. WH/2021/223/A – Amendment to the above permit to reduce scope of works to 150-156 Whitehorse Road WH/2021/223/B – Amendment to increase the size of the buildings and works and the use of the site in line with the original approval
160 Whitehorse Road, Northern and Eastern Abuttal	Development of 4 towers consisting of 7-8 storeys above 3 levels of basement parking (with one sub-basement/ground floor level) consisting of a small scale supermarket, several retail shops and 289 apartments.	Planning Permit WH/2019/346 was issued on 13 December 2019 for the current development on the site. This application has had several amendments, however the overall fundamental aspects of the development remain the same.
76-82 Railway Road, Southeast abuttal	Single and double storey buildings used for a range of industrial uses.	Several permits have been issued for these sites for different uses (microbrewery and coffee roasters) and minor buildings and works.
91-99 Railway Road, Southwest abuttal	A 4-storey office building consisting of an office use.	A planning permit WH/2006/176 was issued on the 23 January 2007 for the construction of a five storey building with a three storey basement car park. This was amended on 2 July 2020 to allow for a six storey building. The development allowed under this permit has not yet been constructed.

PLANNING CONTROLS**Zone****Commercial 1 Zone (C1Z)**

10.2 (cont)

The site is located within Clause 34.01 – Commercial 1 Zone, which provides the following purpose:

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

A permit does not trigger under the Commercial 1 Zone for the reduction in car parking. Decision guidelines for new developments and buildings and works of new buildings, consideration must be given to the provision of car parking. As no buildings and works are proposed under this application, however, this is discussed under application WH/2022/648.

Clause 52.06 - Car Parking

The purpose of Clause 52.06 – Car Parking is:

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

Pursuant to Clause 52.06-3, a permit is required to:

- Provide some or all of the car parking spaces required under Clause 52.06-5 or in a schedule to the Parking Overlay on another site.

As discussed within the proposal, the site will require the relocation of car parking spaces to be temporarily located off on another site.

PROPOSAL

The proposal seeks to amend planning permit WH/2003/14097 with respect to the car parking, to facilitate the development of a mixed-use building (application WH/2022/648) located in the existing open air car park on the eastern portion of the site. The amendment will allow for parking of the existing office use to be provided off site during the construction of the

10.2 (cont)

mixed-use building (a rough timeframe estimate of 24 months). The existing 94 car parks within the basement of the office building will remain.

Following completion of the mixed-use development, 100 car parking spaces within Basement levels 1 and 2 (98 Office and 2 DDA) will be allocated to the office, providing a final total of 194 car parks for the office use. Amendment to the existing permit is required to provide for the reduced car parking rate. A summary of the existing, during construction and post construction car parking has been provided in the table below:

	Parking on site	Parking on external site	Parking in Mixed use development	Total Parking spaces provided
Pre development arrangement	210	N/A	N/A	210
During Construction arrangement	94	Minimum 36	N/A	130
Post development arrangement	94	N/A	100	194

Amendments to the permit and endorsed plans.

The following amendments are required to the existing permit and plans.

Amendment to endorsed plans

The existing endorsed plans on file show the at grade car parking. Amended plans were submitted showing the new level basement car park of the development that provides for the 100 car parks for the office use in the basement level 1 (under planning application WH/2022/648). This will be endorsed to form part of the existing endorsed package for this permit and supersede endorsed plan sheet 1 of 7 endorsed on 4 February 2005.

Permit preamble

The existing planning permit was issued for:

- Use and develop the land for the purpose of a three storey (four level) office building with at grade and basement car parking, associated internally illuminated/business signs and car parking dispensation, generally in accordance with the accompanying endorsed plans and subject to the following conditions.

As the amendment application will propose the provision of parking on another site, the preamble will be required to be updated.

Conditions

The permit was issued subject to 41 conditions (the first amendment did not alter any conditions).

10.2 (cont)

Three conditions are required to be amended/deleted as a result of the amendment. These are as follows:

Condition 1a), which reads as follows:

- Provision of a minimum 217 on site car parking spaces to achieve a rate of 3.5/100m².

This will be required to be deleted as during construction and post development the parking amount provided will depart from this condition. Condition 4 requires a landscape plan with the following requirement to be provided

- Retention of some of the existing mature trees in the proposed at grade car parking rear, in consultation with Council's Planning and Urban Design Departments.

This requirement of condition 4 will be required to be deleted, with the trees required to be removed to facilitate the mixed use development proposed on the eastern portion of the site.

Condition 17 of the permit reads as follows:

- The use and development permitted shall provide a minimum of 217 car spaces on the site.

This condition will be required to be amended for the same purposes as condition 1a) above.

It is also proposed to add in a new condition 1f) as follows:

- Prior to the commencement of any construction or buildings and works associated with WH/2022/648, proof of an agreement for rights of access to minimum 36 alternative car parking spaces must be provided to the satisfaction of the Responsible Authority.

The amendment of the conditions/new conditions required to be added are discussed in further detail in the assessment section of this report below.

CONSULTATION

Public Notice

Pursuant to Clause 52.06-4 an application that is only for a permit under Clause 52.06-3 is exempt from the notice requirements of Section 52(1)(a), (b) and (d) of the *Planning and Environment Act 1987* (notice of an application).

As this amendment is for the relocation of parking to another site and reduction of car parking provided to the office during construction and post development of the apartment building on the eastern portion of the site, the amendment application is exempt from notice.

Further to this, the application is also exempt from Section 64(1) & (2) (notice of decision) and Section 82(1) (Objector appeal to tribunal) of the Act.

10.2 (cont)

Referrals

The application was not required to be referred internally or externally.

PLANNING CONSTROLS

Planning and Environment Act 1987

Section 72 of the *Planning and Environment Act 1987* allows for the amendment of a permit and states that:

- (1) A person who is entitled to use or develop land in accordance with a permit may apply to the Responsible Authority for an amendment to the permit.

The application is for an amendment to the existing permit under Section 72 of the Act.

Zone

Commercial 1 Zone (Clause 34.01)

The site is located within the Commercial 1 Zone, which provides the following purpose:

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

None of the proposed amendments trigger the need for a planning permit under the Commercial 1 Zone.

Particular Provisions

Car Parking

When assessing the application for reduction in car parking and car parking, consideration must be given to the decision guidelines of Clause 52.06 (Car Parking) with the relevant guidelines including:

- The Car Parking Demand Assessment.
- Any relevant local planning policy or incorporated plan.
- The availability of alternative parking within the locality of the land.
- The Practicality of providing car parking on another site
- Any car parking deficiency associated with the existing use of the land.
- The impact of fewer car parking spaces on local amenity.
- Access to or provision of alternative transport modes to and from the land (including public transport and active transport options)

10.2 (cont)

- The equity of reducing the car parking requirement having regard to any historic contributions by existing businesses.

Further for applications to allow some of the required parking spaces to be provided on another site, the relevant decision guidelines include:

- The proximity of the car parking on the alternate site to the subject site.
- The likelihood of the long term provision and availability of the car parking spaces
- Whether the location of the car parking spaces is consistent with any relevant local policy or incorporated plan

In terms of required parking in today's standards, a total of 186 spaces are required for the existing office use. The parking provided of 194 total spaces (94 in the basement of the existing building and 100 of the development proposed under WH/2022/648) exceeds this requirement, and as such, there is no permit trigger for the reduction in car parking.

DISCUSSION

Broadly, the need for an amendment is largely an administrative matter to facilitate the development of the apartments proposed under planning application WH/2022/648 on the existing car park.

As advised above, post development, the office will be provided with excess of parking currently required under the scheme, meaning no reduction is triggered under the planning amendment once the mixed use development is completed. The reduction of 18 from the original permit are excess that was required when the permit was issued, as a higher rate applied within that assessment. The assessment of the removal of the excess parking under the conditions is undertaken in further detail below. It appears that over the life of the carpark, the number of spaces has reduced from what was originally required.

It is to be noted that a Car Parking Management Plan has been included as a condition of planning permit WH/2022/648 which will ensure that the 98 car parking spaces are allocated correctly amongst the mixed use development. As such, one has not been included as an amended condition as part of this amendment application.

Parking provided on another site.

As outlined within the submitted traffic report for the application, it was recommended that a minimum 36 car parking spaces be leased from an external site during the construction period to compensate for the shortfall of carparking. It has been advised by the applicant that the car parking will be provided on site at 111 Whitehorse Road (Blackburn Hotel), which is located approximately 350m (5 min walk), which is considered a sufficient walking distance for users of the office. It is to be noted that this site, would have the capacity to provide excess of the 36 recommended. Further to this, it is likely that when the office on the subject site is in use, the hotel car parking will not be at capacity, and the demand for car parking at the hotel would be later at

10.2 (cont)

night and on weekends, out of office hours. This means that conflict between the two sites and the demand for car parking will be unlikely.

As per policy of Clause 11.03-1L, a Section 173 agreement is required to be entered into when parking is provided on another site, between the owners of the subject site and owners of the site to be used for the off-site parking. It is proposed to include the following condition:

- a. *Before the development allowed under this amended permit starts, the owner of the land (Owner) and the owner/s of the land at 111 Whitehorse Road, Blackburn must enter into an agreement with the Responsible Authority under section 173 of the Planning and Environment Act 1987. The agreement must provide the following:*
 - b. *Unless with the written consent of the Responsible Authority, the Owner and the owner of the land at 111 Whitehorse Road, Blackburn must make a minimum 36 car parking spaces on the land at 111 Whitehorse Road, Blackburn freely available and accessible at all times between the hours of (6am-8pm, Monday-Friday) to users of the office at the subject site:*
 - IV. from the time any of the existing at-grade car parking spaces on the land are unable to be accessed as a result of or incidental to constructing the development allowed under the amended permit;
 - V. throughout the duration of the construction of the development allowed under the amended permit; and
 - VI. until such time an occupancy permit is issued for the building constructed on the land under the amended permit under the *Building Act 1993*.

The Owner of the land must pay all of the responsible authority's reasonable legal costs and expenses of this agreement, including preparing, reviewing, executing and registering the agreement on title.

This will ensure that the off-site car park will be freely available, directly linked to, and extend for the life of, the construction of the apartment building, until such time as the new basement parking is provided.

Amendment of Endorsed Plans

The amendment to supersede endorsed sheet 1 of 7 endorsed on 4 February 2005, is considered an administrative matter to ensure the amendments to the car parking are carried out as outlined in this report. As such, this is considered acceptable.

Amendment of Permit Preamble

Given that the amendment is for the development to provide car parking on another site, the permit preamble or 'what the permit allows' is required to be amended to allow for this. The permit preamble will be required to be updated as follows:

10.2 (cont)

- Use and develop the land for the purpose of a three storey (four level) office building with at grade and basement car parking, associated internally illuminated/business signs and car parking dispensation and provision of parking on another site, generally in accordance with the accompanying the endorsed plans and subject to the following conditions.

This will have no further change to what the permit allows than the amendments assessed throughout this report, nor will it allow any other use. As such, this amendment is considered appropriate.

Amendment of Conditions.

As part of the amendment, the applicant has proposed to amend or delete 4 conditions on the permit.

Existing Condition	Proposed Condition	Assessment
Condition 1a) – Amended Plans		
<i>Provision of a minimum 217 on site car parking spaces to achieve a rate of 3.5/100m²</i>	<i>To be deleted.</i>	Given that the post development amount will provide a different rate of car parking, and Condition 17 (as outlined below) is being amended, this condition can be deleted.
Condition 1f) – New amended plans required.		
N/A – No condition 1f)	<i>Prior to the commencement of any construction or buildings and works associated with WH/2022/648, proof of an agreement for rights access to a minimum 36 alternative car parking spaces must be provided to the satisfaction of the RA.</i>	This is to ensure that the parking provided on another site is undertaken in agreement with owners of the other site. This is merely an administrative matter to ensure Council is satisfied it is being acted on.
Condition 4 – Landscape Plans		
<i>Retention of some of the existing mature trees in the proposed at grade car parking area, in consultation with Councils Planning and Urban Design Departments.</i>	To be deleted	All of the trees within the open-air car park are being removed to facilitate the mixed use development on the eastern portion of the site and to ensure that it does not contradict the condition.

10.2 (cont)

		<p>Substantial landscaping is proposed as part of the mixed use development on the eastern portion of the site.</p> <p>As such, the removal of this condition is appropriate.</p>
Condition 17 – Parking Provision		
<p><i>The use and development permitted shall provide a minimum of 217 car spaces on the site.</i></p>	<p><i>Provision of car parking must be made available on site as follows:</i></p> <ul style="list-style-type: none"> • 94 car parks during the construction of the mixed use development under planning permit WH/2022/648; and • 194 car parks post development of the mixed use development under planning permit WH/2022/648. 	<p>As with the amendment of the Condition 1a) above, this is required to be amended to facilitate the parking of the existing office off site during the construction of the mixed use development on the eastern portion of the site.</p> <p>As the parking off site has been considered acceptable, the amendment of the condition to ensure that the amendment will not contradict the condition is acceptable.</p>
New S173 Condition (Condition 42)		
<p><i>N/A – No previous condition.</i></p>	<p><i>42. Before the development allowed under this amended permit starts, the owner of the land (Owner) and the owner/s of the land at 111 Whitehorse Road, Blackburn must enter into an agreement with the Responsible Authority under section 173 of the Planning and Environment Act 1987. The agreement must provide the following:</i></p> <p><i>a) Unless with the written consent of the Responsible Authority, the Owner and the</i></p>	<p>As discussed earlier in this report, this condition is required under Clause 11.03-1L of the Planning Scheme to ensure that the parking will be provided on another site during construction of the apartment building.</p>

10.2 (cont)

	<p><i>owner of the land at 111 Whitehorse Road, Blackburn must make a minimum 36 car parking spaces on the land at 111 Whitehorse Road, Blackburn freely available and accessible at all times between the hours of (6am-8pm, Monday-Friday) to users of the office at the subject site:</i></p> <ul style="list-style-type: none"><i>i. from the time any of the existing at-grade car parking spaces on the land are unable to be accessed as a result of or incidental to constructing the development allowed under the amended permit;</i><i>ii. throughout the duration of the construction of the development allowed under the amended permit; and</i><i>iii. until such time an occupancy permit is issued for the building constructed on the land under the amended permit under the Building Act 1993.</i> <p><i>The Owner of the land must pay all of the responsible authority's reasonable legal costs and expenses of this agreement, including preparing, reviewing, executing and registering the agreement on title.</i></p>	
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10.2 (cont)

CONCLUSION

The proposal for the amendment to planning permit to allow for the reduction of the approved parking rate and to provide parking on another site temporarily during construction, is an acceptable response that satisfied the relevant provisions contained within the Whitehorse Planning Scheme, including the State and Local Planning Policies and Clause 52.06 – Car Parking.

It is considered that the application should be approved, with an amended permit to be issued, subject to the amendments outlined at the start of the report.

ATTACHMENT

- 1 1-7 Chapel Street, Blackburn - Amendment Plans
- 2 1-7 Chapel Street, Blackburn - Existing Planning Permit and Endorsed Plans

10.3 440-442 Burwood Highway, Vermont South (LOTS 1 & 2 LP 95139)– Construction of an apartment building and removal of trees

Department

City Planning and Development

Director City Development

WH/2024/249

Attachment

SUMMARY

This report provides Council with an assessment of planning permit application WH/2021/819 at 440-442 Burwood Highway, Vermont South, which seeks approval for the construction of a 6 storey building above two (2) levels of basement car park, comprising of 35 dwellings.

The key considerations include the acceptability of the built form and appearance of the development, having regard to the zoning, policy and character of the area and the applicable Design and Development Overlay; the impacts of traffic, parking and road safety and whether the proposal would result in unacceptable offsite amenity impacts on surrounding residences.

As part of the process, the application was advertised and a total of 12 objections were received. The objections raised issues with increased traffic and parking constraints; offsite amenity impacts including overshadowing and overlooking; impacts of the tree removal, issues relating to waste collection and impact during construction phase. A consultation forum was held on 17th of October 2024 and chaired by Planning Officers, at which the issues were explored, however no resolution was reached between the parties. Objector concerns have been addressed in further detail throughout the report.

The application was not required to be referred externally, however several internal departments provided comment, all of which provided support for the project subject to conditions, which have been included in the recommendation.

This report assesses the application against the relevant provisions of the Whitehorse Planning Scheme, including the purpose and decision guidelines of the Residential Growth Zone Schedule 1, Design and Development Overlay Schedule 11, Significant Landscape Overlay Schedule 9, Development Contributions Plan Overlay Schedule 1, and Clause 52.06 (Car Parking), Clause 58 (Apartment Developments) and Clause 65 (Decision Guidelines).

It is recommended that the application be supported and that Council issue a Notice of Decision to Grant a Permit, subject to the conditions below

10.3 (cont)

RECOMMENDATION

That Council:

A Being the Responsible Authority, having caused Application WH/2024/249 for 440-442 Burwood Highway, Vermont South (LOTS 1 & 2 LP 95139) to be advertised and having received and noted the objections is of the opinion that the granting of a Planning Permit for the Construction of an apartment building and removal of trees is acceptable and should not unreasonably impact the amenity of adjacent properties.

B Issue a Notice of Decision to Grant a Permit under the Whitehorse Planning Scheme to the land described as 440-442 Burwood Highway, Vermont South (LOTS 1 & 2 LP 95139) as follows:

Planning Scheme Clause	Matter for which the permit has been granted
32.07-6	Construct two or more dwellings
42.03-2	Remove, destroy or lop any vegetation in Schedule 9
43.02-2	Construct a building or construct or carry out works.

and subject to the following conditions:

1. Before the development starts, amended plans must be submitted to and approved by the Responsible Authority in a digital format. Once approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale, with dimensions, and be generally in accordance with the decision plans, but modified to show:
 - a) Any screening measures to balcony of apartment 2.06 necessary to demonstrate no overlooking into SPOS of 2 Cavill Court to the south in accordance with the Standard B22 - Overlooking.
 - b) Annotation that all external habitable room windows are doubled glazed for noise attenuation.
 - c) Functional layout plans to be updated to show all requirements in accordance with Standard D18
 - d) Convex Mirrors within the basement to be clearly identified and annotated at all blind spots within the vehicle basement areas.
 - e) The easements on both basement plans to be clearly identified and annotated, distinguishing it from the rest of the plans.
 - f) Location of stormwater pipe and pits to be annotated on the plans.

10.3 (cont)

- g) Easement lines to be clearly identified on the elevations.
- h) Annotation on the basement and ground floor plans stating that no excavations and/or fill within the easement during construction.

2. The layout of the site and the size, design and location of the buildings and works permitted must always accord with the endorsed plans and must not be altered or modified without the further written consent or the responsible Authority.
3. The garden areas shown on the endorsed plan must only be used as gardens and must be maintained in a proper, tidy and healthy condition to the satisfaction of the Responsible Authority. Should any tree or shrub be removed or destroyed it may be required to be replaced by a tree or shrub of similar size and variety.
4. Before the commencement of buildings and works, a Landscaping Maintenance Plan, prepared by a suitably qualified consultant, must be submitted to and approved by the Responsible Authority. The Landscaping Maintenance Plan must include, but is not limited to:

- a) Irrigation system/program for all common property landscaping and containerised plantings, including details of frequency and water delivery method.

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

The requirements of the Landscaping Maintenance Plan must be implemented by the building manager, owners and occupiers of the site for the life of the building, to the satisfaction of the Responsible Authority

Tree Protection

5. Prior to the commencement of any building and or demolition works on the land, a Tree Protection Zone (TPZ) must be established and maintained during and until completion of all buildings and works including landscaping, around the following trees in accordance with the distances and measures specified below, to the satisfaction of the Responsible Authority:
 - a) Tree protection zone distances:
 - i. Tree 1 – 8.0 metre radius from the centre of the tree base.
 - ii. Tree 2 – 3.0 metre radius from the centre of the tree base.
 - iii. Tree 3 – 5.6 metre radius from the centre of the tree base.
 - iv. Tree 17 – 3.4 metre radius from the centre of the tree base.
 - b) Tree protection zone measures are to be established in accordance with Australian Standard 4970-2009 and including the following:

10.3 (cont)

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

General

6. All building plant and equipment on the roofs, terraces areas, common areas and public thoroughfares are to be concealed to the satisfaction of the Responsible Authority. The construction of any additional plant, machinery or other equipment, including but not limited to all service structures down pipes, aerials, satellite dishes, air-conditioners, equipment, ducts, flues, all exhausts including car parking and communication equipment must include appropriate screening measures to the satisfaction of the Responsible Authority.
7. All mechanical exhaust systems for the car park hereby approved must be located and sound attenuated to prevent noise and general nuisance to the occupants of the surrounding properties, to the satisfaction of the Responsible Authority.
8. All pipes, fixtures, fittings and building services servicing any building on the land must be concealed in service ducts or

10.3 (cont)

otherwise hidden from view to the satisfaction of the Responsible Authority.

9. The car parking areas and accessways as shown on the endorsed plans must be formed to such levels so that they may be used in accordance with the plan, and must be properly constructed, surfaced, drained and line-marked (where applicable) to the satisfaction of the Responsible Authority.
10. The car parking areas and driveways must be maintained to the satisfaction of the Responsible Authority.
11. The nature strip must be reinstated where any existing vehicle crossover is redundant, at no cost and to the satisfaction of the Responsible Authority
12. Except with the prior written consent of the Responsible Authority, council assets must not be altered in any way.
13. All buildings and works must be maintained in good order and appearance to the satisfaction of the Responsible Authority.
14. Existing street trees must not be removed or damaged except with the written consent of the Responsible Authority.

Waste management

15. Waste collections for this development are to be completed internally by Private waste collection contractor.
16. Council issued bins will not be required for this development.
17. Waste collection vehicles are to enter and leave the developed site in a forward direction.
18. MGB usage is to be shared by the occupiers of the development.
19. The approved WMP will be the model for adoption in this development and the design & as-built aspects needs to account for what is approved in the WMP. Any revision of the WMP or changes to the approved waste system of the development requires Council approval.

Sustainability Management Plan

20. Prior to the occupation of the development, the development must be constructed in accordance with the approved Sustainability Management Plan and WSUD Report to the satisfaction of the Responsible Authority.

Construction Management

21. Prior to the commencement of any site works, including demolition or bulk excavation if applicable, a detailed Construction

10.3 (cont)

Management Plan(s) (CMP), to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the CMP will be endorsed and will form part of this permit and must be implemented to the satisfaction of the Responsible Authority. This CMP must be prepared by a suitably qualified person and be in accordance with the City of Whitehorse Construction Management Plan Guidelines.

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

Asset conditions

22. All stormwater drains and on-site detention systems are to be connected to the legal point of discharge to the satisfaction of the Responsible Authority prior to the occupation of the building/s. The requirement for on-site detention will be noted on your stormwater point of discharge report, or it might be required as part of the civil plans approval.
23. Detailed stormwater drainage and/or civil design for the proposed development are to be prepared by a suitably qualified civil engineer and submitted to the Responsible Authority for approval prior to occupation of the development. Plans and calculations are to be submitted with the application with all levels to Australian Height Datum (AHD). All documentation is to be signed by the qualified civil engineer.
24. Stormwater that could adversely affect any adjacent land shall not be discharged from the subject site onto the surface of the adjacent land. Civil plans must make sure that the low corner of the site (North –East side) is adequately drained.
25. Prior to works commencing the Applicant/Owner is to submit design plans for all proposed engineering works external to the site. The plans are to be submitted as separate engineering drawings for assessment by the Responsible Authority.
26. The Applicant/Owner is responsible to pay for all costs associated with reinstatement and/or alterations to Council or other Public Authority assets as a result of the development. The Applicant/Owner is responsible to obtain all relevant permits and consents from Council at least 7 days prior to the commencement of any works on the land and is to obtain prior specific written approval for any works involving the alteration of Council or other Public Authority assets. Adequate protection is to be provided to Council's infrastructure prior to works commencing and during the construction process.

10.3 (cont)

27. The qualified civil engineer when undertaking civil design must ensure that the landscape plan/s and drainage plan/s are compatible. The stormwater drainage and on site detention system must be located outside the tree protection zone (TPZ) of any trees to be retained.
28. Kerb and channeling must be retained to the satisfaction of the Responsible Authority. Any reconstruction should be to the satisfaction of the Responsible Authority.
29. All building plant and equipment on the roofs, balcony areas, common areas, and public thoroughfares is to be concealed to the satisfaction of the Responsible Authority. Noise emitting plant equipment such as air conditioners, must be shielded with acoustic screening to prevent the transmission of noise having detrimental amenity impacts. The construction of any additional plant, machinery or other equipment, including but not limited to all service structures, down pipes, aerials, satellite dishes, air-conditioners, equipment, ducts, flues, all exhausts including car parking and communication equipment must include appropriate screening measures to the satisfaction of the Responsible Authority.
30. All mechanical exhaust systems for the car park hereby approved must be located and sound attenuated to prevent noise and general nuisance to the occupants of the surrounding properties, to the satisfaction of the Responsible Authority.
31. All pipes, fixtures, fittings and vents servicing any building on the land must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.

Development Contributions

32. 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 not more than 21 days prior to, the grant of a building permit under the Building Act, 1993 or the commencement of 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.
33. 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

10.3 (cont)

as the Collecting Agency to pay the Community Infrastructure Levy within a time specified in the agreement.

Residential reticulated gas

34. Any new dwelling allowed by this permit must not be connected to a reticulated gas service (within the meaning of clause 53.03 of the relevant planning scheme). This condition continues to have force and effect after the development authorised by this permit has been completed.

Expiry

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

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

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

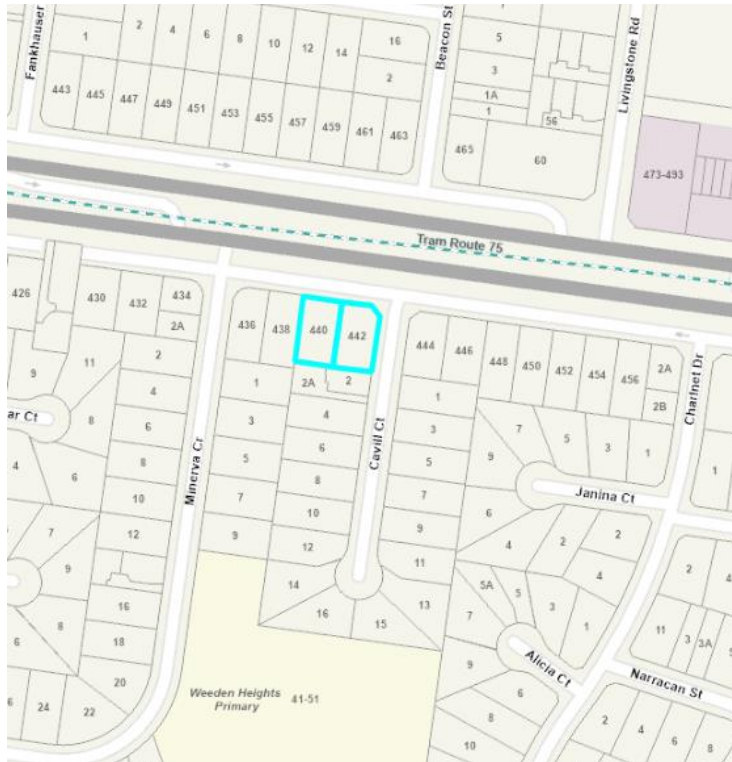
C Has made this decision having particular regard to the requirements of Sections 58, 59, 60 and 61 of the *Planning and Environment Act 1987*.

MELWAYS REFERENCE MAP 62 REF F7

Applicant:	Vermont Hill Pty Ltd T/A Vermont Hill
Zoning:	Residential Growth Zone Schedule 1
Overlays:	Design and Development Overlay Schedule 11 Significant Landscape Overlay Schedule 9 Development Contributions Plan Overlay Schedule 1
Relevant Clauses:	
Clause 11	Settlement
Clause 12	Environment and Landscape Values
Clause 15	Built Environment and Heritage
Clause 15.01-5L-01	Tree Conservation
Clause 16	Housing
Clause 16.01	Residential Development
Clause 32.07	Residential Growth Zone Schedule 1
Clause 42.03	Significant Landscape Overlay
Clause 43.02	Design and Development Overlay
Clause 45.06	Development Contributions Plan Overlay
Clause 52.06	Car Parking
Clause 52.34	Bicycle Facilities

10.3 (cont)

Clause 58	Apartment Developments
Clause 65	Decision Guidelines
Ward:	Terrara Ward



10.3 (cont)

BACKGROUND**History**

The site has one planning application, WH/2020/1256 which was applied for in December 2020 for the:

- *Construction of 10 x triple storey and 2 x four storey dwellings and associated tree removal*

This application was refused on the 5th of September 2022, based on neighbourhood character grounds, lack of meaningful landscaping, carparking and access issues and a number of 'ResCode' grounds, including a large number due to the impact of amenity to surrounding properties.

This refusal was upheld upon appeal to VCAT on the 17th of April 2023, which were all based on Council's refusal grounds, with particular concern on the design response to the character of the area, lack of internal amenity for future residents, car parking and access issues and overshadowing of 2 Cavill Court.

The Site and Surrounds

The subject site comprises of two separately transferable lots, each containing a single storey dwelling. The subject site is located on the south side of Burwood Highway in Vermont South, 770 metres east of the intersection with Springvale Road. The site has a combined frontage of 34.8m to Burwood Highway and a depth ranging between 28-32 metres to Cavil Court, with a combined total site area of 1,291m². The site has a slope of 1.5-2 metres from west to east across the site. A 3 metres wide drainage easement is located along the rear (southern) boundary.

The surrounding properties are residential, comprising a mix of single and double storey dwellings. There are number of medium density developments evident in the area. Further afield, the area provides for higher density developments, including apartment buildings in proximity to the Vermont South Shopping Centre which lies approximately 650 metres the northeast of the site.

In terms of the planning context of the surrounding area, while the site is zoned Residential Growth Zone, schedule 1 (RGZ1), and within the Design and Development Overlay (DDO), properties to the south are located within the Neighbourhood Residential Zone reflecting a lower scale residential objectives compared to properties with frontage to Burwood Highway.

The 'Residential Growth' zoning provides properties with Burwood Highway frontage with opportunity for higher density development, typically in the form of apartments, in line with the objectives and purpose of the RGZ and the DDO as evidenced in the varied height and setbacks of Schedule 11 to the DDO. The is evidenced through the existing apartment buildings in the area, including 5 Stanley Street, 1 Charlnet Drive and 408 Burwood Highway.

10.3 (cont)

Planning ControlsResidential Growth Zone – Schedule 1

The subject site is located within Clause 32.07 Residential Growth Zone – Schedule 1 (RGZ1) which provides the following purpose:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To provide housing at increased densities in buildings up to and including four storey buildings.*
- *To encourage a diversity of housing types in locations offering good access to services and transport including activity centres and town centres.*
- *To encourage a scale of development that provides a transition between areas of more intensive use and development and other residential areas.*
- *To ensure residential development achieves design objectives specified in a schedule to this zone.*
- *To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.*

Pursuant to Clause 32.07-6 a permit is required to construct two or more dwellings on a lot.

Design and Development Overlay Schedule 11

The subject site is impacted by the Design and Development Overlay Schedule 11, which provides the following purpose:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To identify areas which are affected by specific requirements relating to the design and built form of new development.*

Schedule 11 to the DDO provides for the following design objectives:

- *To promote mid-rise development in the residential growth corridors to accommodate housing at increased densities and a diversity of housing type.*
- *To ensure development contributes to a high quality public realm in relation to human scale by providing a pedestrian-friendly urban environment.*
- *To ensure the height and built form of new buildings provide an acceptable built form interface, amenity outcomes, and transition to adjoining neighbouring lower scale residential areas in the General Residential Zone and the Neighbourhood Residential Zone.*
- *To maintain the visual prominence of landscaping and ensure space for medium and large trees.*

10.3 (cont)

- *To encourage lot consolidation in order to achieve the maximum building heights and to provide for sufficient building setbacks to deliver high levels of internal amenity.*

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

Significant Landscape Overlay Schedule 9

The site is located within the Significant Landscape Overlays Schedule 9 which provides for the purpose:

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

Schedule 9 to the Significant Landscape Overlay provides the following landscape character to be achieved:

- *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.*

Pursuant to Clause 42.03-2 a planning permit is required to:

- Construct a building or construct or carry out works within 4 metres of a tree which requires a permit to remove; and
- Remove, destroy or lop any vegetation.

The proposed development triggers the need for a permit under the SLO9 as works are within 4m of trees that require a permit for removal, and for the removal of the Chinese Photinia (tree 10 on plans).

Development Contributions Plan Overlay – Schedule 1 (DCPO1)

The site is located within the Development Contributions Plan Overlay Schedule 1 – Which provides the following purpose:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To identify areas which require the preparation of a development contributions plan for the purpose of levying the provision of works, services and facilities before development can commence.

While the DCPO1 does not trigger a planning permit as such, it requires levy's payable as per the summary of costs set out within the Schedule to the DCPO. The summary of costs is listed in the table below, and a condition will be added onto the permit ensuring the requirement of the DCPO is met.

10.3 (cont)

The site is located within the Vermont South Charge Area (Charge Area 17), which is between Springvale Road to the west, Healesville Freeway Reserve to the North, Highbury Road to the south and Dandenong Creek to the east.

The proposal will provide for an increase of 33 dwellings and the Development Infrastructure Levy and Community Infrastructure Levy will apply to these additional dwellings.

PROPOSAL

It is proposed to remove the existing single storey dwellings and all vegetation on the site, and construct a 6 storey development with apartments above two levels of basement car parking. The specific details of the proposal are as follows:

- 35 apartments will be constructed with 4 X 1 bed/1 bath, 16 X 2 bed/1 bath and 15 X 2 bed and 2 bath.
- An open-air communal terrace will be located on the roof of the building.
- Pedestrian access is proposed via a shared entrance from the footpath adjacent to Burwood Road.
- Vehicle access will be via an upgrade to the existing crossover to 440 Burwood Highway (in the northwest corner of the site) from the service lane adjacent to the west bound lanes of Burwood Highway.
- Two levels of basement will comprise of 36 total car parks (20 on basement level 1 and 16 on basement level 2).
- Ground floor setbacks are:
 - 5.04m-5.13m from the frontage with Burwood Highway Service Road to the north.
 - 6.3m-6.88m from the side boundary with Cavil Court to the east.
 - 3.06m-7.02m from the rear boundary to the south.
 - 3m-6.87m from the side boundary with 438 Burwood Highway to the west.
- Increasing setbacks are incorporated at high levels, particularly to the south and west, with the upper-level setback significantly from all boundaries.
- A staggered front fence ranging from 1.09m-1.5m to Whitehorse Road and a consistent side fence of 1.2m to Cavill Court.
- The building will comprise of a mixture of materials, including timber and metal cladding, metal finishes and rendering, of various colours.

10.3 (cont)



Figure 5: Proposed ground floor plan.



Figure 6: Proposed render view from the north.

CONSULTATION

Public Notice

The application was advertised by mail to owners and occupiers of adjacent properties and by erecting three signs on site. Following the advertising period, twelve (12) objections were received. The objector concerns are addressed as follows:

10.3 (cont)

Objection	Response
Neighbourhood Character	An assessment on the impact of the development on neighbourhood character has been undertaken in further detail in the assessment section of this report and found to achieve an acceptable outcome.
Building Bulk	An assessment on building bulk and its impact on the surrounding neighbourhood has been undertaken in further detail in the assessment section of this report and found to achieve an acceptable outcome.
Overlooking	An assessment on overlooking has been undertaken further below in this report.
Overshadowing	An assessment on overshadowing has been undertaken further below in this report.
Increase in Traffic	A Traffic Impact Assessment was submitted with the application and is assessed in further detail below.
Parking impacts	An assessment on the parking impacts is undertaken in this report below.
Impact during construction	A condition is recommended to be included for a Waste Management Plan, which will include management of matters such as noise, dust and construction traffic management throughout the process of construction.
Waste management issues	A waste management plan was provided with the application, which was referred to Council's Waste Officer, who had no objection. The WMP will be endorsed to form part of the permit.

Consultation Forum

A consultation forum was held on the 17th of October 2024, chaired by Council officers and attended by the applicant and 4 objectors. At the consultation forum, the issues were discussed in depth, however no resolution was reached. All objections remain outstanding.

Referrals**External**

The application was not required to be referred externally.

InternalTransport Engineer

Transport engineering was supportive of the proposed development in terms of design of parking areas and traffic volumes. A condition was requested to

10.3 (cont)

include convex mirrors within the basement parking. This has been included as a suggested condition within the recommendation.

City Services

City Services had no objections to the submitted Waste Management Plan, subject to conditions to be added on any permit issuing. These have been included within the recommendation.

Assets Engineer

Asset engineering did not support the development and had the following requirements to be shown on the plans:

- The easement must be shown on basements 1 & 2 plans in another colour.
- Show stormwater pipe and pits in the easements.
- Sewer pipe and pits should be shown on the plans.
- Show easement line on the elevations.
- No excavation and/or fill within the easement. Show finished ground surface levels within the easement and note as such.
- What are the below structures in grey over the easement.

It is considered however, that the above can be shown on the plans by way of permit conditions. General asset engineering conditions will be included on the permit.

Parks and Natural Environment

Parkside assessed the development with respect to any impact on street trees located along Burwood Highway Service Road and Cavill Court. No objection to any impact to street trees, and standard conditions around tree protection measures were recommended to be included on any approval.

Environmental Sustainable Design

Council's ESD officer advised that a review of the plans and the accompanying Sustainability Management Plan (SMP) and Water Sensitive Urban Design Report found that the application generally meets Council's ESD standards for a development of this size. The application was supported from an ESD perspective, with a recommended condition to be included to ensure that the development is built in accordance with the SMP.

DISCUSSION

The application has been assessed against the Planning Policy Framework (PPF) and provisions of the Whitehorse Planning Scheme and is deemed to be an appropriate proposal that will make a positive contribution to the housing stock in the municipality. The areas that warrant detailed discussion are as follows:

Strategic Direction

10.3 (cont)

Zoning Considerations

The subject site is in the Residential Growth Zone (Schedule 1) for which the purpose includes providing housing at increased densities whilst encouraging a transition between areas of more intensive use and development and other residential areas. The zoning in the immediate surrounding area is shown on the following map extract.

The Neighbourhood Residential zoned lands to the south have the potential to be built up to two storeys. The Residential Growth Zone lands to the east, west and across Burwood Highway to the north have the potential to be developed in a similar manner to the proposed development., which reflects the strategic objectives to encourage increasing densities away from traditional low-lying areas and focusing change on discreet areas that are well supported by the policies outlined earlier in this report.

The transition in built form that is proposed by the development successfully responds to these changing residential zones. More detail about the specifics with discussion of the Design and Development – Schedule 11 and associated objectives and Decision Guidelines.

Policy Framework

The State Planning Policy Framework objectives for housing support dwelling diversity, urban consolidation and the provision of affordable housing. There is a particular emphasis on the provision of more diverse housing types at higher densities in and around activity centres, on strategic redevelopment sites and in locations well serviced by public transport and other infrastructure, as well as increasing the proportion of housing in designated locations in established urban areas such as within Whitehorse.

The State-wide planning policy also requires development to respond to its physical context and to achieve good quality environments through good urban design. Design objectives ask for development that contributes positively to local urban character, enhances liveability and amenity, promotes attractiveness of towns and cities within broader strategic contexts and minimises detrimental impact on neighbouring properties.

Clause 16 (Housing) notes that the City of Whitehorse is under increased pressure to accommodate more people who are attracted to the area. Maintaining a high-quality residential environment is sought and allowing change and growth in urban areas with good public transport, whilst contributing to valued neighbourhood character, is encouraged. This Clause goes on to reference Council's Neighbourhood Character Study 2014 which identifies three categories of 'change' in the municipality and also further individual character areas. The subject site is situated in a 'Substantial Change' area which is described as follows:

“Substantial Change areas provide for housing growth with increased densities, including inside designated structure plan boundaries and opportunity areas, in accordance with the relevant plans as well as around most train stations, adjoining tram routes and around larger activity centres.”

10.3 (cont)

Relevant objectives for Substantial Change Areas at Clause 21.06 include:

- *Support increased residential densities.*
- *Support increased housing choice by allowing for a diversity of dwelling types, sizes and tenures to suit a range of household types.*
- *Facilitate achieving a new, preferred character for these areas over time through quality developments.*
- *Encourage the provision of shop-top dwellings and low scale apartment developments in activity centres, particularly within key Neighbourhood Activity Centres and on sites abutting the Principal Public Transport Network and main roads.*
- *Provide space for planting, communal spaces and rooftop gardens to improve the amenity and liveability of dwellings.”*

Clause 16.01-1L (Housing Change) policy applies to all residentially zoned land in the municipality and outlines the preferred character statements and the relevant Precinct Guidelines within the City of Whitehorse Neighbourhood Character Study 2014 be applied. Relevant strategies for Substantial Changes Areas (Clause 16.01-1L) are as follows:

- *Facilitate the creation of a valued and identifiable sense of place, through an appropriate design response that supports additional housing and the preferred neighbourhood character.*
- *Encourage medium and higher density housing, in the form of:*
 - *Units and townhouses.*
 - *Flats and apartments.*
- *Locate dwellings on upper floors of retail or commercial premises and low-scale apartment developments in activity centres, particularly within key neighbourhood activity centres identified on the Neighbourhood Activity Centres Category Map in Schedule 4 to Clause 43.02, and in designated areas abutting the Principal Public Transport Network and main roads.*
- *Encourage the preparation of master plans for larger sites to facilitate the development of diverse, high amenity precincts that have an identifiable sense of place.*
- *Design street layouts in new subdivisions that extend the pattern of surrounding streets.*
- *Manage the sensitive interface between development in substantial change areas along major road corridors and adjoining low-rise residential areas.*
- *Ensure the built form of new development in substantial change areas along major road corridors does not visually dominate the street, and is*

10.3 (cont)

massed to provide an acceptable interface to the low-rise scale of adjoining development.

The subject site is also situated in the neighbourhood character area 'Garden Suburban Precinct 7' as identified in the Whitehorse Neighbourhood Character Study 2014, with the preferred character statement outlined at Clause 15.01-5L as follows:

Areas within close proximity to trams along Burwood Highway will accommodate more dwellings with slightly more compact siting than the remaining residential areas, but with space for large trees and gardens.

Sites fronting the Burwood Highway tram route, or indicated as significant change areas within current adopted structure plans or urban design frameworks (Substantial Change areas) will undergo change to accommodate new medium density dwellings with more compact siting, while retaining space for landscaping including trees.

Reflecting the policy context above, the subject site (as well as the majority of the other Burwood Highway fronting properties in this corridor) are located within the Residential Growth Zone, which aims for providing a diversity of housing types at increased densities which transition to the lower scale Neighbourhood Residential Zones situated behind.

Clause 15.01-2L (Environmentally Sustainable Development) sets out objectives to achieve best practice in environmentally sustainable development from the design stage through to construction and operation. A Sustainability Management Plan is required to accompany an application of the type and scale proposed and was included with the supporting application material.

The proposed built form is generally consistent with the planning policy framework outlined above for the following reasons:

- The proposal will successfully implement state planning policy objectives for urban consolidation by increasing the density of development on a site that is well serviced by public transport, with the tram route 75 located on Burwood Highway and in close proximity to commercial and community services including shops, medical services, schools and hospitals, amongst others.
- The range of dwelling sizes proposed will cater for differing housing needs within the municipality. Of note, the surrounding area is predominated by single dwellings on large lots generally between 600sqm to 700sqm in area and therefore the addition of apartment dwelling stock would add variety to the existing housing stock within the area.
 - Of particular note, the range of more generous dwelling typologies which include 1 and 2-bed arrangements are well considered in terms of providing dwelling diversity within the apartment building itself.

10.3 (cont)

- The proposed building has been designed to incorporate setbacks from adjacent residential boundaries resulting in a successful transition in height and massing which will minimise the impact on neighbouring properties in recognition of the transition to lower scale Neighbourhood Residential Zone to the south.
- Sufficient space has been provided adjacent to the property boundaries to incorporate landscaping, including new canopy trees, which will soften the development and contribute to the recognised garden character of the area.
- A range of environmentally sustainable measures have been included into the design in support of best practice methods for sustainable development.

Overall, the proposed development demonstrates a high degree of compliance with the Planning Policy Framework and will make a positive contribution to its physical context, as well as contributing to urban consolidation objectives. The following sections of this report will explore the design response in more detail and its ability to respond to the area and sensitive interfaces with neighbouring dwellings.

Building design

Height

Clause 32.07-9 of the Residential Growth Zone sets out discretionary maximum building height of 13.5 metres.

The proposed maximum building height would be 21.41m (including lift overrun), which exceeds this discretionary height.

While the proposed building would exceed this discretionary limit under the zone, buildings taller than 13.5m are clearly in this area through the introduction of the DDO and through existing examples of similarly scaled buildings along the Burwood Highway corridor.

With regards to height, the DDO11 applied to the subject site suggests a discretionary building height of 19 metres & 6 storeys. The proposal meets both the building and number of storeys being 18.91m and 6 storeys (noting that lift overruns and services do not fall within the overall building height). As such, the proposed height of the building aligns with the strategic direction sought for the site, including heights expressed under the DDO.

Building Setbacks

Amendment C220whse to the Whitehorse Planning Scheme sought to implement the outcomes of the Whitehorse Residential Corridor Built Form Study through the introduction of Schedule 11 of the Design and Development Overlay (DDO11) on 1st of March 2024.

The objectives of the DDO11 is to promote development at an increased density in the residential growth corridors, while ensuring appropriate built form and transition to lower adjoining lower scale residential areas. The

10.3 (cont)

DDO11 outlines preferred building setbacks which aim at achieving this objective.

Developments can encroach on these preferred setbacks if the building addresses amenity impacts (such as shadowing) and also provides a transition to lower scale residential zones, in this case to the south. The setbacks of the development in comparison to the preferred setbacks of the DD)11 are undertaken in the table below. In summary, the

Setbacks

The table below outlines the DDO11 discretionary setbacks, and the level of compliance by the proposed development.

Setback	Preferred setbacks	Proposed setbacks	Compliant with DDO
Front setback	Minimum 5m with an additional 3m to levels above 4 storeys.	Minimum 5m from, ground to level 3 (4th storey), 8m (additional 3m) for levels 4 (5th storey) and 7.79m for level 5 (6th storey)	Compliant at ground level to level 4. Non-compliant for level 5.
Side setbacks	Minimum of 4.5m with an additional minimum 4.5m to levels above 4 storeys to adjoining land in the Residential Growth Zone, General Residential Zone, Neighbourhood Residential Zone.	Cavil Court setback 6.3m at ground level, 4.88m at levels 1-3, 6.71m for level 4 and 6.2m for level 5.	Compliant
		West setback 3m at ground level, 4.5m for levels 1-3, 9m for level 4 and 8.5m for level 5	Non-compliant at ground and level 5. Compliant at levels 1-4.
Rear setback	Minimum 9m to adjoining land in the General Residential Zone and Neighbourhood Residential Zone.	3.06m at ground level, 7.03m at levels 1 & 2, 8.9m at level 3, 9.45m at level 4 and 12m at level 6	Non-compliant at ground level, levels 1, 2 and 3. Compliant at levels 4 & 5.

As outlined above, the setbacks outlined as part of the DDO are discretionary in nature and where a proposal triggers a non-compliance, this must be measured against the particulars of the design response and its ability to manage issues like topography and particulars of the development

10.3 (cont)

found in the adjoining lots. The following section of this report will assess the non-compliances in more detail with regards to their particular interfaces.

South Setback – 2 & 2A Cavil Court

As outlined earlier, the proposed south-facing setbacks are less than the suggested distances under the DDO11 with Ground & levels 1, 2 & 3. This design response is considered to be appropriate with regard to the Secluded Private Open Space (SPOS) areas associated with 2 & 2A Cavill Court, which are located to the south of the proposed development.

In terms of transition, the sunken ground level of the proposed building below Natural Ground Level, provides for a comparable wall height that is not dissimilar to the scale of the existing dwellings to the south at 2 Cavil Court. Providing this reduced scale of building would ensure that the sense of bulk is not excessive or a drastic departure from the existing pattern of built form already found in the area, achieving a reasonable balance with regards to achieving the increased residential densities sought under the Overlay and also respecting scale and form for the adjoining lots.

The setbacks of ground floor, and levels 1 & 2 also provide for landscaping which would further soften these lower levels in the most immediate views from the neighbouring SPOS areas to the south. This outcome is shown through Sections 1, 2 & 3 – TP301.

Level 3 proposes a 50mm reduced setback to the 9.0 metres suggested under the Overlay, which, given the modest nature of this variation, is considered acceptable in the absence of any significant shadowing impacts to the neighbouring SPOS areas.

For the upper-most portions of the building, the staggered building set backs would meet the Overlay and therefore provide for an appropriate transition on the basis of the 9 metres being provided. from the rear SPOS of 2 Cavill Court as the development rises, with the SPOS of 2A Cavill Court will provide for an outlook to the open air western setback of the development, reducing the impact of building bulk and built form.

Overall, the proposed setbacks and building heights have been sensitively designed to ensure the presentation of the proposed building would not result in unreasonable visual bulk or shadowing impacts.

Front setback – Burwood Highway

For the front setback from Burwood Highway, Ground to level 4 provides setbacks in accordance with the preferred setback under the Overlay.

At level 5, the setback is 210mm below the 8m discretionary setback, this however, is considered to achieve an acceptable outcome, as the canter levering over the floor below assists in providing a better urban design outcome. This is elaborated in further detail below.

East Setback - Cavill Court

The proposed setbacks to Cavil Court meet the preferred setbacks of the DDO11. This will ensure that the development will continue to provide an

10.3 (cont)

acceptable outcome from the public realm along Cavill Court) through building setbacks and provision of landscaping space to contribute to the public realm.

West Setback – No.436 Burwood Highway

The development provides for a ground floor setback to the west of 3.0 metres associated with Unit G.08 at ground floor. Of note, the walls set back 3.0m constitute only an 8.7m length, with the remainder of the development being set back 6.87m which exceeds the suggested 4.5m under the DDO.

For the length of wall set back 3.0 metres, this is an appropriate outcome for the site, in considering that the non-compliance is located behind the main façade of the building, and adjacent to the dwelling on the site to the west which provides a lesser setback. These setbacks would meet the design objectives in providing a high-quality public realm and landscaping opportunities around the building.

At level 5, there is a 500mm non-compliance, where 9m is preferred, and 8.5m provided. This non-compliance, however, allows for the canter leaver over level 4 below, which, as detailed above, is considered an appropriate outcome, when weighing up between a bulky appearance and the non-compliance with the preferred setback. Officers consider the setback acceptable as a design detail tied to a preferred architectural treatment for the building.

Conclusions

The layered nature of the development, coupled with the appropriate setbacks to the rear of the site down to the adjoining Neighbourhood Residential Zone. Space around the building has been provided to allow for appropriate planting, with planter boxes used where the site is encumbered by the easement, which will allow for appropriate screen planting, with appropriate planting on all other boundaries of the site.

The design response has appropriate increased built form setbacks away from the Southern boundary with regard to the adjoining SPOS areas, with setting the building back in line with the expectations of the DDO from Ground to level 3 (inclusive). Further to this, the space between the development and neighbouring sites, combined with the tiered approach on the south elevation, provide for an appropriate transition to the lower form Neighbourhood Residential Zone sites to the south, ensuring the encroachment of the preferred setbacks would continue to meet the objective of the Overlay.

Overall, the proposal has a good level of compliance with the proposed controls in that it meets the height and majority of setbacks requirements, and where not achieved, is considered appropriate to meet the overarching design objectives that are being sought under this control for an acceptable built form interface with adjoining developments in other zones. As such, the proposal is considered to successfully accord with the overlay control.

Amenity impacts

10.3 (cont)

Clause 32.07-11 of the Residential Growth Zone specifies that “*Any buildings and works constructed on a lot that abuts land which is in a General Residential Zone, Neighbourhood Residential Zone, or Township Zone must meet the requirements of Clauses 55.03-5, 55.04-1, 55.04-2, 55.04-3, 55.04-5 and 55.04-6 along that boundary.*”

As such, this provision applies to the southern boundary of the subject site and is required to ensure that both amenity impacts and issues of transition from one zone to another are met. With respect to these specified Clause 55 elements, it is noted that the proposed development meets the requirements as follows:

- Clause 55.03-5 – Energy Efficiency: The proposed development would not cast shadows onto rooftop solar energy facilities of neighbouring properties and thus readily accords with the objective.
- Clause 55.04-1 – Side and Rear setbacks: The setbacks from the rear southern boundary from Ground Floor to level 3 (Inclusive) are compliant with the requirements of the standard. For levels 4 and five, the setbacks are as follows:

Location	Wall Height	Required Setback	Proposed Setback	Variation
Level 4				
Apartment 4.04 Bedrooms	15.45m-15.67m	10.45m-10.76m	9.54m	0.91m-1.22m
Apartment 4.04 Living Room & Apartment 4.03	14.46m-15.42m	9.55m-10.51m	10.09m (15m height minimum)	0.42m
Level 5				
Apartment 5.03 Bathroom & Living	17.39m-17.75m	12.48m-12.84m	12.26m	0.22m-0.58m
Apartment 5.03 – Bedroom	17.74m-18.28m	12.83m-13.37m	13.63m	N/A – Compliant
Apartment 5.01	18.53m	13.62m	14.43m	N/A – Compliant
Rooftop				
Stairs	20.03m-21.03m	15.12m-16.12m	14.43m	0.69m-1.69m

As evidenced above, there are some variations required to B17 requirements. These variations are acceptable for the following reasons:

- The areas of variation are only for modest portions of the southern setback at the top two floors, and generally come about due to the slope of the land increasing the height from natural ground level.
- Ground floor to level 3 (inclusive) setbacks are all readily met, with only the top three levels having some non-compliance. As such, the varied setbacks would not cause any impact through built form and building bulk to the properties to the south with the upper levels set

10.3 (cont)

behind the compliant levels below. Figure 1 below illustrates this outcome where the proposed building is located opposite the Secluded Private Open Space (SPOS) for No.2A Cavill Court.

- The setbacks provided allow for an appropriate transition to the lower scale properties to the south. Further increase of setbacks would provide for a narrower built form, which will lead to an unacceptable urban design outcome, with the building to appear 'top heavy' or 'unbalanced' without significant improvement to tangible impacts such as overshadowing.
- As discussed earlier in this report, the Design and Development Overlay Schedule 11 applies varied setbacks to ensure that development along Residential Growth Zones (inclusive of Burwood Highway), which the development meets. To ensure that the development complies with the future direction of the development of this corridor, it is preferential that the development setbacks are more aligned with that outlined within the DDO.
- Clause 55.04-3 – Daylight to existing windows: The proposal is setback sufficient distances from, the existing habitable room windows to the south to accord with the standard and ensure adequate daylight into existing habitable rooms.
- Clause 55.04-5 – Overshadowing open space: The proposal casts a small amount of additional shadow to the properties to the south which is negligible in terms of the impact occurring to the use of the SPOS areas to the south at No. 2 & 2A Cavil Court. This is further elaborated in the assessment section below.
- Clause 55.04-6 – Overlooking: this is assessed in the amenity impacts section of this discussion below. Overlooking is met to prevent views into neighbouring habitable rooms and SPOS areas.

Overshadowing

While overshadowing objectives are not considered under Clause 58 Assessments, the requirements of standard B21 (Overshadowing) must be met on neighbouring properties that are within the Neighbourhood Residential Zone, in this instance on properties to the south. Standard B21 provides a standard of:

- Where sunlight to the secluded private open space of an existing dwelling or small second dwelling is reduced, at least 75 per cent, or 40 square metres with minimum dimension of 3 metres, whichever is the lesser area, of the secluded private open space should receive a minimum of five hours of sunlight between 9 am and 3 pm on 22 September.
- If existing sunlight to the secluded private open space of an existing dwelling or small second dwelling is less than the requirements of this standard, the amount of sunlight should not be further reduced.

10.3 (cont)

The application was accompanied with shadow diagrams that provide analysis of the increased overshadowing at the Spring equinox between the hours of 9am and 3pm.

For No.438 Burwood Highway to the west, the SPOS of this property will continue to receive around 70m² of sunlight at 9am and 10am, being the time where the proposed development would create overshadowing. The SPOS associated with this neighbouring property would continue to retain no less than 59m² of SPOS with access to sunlight throughout the day which exceeds the 40m² suggested under Standard B21 - *Overshadowing*. On this basis, the overshadowing to this property is considered reasonable.

For the two properties to the south (2 & 2a Cavil Court), both of these areas must receive at least 75 percent of their total SPOS, being 30sqm, of daylight for five hours. The existing daylight received by these areas however, is less than the requirements of the standard, as such, the amount of sunlight should not be further reduced.

The shadow diagrams show that 2A Cavil Court (rear unit) will receive a 1m² increase of overshadowing at 9:00am and 2 Cavil Court would receive a 0.12m² increase at 12:00noon and 2m² increase at 1:00pm. This increase is considered unlikely to cause unreasonable detriment to the usability of these spaces. As such, this extent of shadowing is acceptable in this particular case.

Overlooking

A range of methods are proposed to prevent overlooking from occurring in accordance with the standard including:

- Proposed 0.6m-0.75 extension to the existing fence along the southern boundary to prevent direct views from ground floor windows and SPOS areas.
- Screening of balconies at first floors to 1.7m where there is potential for overlooking to adjacent SPOS.
- Use of obscure glazing (maximum 25% transparency for windows which have direct views to adjacent SPOS).
- Through the design of the building, downwards views from the upper floor balconies will be obstructed from direct sightline into habitable room windows and SPOS of the properties to the south.

Aside from the above, the balconies of apartment's 2.06 and 2.07 are located within 9m of the boundary, adjacent to areas of SPOS and habitable room windows of the properties to the south. A condition will be added to ensure that these are screened to 1.7m to ensure no overlooking will occur, or overlooking plans clearly demonstrating that views are obstructed, to ensure no unreasonable overlooking, generally in line with Standard B22.

Tree removal and Landscaping

Tree removal

10.3 (cont)

Clause 15.01-5L-01 (Tree Conservation) applies to all development and refers to the management of trees by ensuring new development minimises the loss of significant trees; identifying techniques to assist in the successful co-existence of trees and new building and works; and promoting regeneration of tall trees through the provision of adequate space in new development. Similarly, the landscape character objectives to be achieved for land affected by the Significant Landscape Overlay Schedule 9 (SLO9) are:

- *“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.”*

All vegetation on the subject site is proposed to be removed. Of the trees being removed, one tree requires a permit pursuant to SLO9 for removal described as follows:

Tree No	Species	Height (m)	TPZ (m)	Location	Amenity value
10	Chinese Photinia	8m	6.0	Front centre of subject site.	Low

The tree being removed, being a Chinese Photinia, is a non-native tree of low amenity value to the area which could not reasonably be retained as part of the development. Replacement trees of native origin are proposed (as further detailed below) which is considered an acceptable replacement planting to offset the removal of the tree.

There are three street trees located out the front of the site (one on Burwood Highway and two on Cavill Court. These will remain, with appropriate tree protection measures included as permit conditions.

Proposed Landscaping

The development was accompanied by a landscape plan which shows the provision of 7 canopy trees, located around the Burwood Highway and Cavill Court frontages. The spacing for new trees will serve to soften the appearance of the development, whilst enhancing the canopy tree cover of the area, in line with local policy and objectives of the SLO9.

Further, the planting along the Burwood Highway frontage is consistent with planting within front setbacks of other apartments in the area along this road, ensuring that it will be consistent with the emerging landscape character. The proposed planting includes (but is not limited to) 1 x *Acacia melanoxylon* located within the north-eastern corner, in addition to 6 x *Eucalyptus radiata* located around the periphery of the development. Below these canopy trees would contain a range of smaller shrubs, ground covers and hedging plants which would complete the landscaping scheme. The proposed landscaping is an appropriate response to the character of the area.

10.3 (cont)

Traffic and Parking*Car Parking Assessment*

The statutory car parking spaces required by the planning scheme is 35 which is exceeded by the 36 parking spaces proposed to be provided.

As the subject site is within the Principal Public Transport Network (PPTN), there is no requirement for visitor parking spaces to be provided.

As parking has been provided above the statutory requirement, no further assessment of carparking provision can be made for this application. In terms of car parking design standards, access within the proposed basement generally satisfies the design standards outlined at Clause 52.06-9, including car space dimensions, access ways and ramp gradients, except for those recommendations set out in the referrals section of this report, which will be addressed by permit conditions.

Traffic generation and surrounding road/transport network

As the site is increasing in dwelling numbers, some increase in traffic volumes should reasonably be expected in line with the strategic policy setting outlined earlier in this report. A traffic impact assessment (prepared by Ratio Consultants and dated 11 July 2024) was provided with the application that identified the expected traffic generation in peak times as follows:

	AM Peak	PM Peak
Arriving Trips	4	13
Departing Trips	18	9
Total Trips	22	22

The traffic generated by the apartments would flow directly to the site from the east approach of the Burwood Highway Service Road or from the site onto the Burwood Highway Service Road and west towards the Burwood Highway/Minerva Road intersection before being dispersed into the surrounding network.

Gap analysis (prepared by Ratio Consultants within the traffic report and dated 15 February 2024) of Burwood Highway/Minerva Road intersection demonstrates that the intersection it has a capacity of 304 vehicle movements during AM peak and 623 vehicle movements during PM peak. The development will result in an increase of 22 vehicle movements, which is a negligible increase in the context of Burwood Highway and the surrounding road network has the ability to accommodate any increase associated with the proposed development.

The expected increase in traffic movements on the site is considered a relatively modest increase in traffic movements in the context of Burwood Highway which would not have any unreasonable impact to the surrounding road network. The application has been reviewed by council's Traffic Engineer who supports the application on this basis.

10.3 (cont)

Clause 58 Assessment

An assessment against the requirements of Clause 58 has been undertaken within appendix 3 of this report. The development provides for a high level of compliance with the requirements of Clause 58, with some conditions to be included to ensure compliance is met. There is one variation required to Standard D18 (Accessibility objective), however, this overall is considered acceptable.

CONCLUSION

The proposal for construction of Construction of an apartment building and removal of trees is an acceptable response that satisfies the relevant provisions contained within the Whitehorse Planning Scheme, including the State and Local Planning Policies, the Residential Growth Zone Schedule 1, Design and Development Overlay Schedule 11, Significant Landscape Overlay Schedule 9, Clause 52.06 (Car Parking), Clause 58 (Apartment Developments) and the General Decision Guidelines of Clause 65.

A total of 12 objections were received as a result of public notice and all of the issues raised have been addressed.

It is considered that the application should be approved with a Notice of Decision to be issued, subject to necessary conditions.

ATTACHMENT

- 1 Clause 58 Assessment
- 2 Development Plans
- 3 Landscape Plans

10.4 Contract 30566 - Aqualink Learn to Swim Programming (EOI)

Department Leisure and Recreation Services
Director Community Services

Attachment

SUMMARY

The Aqualink Centres (Box Hill and Nunawading) are currently managed and operated by Whitehorse City Council, while the Learn to Swim (LTS) programs operated from Aqualink Centres are delivered by Surrey Park Swimming Club (Aqualink Box Hill) and the Nunawading Swimming Club (Aqualink Nunawading) under lease / license arrangements.

Following a service review in 2022, in February 2023, Council resolved to explore an external management model for its Aqualink Box Hill and Nunawading facilities.

In 2023-24, Council Officers completed market sounding and stakeholder consultation and developed a comprehensive procurement process to enable Council to determine the most suitable arrangement for the Learn to Swim programs for the Whitehorse community. As part of the procurement plan, the decision was made to conduct a separate Expression of Interest for the Learn to Swim programs before proceeding with a tender for the management of the two facilities.

The Learn to Swim Expression of Interest process forms the first stage of a two-stage procurement process for the Aqualink Centres. The EOI process allows Council to determine if the preferred Learn to Swim organisation/s will progress to the establishment of a binding contract, or if the LTS rights will not be awarded and LTS programming will instead be included within the scope of the Facility Management Tender.

The current Learn to Swim arrangements expire on 30 June 2025, and the EOI process was undertaken to determine the management of the LTS programming from 1 July 2025 to 30 June 2030.

Council invited suitably qualified and experienced organisations to submit an Expression of Interest for the management of the Learn to Swim programs at Council's Aqualink facilities via the eTender platform. The EOI opened on 15 August 2024 and closed on 12 September 2024 and respondents could nominate interest in one or all of three (3) delivery options:

1. Aqualink Box Hill and Aqualink Nunawading (combined)
2. Aqualink Box Hill (only)
3. Aqualink Nunawading (only)

* If respondents nominated Option 1 (combined) they could specify whether they were open to be considered to manage a single facility.

10.4 (cont)

The Evaluation Process was undertaken in accordance with the endorsed Evaluation Plan. The Evaluation Panel comprised four scoring members supported by three non-scoring members who provided procurement, probity and technical subject matter expertise.

An external third-party provided probity guidance to Council throughout the EOI process including supporting the development of the Probity and Evaluation Plans, delivering probity briefings to Council officers and organisations who registered interested in the EOI, supporting Evaluation Panel meetings, supporting the Structured Negotiations process, and preparing the Probity Report. The third-party also provided advice to Council on probity matters that arose throughout the EOI, as detailed in the Probity Report.

At the conclusion of evaluation and scoring the panel agreed on Nunawading Swimming Club for Aqualink Nunawading LTS programs and Surrey Park Swimming Club for Aqualink Box Hill LTS programs as the shortlisted parties to proceed to Structured Negotiations.

Structured Negotiations took place in November - December 2024 and areas where improvements were required were outlined. The Evaluation Panel reviewed the subsequent written responses from the shortlisted organisations and determined that their responses satisfied the panel through a demonstrated uplift in the areas outlined.

The combined financial offers from Surrey Park Swimming Club and Nunawading Swimming Club reflect a significant per annum increase versus current arrangements and budget. Council's Procurement Policy which is developed in alignment with the principles set out in the *Local Government Act 2020* compels Council to ensure that procurement processes promote 'open and fair competition' and provides 'value for money'.

Both submissions demonstrated a commitment to the ongoing delivery of quality learn to swim programs, with uplifts identified in relation to the customer experience, program quality and innovation, all of which were identified as part of the evaluation criteria.

The details of the evaluation process for the Aqualink Learn to Swim EOI is provided in the Evaluation Report.

Council has developed a quality service specification for the Learn to Swim contract which was provided to the shortlisted parties. Officers recommend proceeding with the two parties as preferred Respondents with the CEO delegated authority to finalise the contract.

As mentioned above, the Learn to Swim EOI process was the first stage of a two-part procurement process. The second stage is exploring management models for the remaining services for Council's Box Hill and Nunawading Aqualink facilities (excluding Learn to Swim) through a tender process.

Council will consider all options for the future management of its aquatic facilities at a later stage.

10.4 (cont)

RECOMMENDATION

That Council:

1. Authorises the CEO or their delegate to negotiate the outstanding terms and execute the contract documents with Surrey Park Swimming Club (SPSC) (ABN 57 373 479 741) as the Preferred Respondent for Contract 30566/1, Management of Learn to Swim programs at Aqualink Box Hill.
2. Authorises the CEO or their delegate to negotiate the outstanding terms and execute the contract documents with Nunawading Swimming Club (NSC) (ABN 64 503 868 598) as the Preferred Respondent for Contract 30566/2, Management of Learn to Swim programs at Aqualink Nunawading.

KEY MATTERS**Contract Terms**

- Contract Name: 30566 – Management of Aqualink Learn to Swim Programming
- Contract Commencement Date: 1 July 2025
- Contract Term: 5 years
- Scope of Work:
 - a. Management of the Learn to Swim Programs at Aqualink Box Hill. This encompasses the management and operation of Learn to Swim Programs, School Holiday Programs, School Swimming Lessons, Water Safety programs and Learn to Dive Programs as described in the Contract Specification.
 - b. Management of Learn to Swim Programs at Aqualink Nunawading. This encompasses the management and operation of Learn to Swim Programs, School Holiday Programs, School Swimming Lessons and Water Safety programs as described in the Contract Specification.
- Structure of Contract:
 - a. Guaranteed Lump Sum; and
 - b. An additional amount to be returned to Council if the guaranteed budget revenue was exceeded (i.e. uplift), calculated based on an agreed percentage of the additional income.

10.4 (cont)

DISCUSSION, OPTIONS AND ANALYSIS

Financial return:

The combined financial offers from Surrey Park Swimming Club and Nunawading Swimming Club, guarantee a financial return to Council over the 5-year term that is just below the benchmarking base level target which was developed based on benchmark data from facility management contracts, as opposed to stand alone learn to swim programs. The financial offer to Council reflects a significant per annum increase versus current arrangements and budget

Options:

As the current Learn to Swim arrangements end on 30 June 2025, there is an immediate need to ensure that the provision of Learn to Swim programs can continue beyond that date without interruption or impact to the community or the organisation.

The options for Council are:

1. Support the recommendations as contained in this report, noting the below:
 - Satisfactory responses were received from NSC and SPSC.
 - The combined financial offers from Surrey Park Swimming Club and Nunawading Swimming Club, guarantee a financial return to Council that represents a significant improvement from current license arrangements.
2. Not to support the recommendations and instead either:
 - a. Include Learn to Swim programs in the Aqualink Facility Management Tender planned for release in 2025.
 - b. Choose to explore another course of action, which would likely include an extension of the existing learn to swim agreements and a future procurement process for the learn to swim services.

10.4 (cont)

Overarching Governance Principles and Supporting Report Details

<p>Strategic Alignment</p>	<p>Council Plan & Strategic Alignment</p> <p>The EOI was prepared to ensure future contractor/s support the delivery of the Council Plan, with objectives tailored to guide responses and the future delivery of related programs and customer experience. The Preferred Respondents satisfied the Evaluation Criteria and demonstrated a strong commitment to meet the objectives and strategic links as outlined below.</p> <p>Strategic Direction 1: An innovative Council that is well led and governed; Strategic Direction 7: A safe and healthy community</p> <p>The Aqualink Learn to Swim EOI process has been enacted in alignment with community and organisation objectives and Council plans and strategies as listed below.</p> <p>Community Objectives</p> <ul style="list-style-type: none"> • Community Health and Wellbeing: We will promote the innovative programs and services delivered within and beyond the four walls of our facilities, to enhance social connection and improve the wellbeing of our community (Community Vision, Council Plan, Recreation Strategy, Health and Wellbeing Plan). • Excellent Customer Experience and Service Delivery: We will develop a customer centric culture that meets and exceeds the expectations of all our community (Council Plan). • Diversity and Inclusion: We will provide accessible, affordable, and inclusive facilities and programs for our culturally rich, diverse, creative, and inclusive community (Community Vision and Council Plan). • People: We will sensitively and authentically enable and support our people, through transition and into the future, fostering a culture that embraces and supports the community. (Council Plan and Whitehorse CREATE values). <p>Operational Objectives</p> <ul style="list-style-type: none"> • Long-Term Financial Sustainability: We will maximise financial benefit to Council through new and strengthening existing revenue streams, risk management, enabling operational excellence, and maximising community engagement (Council Plan).
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10.4 (cont)

	<ul style="list-style-type: none"> • Partnering to Drive Innovation: We will collaborate and develop meaningful partnerships to maximise participation and community benefit (Community Vision and Council Plan). • Asset Management: We will maintain and improve the facilities to better Service the Whitehorse community, and address climate change to ensure we protect and enhance our natural environment (Community Vision and Council Plan). 				
<p>Financial and Resource Implications</p>	<p>The fee structure for the contract is in two parts. The first part is the guaranteed amount that will be returned to Council. The second part is the additional amount that will be returned to Council if the guaranteed budget revenue was exceeded (i.e. uplift). The latter is represented as a percentage of the additional income.</p>				
<p>Legislative and Risk Implications</p>	<p>If Council decision:</p> <table border="1" data-bbox="531 896 1331 1462"> <tr> <td data-bbox="531 896 842 1261"> <p>Is made to ACCEPT the recommendations</p> </td> <td data-bbox="842 896 1331 1261"> <p>The separation of LTS from the facility management tender may reduce the level of market interest in the Facility Management tender, and</p> <p>The financial outcome of the Facility Management tender may be reduced accordingly.</p> </td> </tr> <tr> <td data-bbox="531 1261 842 1462"> <p>Is made to NOT accept the recommendations</p> </td> <td data-bbox="842 1261 1331 1462"> <p>Alternate options would need to be explored, such as another procurement process or inclusion in facility management Tender.</p> </td> </tr> </table>	<p>Is made to ACCEPT the recommendations</p>	<p>The separation of LTS from the facility management tender may reduce the level of market interest in the Facility Management tender, and</p> <p>The financial outcome of the Facility Management tender may be reduced accordingly.</p>	<p>Is made to NOT accept the recommendations</p>	<p>Alternate options would need to be explored, such as another procurement process or inclusion in facility management Tender.</p>
<p>Is made to ACCEPT the recommendations</p>	<p>The separation of LTS from the facility management tender may reduce the level of market interest in the Facility Management tender, and</p> <p>The financial outcome of the Facility Management tender may be reduced accordingly.</p>				
<p>Is made to NOT accept the recommendations</p>	<p>Alternate options would need to be explored, such as another procurement process or inclusion in facility management Tender.</p>				
<p>Equity, Inclusion, and Human Rights Considerations</p>	<p>It is considered that the subject matter does not raise any human rights issues.</p>				
<p>Community Engagement</p>	<p>In the preparation for the release of the EOI, a market sounding exercise was undertaken with representatives from various Learn to Swim and Leisure and Recreation facility management groups attending and providing input to Council.</p>				

10.4 (cont)

Innovation and Continuous Improvement	There are no Innovation and Continuous Improvement matters arising from the recommendation contained in this report.
Collaboration	<ul style="list-style-type: none"> • SMEs from across WCC were engaged in the development of the EOI and process. • SMEs from Aqualink provided background data and reports that were integral to the development of the EOI. • Councils Procurement team have been consulted extensively to ensure that the procurement is compliant with the Procurement Policy.
Conflict of Interest	<p>The <i>Local Government Act 2020</i> 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.</p> <p>Council officers involved in the preparation of this report have no conflict of interest in this matter.</p>

ATTACHMENT

- 1 Aqualink Learn to Swim EOI - Evaluation Report
- 2 Aqualink Learn to Swim EOI - Probity Report
- 3 Aqualink Learn to Swim EOI - Financial Summary Table
- 4 Aqualink Learn to Swim EOI - Final Scoring Table

Whitehorse City Council designates these (4) attachments and the information contained within them as Confidential Information pursuant to Section 3 (1) g(ii) of the *Local Government Act 2020*. This ground applies because the matter concerns it contains commercial information

10.5 Whitehorse Community Grants Program 2025/26 Update

Department

Communities, Engagement and Integrated Planning
Director Community Services

Attachment

SUMMARY

The Whitehorse Community Grants Program provides financial assistance to support not for profit, incorporated associations, schools or other service delivery agencies within the City of Whitehorse to deliver programs, projects or initiatives to enhance the health and wellbeing of the Whitehorse community aligned to Council's strategic direction.

Community grants are important because they enable people to work together towards enhanced community outcomes. They provide an opportunity for individuals and groups to access funding that they wouldn't otherwise have to bring about positive change at a local level.

Over the last past four years, a number of reviews and adjustments have been made to the Grants and Partnerships including:

- 12 December 2022 – Council resolution, Community Grants Review Report and revised Community Grants Policy adopted, Free Tipping program ceased and new process to commence from recommendations from the Victorian Auditor's General report 'Fraud Control Over Local Government Grants Report' commenced in 2023.
- 23 October 2023 – Notice of Motion resolution *'That Council receives a report that outlines the cost and implications of retaining the Community Grants – Discount Support Free Tipping Program for the 2024/2025 financial year'*
- 27 November 2023 - Discount Support Free Tipping Program 2024/2025 Council resolution (in response to a notice of motion):
 - Retains the Discount Support Free Tipping program ongoing with a reduced budget allocation of \$15,000 (+CPI or equivalent).
 - Reinvests the remaining funds to the substantive Community Grants budget from 2024/25.
 - Introduces a new eligibility criterion: Organisations that operate regionally across multiple government areas that have an annual surplus over \$250,000 from the previous financial year will not be eligible for the Discount Support Free Tipping program.
- 2023/24 Annual Cash grants - new categories were introduced
- 12 February 2024, Partnership Grant Review:
 - Introduced a new purpose and structure to the Partnership Grants program

10.5 (cont)

- Lunar New Year Festival, partnership funding retained for 24/25 and remove for 25/26.
- For 2025/26 there are two categories that have been amended to align with current community need and uptake. The Activation Booster Grant has been renamed the Placemaking Grant and the Intergenerational Grant has been absorbed under the Positive Ageing Grant that funds intergenerational activities and programs

The report provides information regarding the Community Grants Program ahead of the opening of the 2025/2026 Annual Cash Grant round on 24 February 2025.

RECOMMENDATION

That Council notes:

1. The update on the Whitehorse Community Grants Program, and the role in supporting not-for-profit organisations, schools, and service agencies in delivering programs that align with Council's strategic priorities.
2. The following Council endorsed grants program for 2025/2026:

Grant Category	25/26 Budget
Partnership Grants - Neighbourhood House	\$364,672
Partnership Grants - Social and Wellbeing	\$99,128
Community Grants Annual Cash Grants	\$206,118
Discount Free Tipping	\$15,000
Discount Support Hall Hire	\$341,431
Total Community Grants Budget	\$1,026,349

KEY MATTERS

The Community Grants Program has four main objectives:

1. Strengthen the Whitehorse community through support of a diverse range of activities, services and programs that are responsive to the community needs.
2. Create a resilient community that embraces the history and diversity of Whitehorse, promotes learning, growing and thriving, as well as being safe, healthy and inclusive.
3. Build the capacity of local community groups and organisations and strengthen partnerships within the Whitehorse community to support planned growth, collaboration and sustainability.

10.5 (cont)

4. Provide a transparent and rigorous process to the Community Grants Program, to support good governance and appropriate distribution of funds.

DISCUSSION, OPTIONS AND ANALYSIS

There have been a number of reviews of the grants and partnership program over the last four years.

There will be a review of the Community Grants Policy in the second half of 2026. There may be appetite to make some changes to the existing grants program which commences 24 February 2025. These would have to be changes that can be easily implemented to ensure the program opens on time. Any changes must consider legal and risk implications.

Council must carefully evaluate any ongoing direct funding to the same source/organisation. Equitable treatment and procedural fairness must apply in a transparent manner.

To ensure equitable funding, the following considerations should be taken into account:

- Promote the program to suitable recipients
- Appraise applications based on criteria aligned to program objectives, ensuring a fair and unbiased assessment.
- Assess whether the project or event receives funding from multiple sources, such as Federal or State government grants or other Council funding mechanisms.

The following options can be considered:

Discount tipping	<ul style="list-style-type: none"> • Retain current funding of \$15,000 • Remove Funding • Refer any requests for additional funding to the 2025/2026 Budget
Community Grants Policy	<ul style="list-style-type: none"> • Make small adjustments given the review is due in 2026. • Adjustments need to be evaluated to ensure in line with better practices in the management of grants and demonstrates community feedback and need. • More significant policy changes is recommended to be held off until the review of the Policy. <p>Possible Category changes:</p> <ul style="list-style-type: none"> • Remove, add, or change some of the categories noting:

10.5 (cont)

	<ul style="list-style-type: none"> – Any changes would need to be enacted immediately to ensure operation from the opening of the grant round – Grant allocation / funding would need to be allocated within budget or referred to the 2025/2026 Budget for consideration. – More significant policy changes is recommended to be held off until the review of the Policy.
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Background

The Community Grants Policy, adopted in December 2022, is applied in the administration of the grant program to ensure good governance and transparent decision making. It applies to all Council Departments and Councillors involved in the promotion, assessment and management of grant programs where Council is providing a funding contribution directly to community groups, organisations and auspice organisations.

The Policy sets out grants administration processes, privacy, acquittals and assessment processes. The Policy provides a framework for the provision of community grants to the Whitehorse community, based on the principles of community development, good governance and best practice in grant making.

In December 2022, the Community Grants Program was reviewed to respond to community and stakeholder engagement expectations, research and the Victorian Auditor-General's Office (VAGO) Report, which provided recommendations relating to local government community grants programs with a focus on governance arrangements.

As a result of this Review, and in response to a VAGO recommendation, there was a change to the role of Councillors in the decision-making process. Since 2023, an Officer Panel has been established to review and assess all applications and provide a final recommendation for Council consideration and adoption.

A summary of the process in line with the VAGO recommendations is as follows:

- The Community Strengthening Officer will review all applications to determine compliance and eligibility.
- Applications that meet all essential criteria will be referred to the relevant Council officer for assessment against the outlined criteria (see Attachment 1: Community Grants Policy).
- An officer panel is established to discuss all applications and officer recommendations and provide a final recommended outcome for each application.

10.5 (cont)

- A report is presented to the July Ordinary Council Meeting for endorsement.
- All applicants are notified of outcomes.

Councillors have the responsibility of allocating the community grants budget, endorsing the policy and adopting the recommended funding allocations in the Community Grants Program. Councillors cannot influence the assessment process.

The policy is next due for review in December 2026.

Grant Categories

The Whitehorse Community Grant Program includes four categories:

- Annual Cash Grants
- Discount Support Free Tipping
- Discount Support Hall Hire
- Partnership Grants

The remainder of the report provides details on each stream and background information.

Annual cash grants

In 2023/24, following the 2022 Policy review, new categories were introduced along with improved support for prospective grant applicants. As a result, Council has received a steady increase of applications each year, with 184 applications in 2024/25.

Number of applications and funded initiatives



After a rigorous assessment process in 2024/25, 120 different programs, projects and initiatives were funded as outlined below. With increased

10.5 (cont)

interest in the grant program not all groups received full funding and some groups did not receive any funding, either due to eligibility criteria and/or the competitive nature of the program.

2024/25				
Grant Category		Applications received	Applications funded	Total funding amount
Community Annual Cash Grants	Activation Booster	1	0	NIL
	Artist in Schools	4	4	\$20,800.00
	Creativity	17	13	\$28,702.50
	Diversity and Inclusion	11	7	\$10,730.24
	Education Assistance	1	1	\$1,600.00
	Environmental Sustainability	8	3	\$7,905.07
	Health and Wellbeing	21	11	\$20,550.00
	Intergenerational	0	0	\$0.00
	Major	22	15	\$82,189.72
	Positive Ageing	13	8	\$21,354.00
	Seniors Participation	24	18	\$14,440.00
	Seed Funding	3	1	\$2,850.00
	Small Equipment	59	39	\$31,014.56
Total		184	120	\$242,136.06

For 2025/26 there are two categories that have been amended to align with current community need and uptake. The Activation Booster Grant has been renamed the Placemaking Grant and the Intergenerational Grant has been absorbed under the Positive Ageing Grant that funds intergenerational activities and programs. The Policy allows for this flexibility and operational amendment to maximise reach and impact.

The table below outlines the categories for the 2025/26 Annual Cash Grants.

Grant Category	Purpose
Small Equipment Grant Up to \$1,000	Enables the purchase of small equipment to support the operation of community organisations, enabling them to deliver services, programs and initiatives that are aligned with the Whitehorse 2040 Community Vision.
Seed Funding Grant Up to \$3,000	This grant provides organisations the opportunity to test new initiatives that respond to emerging community needs/trends.
Creativity Grant Up to \$3,000	Supports delivery of arts and culture initiatives including festivals, activations and events.

10.5 (cont)

<p>Subcategories: Up to \$1,000</p>	<p>This includes the following subcategories:</p> <p>Artists in School Program: to assist with the employment of a professional artist or curator to work within the school on a specific artistic project. This grant category is uncapped.</p> <p>Placemaking Grant: opportunity for not-for-profit groups, including business associations, to host and deliver placemaking activations in Whitehorse's activity centres (List: e.g. Activation Pods, shopping malls, parks)</p>
<p>Diversity and Inclusion Grant Up to \$3,000</p>	<p>This grant seeks to foster social inclusion and increase the participation of diverse communities across Whitehorse.</p>
<p>Environmental Sustainability Grant Up to \$3,000</p>	<p>This grant will support organisations to improve their sustainability practices and / or promote sustainability in the community.</p>
<p>Health and Wellbeing Grant Up to \$3,000</p> <p>Subcategory: Up to \$400</p>	<p>This grant focuses on improving the overall health and wellbeing of the community through a range of initiatives. For example healthy eating programs, active participation, mental health initiatives, supporting volunteers and vulnerable groups etc.</p> <p>This includes a subcategory:</p> <p>Whitehorse Education Assistance Grant: This grant supports families experiencing financial hardship and their young people (aged 10 – 25) to remain engaged in education and training.</p>
<p>Positive Ageing Grant Up to \$3,000</p> <p>Subcategory: Up to \$1,000</p>	<p>This grant focuses on programs, services and initiatives that support positive ageing in the community. For example initiatives to tackle ageism, social inclusion and digital inclusion.</p> <p>This includes the following subcategory:</p> <p>Whitehorse Seniors Participation Grant: This grant supports seniors' groups within the City of Whitehorse to provide participation opportunities that support the health and wellbeing of their members</p>
<p>Major Grant Category Up to \$10,000</p>	<p>The purpose of this grant is to support larger scale programs, services, projects, initiatives or activities that will significantly benefit the Whitehorse community and deliver positive health outcomes for Whitehorse.</p>

Discount Support Free Tipping

10.5 (cont)

The annual Discount Support (Free Tipping program) offers free tipping at Council's Recycling and Waste Centre for not for profit and incorporated associations. The Free Tipping program utilises a voucher system rather than being a direct cash grant.

In previous years vouchers consisted of General Waste Vouchers and Green Waste Vouchers that allowed for a tonne of waste to be deposited (one trailer load) in a visit.

In December 2022, as part of the Community Grants Review, Council resolved to cease the Free Tipping program. It was to be removed from the grants program in 2024/25 and the funding (\$34,666+CPI) was to be reinvested into the substantive community grants program.

The Officer justification at the time for this recommendation was:

- The highest number of general rubbish vouchers are awarded to two regional service providers (RSPCA and the Eastern Emergency Relief Network who receive 23 and 24 vouchers respectively).
- No other Council in the Eastern Region funds support to dispose of waste and Whitehorse may be funding waste to landfill that should be shared among the eastern region councils.
- Discontinuing the Discount Support Free Tipping Grant encourages community organisations to develop better sustainable waste and recycling management practices that align with Council's priorities.
- The cost of waste to landfill has risen exponentially over the past five years and without intervention this will continue to be an increasing financial cost to Council.

In November 2023, in response to a notice of motion it was resolved that Council:

- Retains the Discount Support Free Tipping program ongoing with a reduced budget allocation of \$15,000 (+CPI or equivalent).
- Reinvests the remaining funds to the substantive Community Grants budget from 2024/25.
- Introduces a new eligibility criterion: Organisations that operate regionally across multiple government areas that have an annual surplus over \$250,000 from the previous financial year will not be eligible for the Discount Support Free Tipping program.
- Resolves that the Community Strengthening and Engagement Team will work with Council's Waste Reduction and Recycling Team to create pathways to learning opportunities for community groups around recycling, waste minimisation and a circular economy.

Officers have identified that many groups were not redeeming all of their allocated vouchers and community feedback identified that the allocated amount of one trailer load in a visit often surpassed their need.

10.5 (cont)

Taking on board this feedback from community groups, a greater range of vouchers can be applied for in the 2025/2026 grant round. This allows for varying amounts of waste to be deposited from a car boot load, station wagon/carload up to a trailer load. This change caters for the need of community groups to deposit less waste on a more frequent basis. As a result, community groups may be able to receive more vouchers if required and the funding amount can stretch further resulting in greater impact.

Discount Support Hall Hire

Discount Support Hall Hire (DSHH) is a subsidy to the cost of hiring the Council venues listed below. Discount Support Hall Hire includes the option of organisations having one free fundraising event annually at one of these venues.

- Box Hill Community Arts Centre
- Box Hill Town Hall (excluding the Town Hall Hub)
- Blackburn North Community Hall
- Blackburn South Hall
- East Burwood Hall
- Eley Park Community Centre
- Forest Hill Hall
- The Horticultural Centre
- Rentoul Hall
- Strabane Avenue Hall
- The Round Theatre
- The Round Function Space
- Willis Room (Civic Centre)

There are three levels of Discount Support Hall Hire based on eligibility and group type:

- 90% discount for seniors' groups
- 75% discount for service clubs
- 50% discount for all other not for profit organisations or incorporated associations.

DSHH operates on a calendar year. For the period June – December 2024, Council has provided discount support to 87 organisations/groups totalling \$220,419.04. The breakdown of this is as follows:

Council Venues	Organisations/Groups Supported	Discount Support Amount
Blackburn North Community Hall	3	\$13,477.50
Blackburn South Hall	0	\$0.00
Box Hill Community Arts Centre	24	\$40,994.77
Box Hill Town Hall	14	\$29,035.27
East Burwood Hall	7	\$20,865.00
Eley Park Community Centre	6	\$14,715.00
Forest Hill Hall	7	\$23,975.00

10.5 (cont)

Horticultural Centre	12	\$8,272.50
Rentoul Hall	4	\$25,065.00
Strabane Avenue Hall	1	\$1,300.00
The Round – Function Centre	0	\$0.00
The Round - Theatre	5	\$36,200.00
Civic Centre - Willis Room	4	\$6,519.00
Total	87	\$220,419.04

Partnership Grants

In February 2024, Council endorsed a series of recommendations as outcomes of a review of the Partnership Grant Program.

This included a new purpose, structure and timelines for Partnership Grants.

The purpose of the Partnership Grants is to respond directly to the needs of the communities *with a focus on the most vulnerable and socially disadvantaged population groups*. This purpose enables true partnership, strategic purpose and helps both the community and Council address key priority areas of health and wellbeing.

Partnership grants need to align to one or more of the Council Plan objectives (which ensures alignment to the Whitehorse Community Vision) and applicants are required to identify the alignment.

Partnership grants are to be divided into two categories:

1. Neighbourhood House Partnership Grants, and
2. Social and Wellbeing Partnership Grants

The new Social and Wellbeing Partnership Grants will commence for the 2025/26 year (opening approx. July 2025 in line with the Integrated Council Plan endorsement to ensure alignment with the endorsed desired community outcomes).

Uniting East Burwood

The February 2024 resolution resulted in Uniting East Burwood (providing emergency relief) receiving a 12-month extension to their previous arrangement and received funding for the 2024/25 year. Uniting East Burwood are eligible to apply for a Social and Wellbeing Partnership Grant from 2025/26 via a competitive process.

Luna New Year Event - Asian Business Association of Whitehorse (ABAW)

The Asian Business Association of Whitehorse (ABAW), a historical recipient of a Partnership Grant for Luna New Year Event, would no longer be eligible for a Health and Wellbeing Partnership Grant (due to the new focus on social vulnerability and disadvantage). ABAW also received a 12-month extension to their cash component of their previous Partnership Grant arrangement to the value of \$27,886.10 to enable a transitional period. ABAW would still be able to apply for an Annual Cash Grant via a competitive process for 2025/26 onwards.

10.5 (cont)

Neighbourhood House Partnership Grants

The Neighbourhood House Partnership Grants received a 12-month extension to their previous arrangements and received funding for the 2024/25 year. This allowed for the development of an operating Framework in 2024/25 (which will include a future funding model).

Depending on the adoption of the Framework (scheduled for mid-2025), Neighbourhood House partnership grants will then open for a three-year period in 2025/26 to align with the new Integrated Council Plan 2025-29. Following this in 2028-29, Neighbourhood House Partnership Grants would open every 4 years in line with Council's planning cycle.

Overarching Governance Principles and Supporting Report Details

<p>Strategic Alignment</p>	<p>Strategic Direction 1: An innovative Council that is well led and governed.</p> <p>Objective: Council will be a trusted organisation that embraces innovation.</p> <p>Strategic Direction 3: A culturally rich, diverse, creative and inclusive community.</p> <p>Objective: Council will promote diversity, social connection and access to community services.</p> <p>Strategic Direction 7: A safe and healthy community.</p> <p>Objective: Council will protect and promote health and wellbeing of the Whitehorse community.</p> <p>The Community Grants Policy and the 2025 Community Grant Guidelines provide the framework for the 2025/2026 Community Grants Program.</p>														
<p>Financial and Resource Implications</p>	<p>The 2025/26 Community Grants budget breakdown is as follows:</p> <table border="1" data-bbox="587 1435 1257 1917"> <thead> <tr> <th>Grant Category</th> <th>2025/2026 Budget</th> </tr> </thead> <tbody> <tr> <td>Partnership Grants - Neighbourhood House</td> <td>\$364,672</td> </tr> <tr> <td>Partnership Grants - Social and Wellbeing</td> <td>\$99,128</td> </tr> <tr> <td>Community Grants Annual Cash Grants</td> <td>\$206,118</td> </tr> <tr> <td>Discount Free Tipping</td> <td>\$15,000</td> </tr> <tr> <td>Discount Support Hall Hire</td> <td>\$341,431</td> </tr> <tr> <td>Total Community Grants Budget</td> <td>\$1,026,349</td> </tr> </tbody> </table> <p>Any additional funding allocation will need to be referred for consideration of the 2025/2026 Budget.</p>	Grant Category	2025/2026 Budget	Partnership Grants - Neighbourhood House	\$364,672	Partnership Grants - Social and Wellbeing	\$99,128	Community Grants Annual Cash Grants	\$206,118	Discount Free Tipping	\$15,000	Discount Support Hall Hire	\$341,431	Total Community Grants Budget	\$1,026,349
Grant Category	2025/2026 Budget														
Partnership Grants - Neighbourhood House	\$364,672														
Partnership Grants - Social and Wellbeing	\$99,128														
Community Grants Annual Cash Grants	\$206,118														
Discount Free Tipping	\$15,000														
Discount Support Hall Hire	\$341,431														
Total Community Grants Budget	\$1,026,349														

10.5 (cont)

Legislative and Risk Implications	<p>There may be risks associated with any proposed changes to the Policy or additional categories added without understanding the source and evidence to support the change.</p> <p>Direct funding to specific groups without an open, equitable, and procedurally fair process may pose legal and risk implications for Council.</p> <p>Council must also re-access ongoing funding provided to all organisations, Independent Broad-based Anti-Corruption Commission Operation Watts found that funding provided via the Council Budget outside a grant program requires a robust review of agreements and funding and options for funding other organisations.</p>
Equity, Inclusion, and Human Rights Considerations	<p>It is considered that the subject matter does not raise any human rights issues.</p>
Community Engagement	<p>No community engagement was required for this report.</p>
Innovation and Continuous Improvement	<p>As outlined in the above section Officers have developed a new approach to Discount Support Free Tipping the allows for more community groups to access the program within the existing budget.</p> <p>The Activation Booster Grant has been renamed to Placemaking Grant and the Intergenerational Grant has been absorbed under the Positive Ageing Grant that funds intergenerational activities and programs. Officers anticipate greater uptake from community groups based on this change.</p>
Collaboration	<p>No collaboration was required for the development of this report.</p>
Conflict of Interest	<p>Council officers involved in the preparation of this report have no conflict of interest in this matter.</p>

ATTACHMENT

- 1 Whitehorse Community Grants Policy

10.6 2024/25 Q2 Quarterly Performance Report

Department Corporate Planning and Performance
Director Community Services

Attachment

SUMMARY

The purpose of this report is to present the results of the Q2 Quarterly Performance Report (QPR) October to December 2024, and on our performance and/or achievements.

The Quarterly Performance Report fairly represents Council's operations, financial position and Council's performance to date in respect to quarter two of the 2024/5 financial year. The information presented satisfies all legislative requirements.

Upon the report being considered at the Council meeting, it will be made available to the community for viewing on Council's website.

RECOMMENDATION

That Council notes the 2024/25 Quarter 2 Quarterly Performance Report

KEY MATTERS

- This report covers Quarterly highlights – October to December 2024
- Progress toward Council Plan 2021-2025 – Year 4
- Local Government Performance Reporting Framework (LGPRF) Service Performance Indicators (Mid-year report July to December 2024)
- Mid-year update to the LGPRF Governance and Management Checklist
- The Municipal Public Health & Wellbeing plan highlights
- Transformation program
- Capital Works program highlights
- Performance against 2024/25 Annual Budget

10.6 (cont)

DISCUSSION, OPTIONS AND ANALYSIS

Council Plan and LGPRF

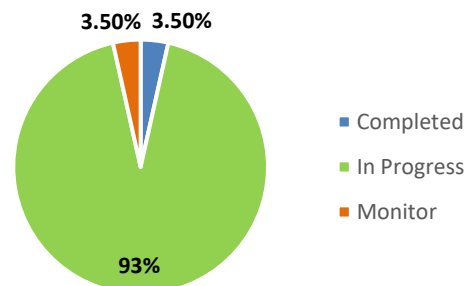
The 2024/25 year is the fourth and final year of the Council Plan 2021-25.

This quarter's report contains all Q2 results and commentary for the Council Plan 2021-2025 (Year 4 Actions & Indicators), mid-year LGPRF Service Performance Indicator results and the updated Governance and Management Checklist.

Performance against Council Plan 2021-25 Yr4

Of the 29 actions in year 4 of the Council Plan 2021-25:

- 27 are In Progress (93%)
- 1 is Complete (3.5%)
- 1 is on Monitor (3.5%)



Mid-year progress update for LGPRF

- 41 Service Performance Indicators
- 27 items within the Governance and Management Checklist

Municipal Public Health and Wellbeing Plan (MPHWP)

Of the 84 actions in year 4 of the MPHWP 2021-25.

- 75 are In Progress or Ongoing
- 6 are Completed
- 3 are Not Started or Deferred

Transformation Program

A Q2 summary of the Transformation program with overviews of improvements in Customer Experience, process and financial benefits.

Capital Works Update

This report provides a status update on the 2024/25 Capital Works Program at 31 December 2024. The purpose of the update is to provide an insight into the current status of the Capital Works Program, detail material changes that have occurred in the previous month, highlight risk areas and seek guidance from ELT on specific items as required.

The attached capital works report reflects:

- Year to date expenditure to the end of December of \$17.31M, which represents 86.1% of the year to date forecast of \$20.10M.

10.6 (cont)

- The available capital funding has increased by \$1.19M to \$54.38M at 31 December reflecting additional grant income, and the full year capital works expenditure forecast has decreased by \$2.43M to \$50.73M mainly due to the carry forward of \$3.39M funding into 2025/26 for 9 projects.
- Completion of 192 of 408 progress milestones (47.0%) year to date through to 31 December. A further 130 milestones (31.9%) are on track and 86 (21.1%) are tracking behind schedule.

Performance against Annual Budget 2024-25

The year to date (YTD) financial result as of 31 December 2024 was a surplus of \$89.66m, \$7.49m favourable to the YTD Adopted Budget. The YTD surplus result per the budget is due to the striking of full year annual rates in August 2024, which will reduce over the course of the year as Council delivers services to the community.

Income was \$7.67m higher than budget primarily reflecting higher than budgeted monetary contributions (\$2.67m, mainly related to public open space contributions), interest income (\$1.41m), user fees (\$1.29m), statutory fees and fines (\$1.07m), rates and charges (\$696k), and other income (\$392k). Expenditure was \$178k more than budget mainly relating to higher employee costs (\$2.16m) and depreciation and amortisation (\$576k), partly offset by lower materials and services expenditure (\$2.25m). Further explanations of significant variances are detailed in this report.

Council revised the 2024/25 annual forecast in August to reflect final carry forward of unspent funds from 2023/24 into 2024/25. After adjusting for carry forwards, the revised full year forecast in August 2024 was a surplus of \$15.22m, \$501k favourable compared to the \$14.72m annual Adopted Budget.

A subsequent review of the annual forecast was completed in September 2024, projecting a year-end surplus result of \$14.74m, \$485k unfavourable to the August forecast and \$17k favourable to the 2024/25 Adopted Budget. A further review of the annual forecast will be conducted in January.

In accordance with Section 97(3) of the *Local Government Act 2020*, the second quarterly report of a financial year must include a statement by the Chief Executive Officer as to whether a revised budget is, or may be, required. The Chief Executive Officer is of the view that a revised budget is not required for the financial reporting period 31 December 2024. No variations have been made or proposed to the declared rates and/or charges and no loan borrowings are proposed for 2024/25. The financial position of Council is sound with a working capital ratio of 5.80 as at 31 December 2024.

10.6 (cont)

Overarching Governance Principles and Supporting Report Details

Strategic Alignment	<p>Council Plan 2021-2025 and Community Vision 2040.</p> <p>The report supports Strategic Direction 1: An innovative Council that is well led and governed and supports the following objective:</p> <p>Objective 1.1: Council will be a trusted organisation that embraces innovation.</p>
Financial and Resource Implications	There are no financial or resource implications arising from the recommendation contained in this report.
Legislative and Risk Implications	There are no legal or risk implications arising from the recommendation contained in this report.
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.
Innovation and Continuous Improvement	There are no Innovation and Continuous Improvement matters arising from the recommendation contained in this report.
Collaboration	No collaboration was required for this report.
Conflict of Interest	Council officers involved in the preparation of this report have no conflict of interest in this matter.

ATTACHMENT

- 1 2024/25 Q2 Quarterly Performance Report

10.7 Records of Informal Meetings of Councillors

Department

Governance and Integrity

Manager Governance and Integrity

RECOMMENDATION

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

Pre Council Meeting Briefing – 3 February 2025 – 6.30pm-6.41pm

Matter/s Discussed:	Councillors Present	Officers Present
<ul style="list-style-type: none"> Council Agenda Items 3 February 2025 	Cr Andrew Davenport - Mayor Cr Prue Cutts - Deputy Mayor Cr Peter Allan Cr Blair Barker Cr Jarrod Gunn Cr Daniel Griffiths Cr Kirsten Langford Cr Jason Martin Cr Kieran Simpson Cr Ben Stennett	S McMillan S Cann J Green L Letic S White S Sullivan V Ferlaino K Woods
Others Present: N/A		
Disclosures of Conflict of Interest: Cr Weller didn't attend the pre-meeting briefing due to a conflict of interest in Items 10.1 & 10.2 of the Agenda.		
Councillor /Officer attendance following disclosure: Nil		

10.7 (cont)

Councillor Briefing – 5 February 2025 – 6.30pm-10.00pm		
Matter/s Discussed:	Councillors Present	Officers Present
<ul style="list-style-type: none"> Integrated Council Planning - Capital Works Priorities 	Cr Andrew Davenport - Mayor Cr Prue Cutts - Deputy Mayor Cr Peter Allan Cr Jarrod Gunn Cr Daniel Griffiths Cr Kirsten Langford (online) Cr Jason Martin Cr Kieran Simpson Cr Ben Stennett Cr Hayley Weller Cr Blair Barker (left 9.40pm)	S McMillan S Cann J Green L Letic S White S Sullivan V Ferlaino Z Quinn L Morris C Clarke Zoe Thorn F Nolan
Others Present: N/A		
Disclosures of Conflict of Interest: Nil		
Councillor /Officer attendance following disclosure: Nil		

Optional Planning Application Briefing – 10 February 2025 – 5.00 – 5.55pm		
Matter/s Discussed:	Councillors Present	Officers Present
Planning applications <ul style="list-style-type: none"> 1-7 Chapel Street, Blackburn 440-442 Burwood Highway, Vermont South 	Cr Prue Cutts, Deputy Mayor Cr Peter Allan Cr Jarrod Gunn Cr Daniel Griffiths (online) Cr Kirsten Langford (online) Cr Jason Martin Cr Kieran Simpson	Jeff Green Kim Marriott Jacqui Hansen Ben Page Stuart Taylor
Others Present: N/A		
Disclosures of Conflict of Interest: Nil		
Councillor /Officer attendance following disclosure: Nil		

10.7 (cont)

Councillor Briefing – 10 February 2025 – 6.30pm-10.55pm		
Matter/s Discussed:	Councillors Present	Officers Present
<ul style="list-style-type: none"> • Strategic Property Program • Aqualink Nunawading Business Case Presentation • Differential Rating • Draft Agenda – 17 February 2025 	Cr Andrew Davenport - Mayor Cr Prue Cutts - Deputy Mayor Cr Peter Allan Cr Jarrod Gunn Cr Daniel Griffiths Cr Kirsten Langford (online) Cr Jason Martin Cr Kieran Simpson Cr Ben Stennett Cr Hayley Weller Cr Blair Barker	S McMillan S Cann J Green L Letic S White S Sullivan V Ferlaino Z Quinn T Gledhill C Clarke A Ghastine A McLennan K Woods
Others Present: N/A		
Disclosures of Conflict of Interest:		
<ul style="list-style-type: none"> • Cr Weller declared a material conflict of interest in Items 10.1 and 10.2 (1-7 Chapel Street, Blackburn planning application and amendment to planning application) in the Draft Council Meeting Agenda, as the property is located near her residence. • Cr Langford declared a general conflict of interest in Item 10.7 in the Draft Council Meeting Agenda, as she has a close association with a swim club. 		
Councillor /Officer attendance following disclosure: Cr Langford left the briefing at 10.47pm while Item 10.4 was discussed and returned at 10.52pm, Cr Weller left the briefing at 10.52pm and did not return.		

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

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