

Planning and Environment Act 1987

Panel Report

Whitehorse Planning Scheme Amendment C194

Planning Permit Application WH/2016/1196

6 December 2017

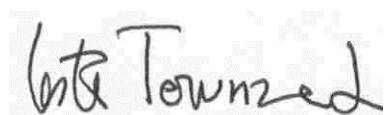
Planning and Environment Act 1987

Panel Report pursuant to section 25 of the Act

Whitehorse Planning Scheme Amendment C194

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A handwritten signature in black ink, appearing to read 'Lester Townsend'.

Lester Townsend, Chair

A handwritten signature in black ink, appearing to read 'John Roney'.

John Roney, Member

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List of Abbreviations

EPA	Environment Protection Authority
IPO	Incorporated Plan Overlay
MAC	Metropolitan Activity Centre
MUZ	Mixed Use Zone
RGZ	Residential Growth Zone
UCA	Uniting Church in Australia Property Trust (Victoria)

Overview

Amendment summary

The Amendment	Whitehorse Planning Scheme Amendment C194
Planning Permit	Planning Permit Application WH/2016/1196
Brief description	Combined permit application and planning scheme Amendment to rezone land to the MUZ to facilitate the development of two 18 storey buildings and a six storey building on part of the site
Subject land	Rezoning and permit application: 517 and 519-521 Station Street Rezoning: 2-8 Oxford Street
The Proponent	Golden Age Station Street Box Hill Development Pty Ltd (Permit application)
Planning Authority	Whitehorse City Council
Site Owner	Whitehorse City Council (517 and 519-521 Station Street)
Authorisation	14 March 2017, A03533
Exhibition	27 April to 29 May 2017
Submissions	Number of Submissions: 53 Opposed: 48

Panel process

The Panel	Lester Townsend (Chair) and John Roney
Directions Hearing	Planning Panels Victoria, 24 August 2017
Panel Hearing	Box Hill, 2 – 6 October 2017
Agreed permit changes submitted	23 October 2017
Site inspections	Unaccompanied various days during the Hearing
Appearances	See Appendix B
Date of this Report	6 December 2017

Executive summary

(i) Summary

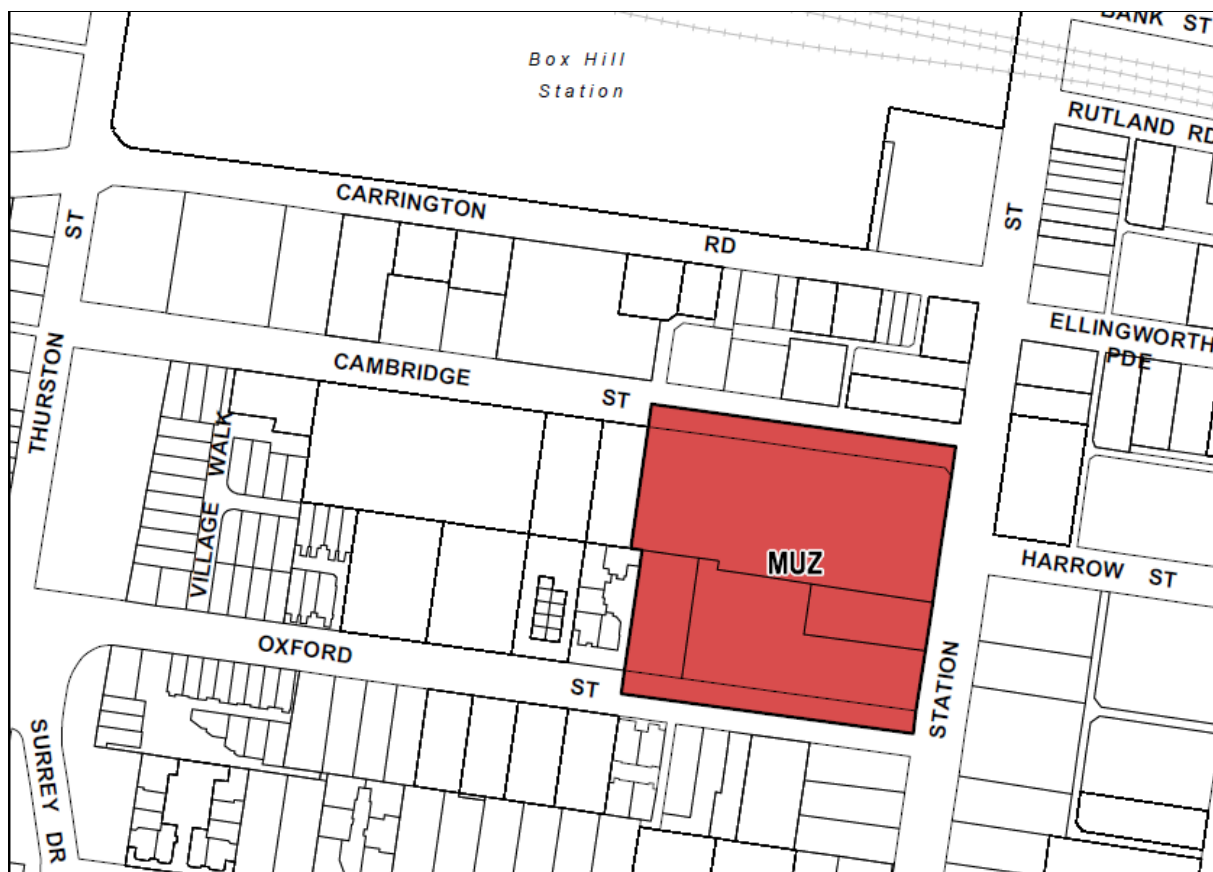
The Amendment applies to 517 and 519-521 Station Street, which is currently a public car park and the Box Hill Central Children's Service Centre, and 2-8 Oxford Street Box Hill, which is currently occupied by the Uniting Church and associated facilities.

The land is in the Box Hill Metropolitan Activity Centre close to Box Hill Station.

The Amendment proposes to rezone the existing Council car park and child care centre in the Public Use Zone and adjoining land in the Residential Growth Zone 2 to the Mixed Use Zone.

The Amendment also proposes to introduce an Incorporated Document entitled '517 and 519-521 Station Street, Box Hill, December 2016' to provide design guidance for the development of this land.

Figure 1: Area to be rezoned



This Amendment and associated Permit facilitates the construction of three buildings (two at 18 storeys and one at six storeys) on a current Council car park and children's service centre, for retail, office and apartment use with:

- reduction in the standard requirements for car parking facilities
- alteration of access to a road in a Road Zone, Category 1.

The key issues raised in the submissions were:

- the proposed rezoning of the land
- the proposed Incorporated Document
- the mix of proposed land uses
- the height of the proposed buildings
- the impact of the proposed development on land to the south
- the impact of the proposed development on land to the west
- pedestrian access to and through the site
- the external appearance of the proposed buildings
- the internal design of the proposed development
- traffic impacts
- car parking.

The Panel considered all written submissions made in response to the exhibition of the Amendment, observations from site visits, and submissions, evidence and other material presented to it during the Hearing.

The Panel has generally concluded that the Amendment is appropriate, and that the proposed development ought to be granted a permit.

The Amendment

With respect to each of the key issues raised in submissions about the Amendment, the Panel has specifically concluded:

- It is appropriate to rezone the entire site to the Mixed Use Zone.
- It is appropriate to use Clause 52.03 to introduce an Incorporated Document to provide for the built form controls that should apply to the site.
- That the form and content of the Incorporated Document is generally acceptable, subject to two changes:
 - that the shadowing test for the open space at 530 Station Street should be clarified to relate to the equinox between 11.00 am and 2.00 pm
 - that the minor error in Figure 1 Building heights should be corrected.
- That the changes to the Incorporated Document requested by the UCA, Wesley Uniting Church and Mr Stephenson are not supported.

Planning Permit

With respect to each of the key issues raised in submissions about the Permit, the Panel has specifically concluded:

- Mix of land uses:
 - That the proposed mix of land uses is appropriate.
 - That the use of the site for a supermarket over 1,200 square metres in area or a department store of any size should be subject to a separate approvals process.
- Building height:
 - That the proposed building heights are acceptable.
- Southern interface:
 - That the siting and design of the proposed buildings respects the heritage significance of the adjoining church land to the south.

- That the construction of the proposed development has potential to impact on the structural integrity of Oxford Hall and the Willis Pipe Organ and this should be assessed and monitored to ensure that the heritage assets on the church land are appropriately protected.
- That a tree Protection and Management Plan for the five trees identified by Mr Lewis along the northern boundary of the church should be completed to assess the impact of the proposed development on these trees and consider techniques for avoiding the roots or, if this is not reasonably practicable, then replacement of these trees with mature screen planting.
- That additional noise attenuation measures are appropriate generally in accordance with the recommendations of Mr Liu.
- That the impacts of shadowing from the proposed development on the church land and buildings is acceptable.
- Western interface:
 - That the proposal generally protects the reasonable amenity of the dwellings to the west of the site.
 - Provision of effective screening to some windows of the serviced apartments at the western elevation is required to prevent overlooking of adjoining private open space and habitable room windows.
- Pedestrian access:
 - That a 7 metre wide lane between Towers A and B is an acceptable outcome.
 - There is a need to improve the pedestrian connectivity between the lower ground floor space and Cambridge Street, however, it is not appropriate to specify that this must be achieved through the use of escalators or a lift.
 - The retail tenancies in the north east of the upper ground floor should have direct access from Cambridge Street and Station Street without the need for extensive ramps.
 - That a pedestrian link to the south of the site would help to integrate the two large land parcels within the Mixed Use Zone.
 - The architectural plans should acknowledge the future pedestrian connection point to the church land to help the long term planning and design for the land to the south and the buildings and works in this location should be modified to minimise the need for extensive demolition or reconstruction works to facilitate the future pedestrian connection.
- External appearance:
 - That there should be greater differentiation in the external appearance of Towers A and B through the use of varied architectural treatments, colours, materials, finishes or similar.
- Internal design:
 - In general, the internal design of the proposed dwellings provides a good level of amenity for the future residents.
 - It is inappropriate to assess the proposal against the Better Apartments Design Standards because transitional provision apply.
 - Several minor modifications the plans will improve the internal amenity of the buildings with respect to balconies, communal space, screening, internal corridor

design and the impact of wind and these can be dealt with by planning permit conditions.

- **Traffic:**
 - That the traffic generated by the proposed development will create acceptable impacts on the operation of the existing road network.
 - That there is no nexus between the proposed development and the future signalised pedestrian crossing on Station Street and it is therefore inappropriate to require the Proponent to construct the pedestrian crossing.
 - Good planning should ensure that the location of the pedestrian crossing is considered during the preparation of the functional layout plan required as part of the planning permit conditions.
- **Car parking:**
 - That the car parking demand generated by the proposed mixed use development will be adequately accommodated by the proposed on-site car parking.
 - The car park design and access arrangements are satisfactory subject to the minor design changes recommended by Ms Dunstan.
 - Bicycle parking and associated end of trip facilities are appropriate.
 - The proposed loading arrangements are acceptable for the site subject to the minor design changes recommended by Ms Dunstan.
 - The waste collection arrangements for the site are satisfactory.
 - A permit condition should be added to ensure that the development must not commence until 163 spaces of car parking capacity has been constructed at an alternative location to the satisfaction of the responsible authority.
- **Drafting:**
 - The Permit would benefit from minor drafting changes to improve the structure of the Permit, clarify the meaning of some conditions, remove duplication, correct minor errors and so on.

(ii) Recommendations

Based on the reasons set out in this Report, the Panel recommends:

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

1 Introduction

1.1 Background to the proposal

In 2002, Council adopted in principle two major studies to guide development of the Box Hill Metropolitan Activity Centre: the *Box Hill Transport Interchange Study* and the *Box Hill Urban Design Framework*. Council has also adopted a housing study, which nominates the area to the north of Whitehorse Road and south of Whitehorse Road and three areas to the south as areas for substantial growth. This work led to the preparation of the Box Hill Transit City Activity Centre Structure Plan (Structure Plan).

Preparation of the Structure Plan began in mid-2004 and involved consultation with stakeholders, the broader community and project reference groups. Eleven detailed working papers were produced to address a range of technical and contextual issues related to the Structure Plan, including land use activities, traffic and transport conditions, physical infrastructure, residential demand, office demand, retail demand, socioeconomic issues, economic development context, investment context, policy and statutory planning context and affordable housing options.

The Structure Plan was first introduced as a policy in the Planning Scheme in July 2009.

Clause 22.07 (Box Hill Metropolitan Activity Centre) of the Planning Scheme notes that *“it is policy that use and development of land is consistent with the vision for the centre and the activity and built form precincts in the Box Hill Transit City Activity Centre Structure Plan (2007)”*.

The sites affected by Amendment C194 are included in the Southern and Eastern Activity Precinct in the Structure Plan, which envisages a mix of office and retail uses responding to prominent Whitehorse Road and Station Street frontages and mixed use (residential) as a transition to purely residential precincts.

The activities envisaged in the Precinct include offices, restricted retail, higher density residential especially at upper levels and gyms, fitness centres, swimming pools and other private communal or commercial recreation facilities that complement those available in public spaces.

At its meeting on 20 February 2017, Council resolved to:

- agree to consider the application for planning permit concurrently with the preparation of the planning scheme amendment
- following receipt of a written agreement to pay all fees and costs, including any panel costs, associated with the proposal, seek ministerial authorisation to exhibit an amendment to rezone the land from the Public Use Zone – Schedule 6 to the Mixed Use Zone and introduce an Incorporated Document into the Whitehorse Planning Scheme, jointly with a draft planning permit WH/2016/1196
- prepare a draft permit for Planning Application WH/2016/1196 subject to conditions
- authorise Council officers to prepare relevant amendment documents.

1.1 The Amendment

(i) Amendment description

The Amendment applies to 517 and 519-521 Station Street, which is currently a public car park and the Box Hill Central Children's Service Centre, and 2-8 Oxford Street Box Hill, which is currently occupied by the Uniting Church and associated facilities, as shown in Figure 2.

The Amendment proposes to:

- rezone the land at 517 and 519-521 Station Street Box Hill from Public Use Zone Schedule 6 (PUZ6) to Mixed Use Zone (MUZ) amending Planning Scheme Map No 1
- rezone the land at 2-8 Oxford Street Box Hill from Residential Growth Zone 2 (RGZ2) to MUZ amending Planning Scheme Map No 1
- amend the Schedule to Clause 52.03 to include the Incorporated Document entitled "517 and 519-521 Station Street, Box Hill, December 2016"
- amend the Schedule to Clause 81.01 to include the Incorporated Document entitled "517 and 519-521 Station Street, Box Hill, December 2016".

The Incorporated Document to be included at Clause 52.03 provides design guidance for the development of the land at 517-521 Station Street.

The Incorporated Document exempts the development of the subject land from the requirements of Clause 32.04-9 of the Whitehorse Planning Scheme, relating to building on lots that abut another residential zone.

Figure 2: Land included in the Amendment



(ii) Permit description

The planning permit application for 517 and 519-521 Station Street seeks approval for building and works for the construction of two 18 storey buildings and a six storey building including:

- rooftop plant plus up to three levels of basement car parking
- retail premises
- office
- restricted recreational facility (gymnasium)
- medical centre
- accommodation
- serviced apartments
- child care facility
- reduction in the standard requirements for car parking facilities
- alteration of access to a road in a Road Zone, Category 1.

Approval is sought for:

- Development and use of land within the MUZ pursuant to Clause 32.04
- Reduction in car parking requirement subject to Clause 52.06
- Alterations to Road Zone Category 1 subject to Clause 52.29.

The Permit applies to 517 and 519-521 Station Street, as shown in Figure 3.

Figure 3: Land included in the Permit Application



1.2 Issues addressed in this report

The Panel considered all written submissions made in response to the exhibition of the Amendment, observations from site visits, and submissions, evidence and other material presented to it during the Hearing.

The Panel has reviewed a large volume of material. The Panel has had to be selective in referring to the more relevant or determinative material in the Report. All submissions and materials have been considered by the Panel in reaching its conclusions, regardless of whether they are specifically mentioned in the Report.

This Report deals with the issues under the following headings:

- The permit proposal
- Strategic justification and planning context
- Is the Mixed Use Zone appropriate?
- Is the Incorporated Document appropriate?
- Permit issues:
 - Mix of land uses
 - Overall building height
 - Southern interface
 - Western interface
 - Pedestrian access
 - External appearance
 - Internal design
 - Traffic
 - Car parking
 - Drafting.

1.3 Procedural issues

(i) Whitehorse City Council

The Panel notes that Whitehorse City Council made submissions in two separate capacities.

First, it made submissions and called evidence in its role as the Planning Authority.

Second, it also made submissions and called evidence in its role as the land owner of 517 and 519-521 Station Street.

The Council engaged separate advocates to represent the relevant views of the Council in each capacity. It was explained to the Panel that this was to ensure there was no conflict of interest with respect to the role of the Council as both a land owner and the Planning Authority in this matter.

A distinction is made in this report where submissions are made from the Council as the Planning Authority or as the land owner of 517-521 Station Street.

(ii) Uniting Church

The land at 2-8 Oxford Street is owned by the Uniting Church. In a letter sent by email to the Panel Chair on 3 October 2017 (Document 16), the Director of Property Services of the

Uniting Church clarified the ownership of the land and the relationship with the Wesley Uniting Church Congregation. The Panel was advised that:

- the property located at 2-8 Oxford Street is owned by The Uniting Church in Australia Property Trust (Victoria)
- Tract Consultants were the only party authorised by the property owner to speak on behalf of the property owner at the Hearing
- the congregation known as the Wesley Box Hill congregation currently enjoy the use and responsibility for maintenance of the premises through an internal Uniting Church mechanism that provides for:
 - *'non-exclusive rights of use' which does not of itself confer on the responsible body the power of sale/purchase/lease; and*
 - *'responsibility for management' whereby the responsible body exercises all due care, control or maintenance of the property in respect of the day to day usage of both land and buildings.*

The Wesley Box Hill congregation made separate submissions to the property owner.

In the first instance, the Chairperson of the Church Council, Mr Gaikwad, was represented by Mr Rigoni of Terrain Consulting Group. Mr Rigoni also called several witnesses during the Hearing.

Mr Gaikwad himself then made a separate submission on behalf of a variety of groups and associations who use a number of the buildings at 2-8 Oxford Street.

It is therefore important to understand the status of the submitter when referring to the comments made by the 'Uniting Church' with respect to the Amendment and the planning permit application. The Panel makes this distinction in this report.

2 The permit proposal

2.1 What is proposed?

The proposal includes the demolition of the existing child care facility and the construction of a major commercial and residential including 429 residential apartments and 77 serviced apartments.

The proposal consists of three multistorey mixed use buildings within a setting of public walkways and plazas.

‘Building A’ is a total of 18 storeys and is located on the corner of Station and Cambridge Streets. A two and three storey podium follows the natural fall of the land. Above the podium, the tower element ‘holds’ to the Station and Cambridge Street corner, curving away from the Station Street frontage towards the southern boundary of the site.

The podium of Building A extends along the Station Street frontage, tapering to the southwest to a setback of approximately 12.7 metres from the street frontage at the south end, which serves to provide some oblique views to the 1886 church to the south. At the south end, nearest to the church, the podium is to be a similar height as the ridge of the church and is set back approximately 5.0 metres from the adjoining boundary. At ground level, a pedestrian walkway wraps around the south end of the podium leading to the higher level at the rear of the building through a series of steps.

The levels above the podium in Building A taper away from both streets and the southern boundary. At the lower levels the tower component is setback approximately 6.0 metres from the southern boundary. Level 18 is setback approximately 22.5 metres from the southern boundary.

‘Building B’ is located in the northern section of the site and addresses the Cambridge Street frontage. The building comprises a two storey podium, with a tower element above extending to a total of 18 storeys.

‘Building C’ is located in the northwest corner of the site, and adjoins Building B and interfaces with the 19 Cambridge Street to the west. Building C extends to six storeys.

A laneway runs between a landscaped plaza on Cambridge Street towards the south of the site on a north–south axis at the upper ground level, culminating in a landscaped central courtyard. The laneway provides access to the upper ground level retail tenancies, podium level commercial and community uses, and tower level dwellings. The laneway then turns to the southeast corner of the site, stepping down through a staircase to a lower ground level landscaped plaza marking the Station Street pedestrian entrance.

The laneway is complemented by a lower ground level pedestrian walkway from Station Street providing internal access to the lower ground retail tenancies. The lower ground walkway is connected to the upper ground laneway through a central staircase to the upper ground courtyard.

A development summary is provided in Figure 4.

Figure 4: Development summary

Level	Development Summary		
Basement Level 1, 2 and 3	Car parking Storage cages Bicycle Parking Internal stair and lift core Exhaust fan rooms, water metre, water tank and water pump station Child Care Centre pick up / drop off point (Basement Level 1)		
Lower Ground	Station Street pedestrian entrance plaza and pedestrian walkway Lobby 3 x retail spaces ranging between 536.13 and 416.72 square metres Core Services including electrical substation, plant room, fire pumps, fire control room and tanks. Bin Rooms		
Upper Ground	North-south pedestrian link, Cambridge Street pedestrian entrance plaza and central courtyard 12 x retail spaces ranging between 75.48 and 1,432.86 square metres Mail room Serviced apartment lobby Loading bay facilities Core services including fire control room, gas metre room and compactor		
	Building A	Building B	Building C
Level 1	Office space Medical centre	Gymnasium Communal space Outdoor terrace	Serviced apartments
Level 2	Child care centre	Residential apartments	Serviced apartments
Level 3 – Level 5	Residential apartments	Residential apartments	Serviced apartments
Level 6 – Level 17	Residential apartments	Residential apartments	
Roof	Residential apartments Plant services Rooftop amenity	Residential apartments Plant services Rooftop amenity	

Source: Paragraph 79 of Elliott witness statement

Figure 5: Proposal from corner of Station Street and Cambridge Street



3 Strategic justification and planning context

The Planning Authority provided a response to the Strategic Assessment Guidelines as part of the Explanatory Report.

The Panel has reviewed the Planning Authority's response and the policy context of the Amendment, and has made a brief appraisal of the relevant zone and overlay controls and other relevant planning strategies.

3.1 Policy framework

(i) State Planning Policy Framework

The Planning Authority submitted that the Amendment is supported by the following clauses in the State Planning Policy Framework:

- **Clause 9 – *Plan Melbourne***, as the use and redevelopment of the site will align with objectives to deliver jobs and investment and promote Melbourne as a global city of opportunity and choice, delivering social and economic benefits. *Plan Melbourne* identifies Box Hill as a Metropolitan Activity Centre (MAC) providing significant opportunities for investment in retail, education, entertainment, and higher density residential development, as outlined above.
- **Clause 11 – Settlement**, through providing for a diversity of land uses, including forms of higher density housing and increased commercial and retail investment supporting and strengthening the role and function of the Box Hill MAC as a primary location for higher density housing and business, retail, entertainment hub for this part of Melbourne.
- **Clause 15 – Built Form** which seeks to achieve high quality architectural outcomes that contribute positively to the local urban environment, enhance and activate the public realm, and ensures development equity.
- **Clause 16 Housing**, through providing well located residential development to meet housing needs on an underutilised piece of land within an activity centre proximate to services, including community infrastructure and public transport.
- **Clause 17 – Economic Development**, which seeks to 'encourage development which meets the communities' needs for retail, entertainment, office and other commercial services and provides net community benefit in relation to accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities.
- **Clause 18 – Transport**, by locating high density development of commercial and accommodation uses in a location with the highest level of access to public transport.
- **Clause 19 – Infrastructure**, which promotes the efficient use of existing infrastructure provisions, promoting that where possible, new development that capitalises on existing community, social, cultural and development infrastructure facilities. Particularly the Amendment will locate a child care centre and social infrastructure in an identified MAC and provide improved public spaces for the local community.

(ii) Transport Integration Act 2010

The *Transport Integration Act 2010* establishes a framework for the provision of an integrated and sustainable transport system in Victoria. While the Amendment is not considered to have a direct impact on the *Transport Integration Act* or transport system, it will facilitate a development which has proximate access to public transport systems and established road networks.

In particular, the subject sites are within walking distance to the Box Hill Interchange, tram routes along Whitehorse Road and bus routes along Station Street and Whitehorse Road.

Pedestrian links are also proposed to be provided and accessibility is proposed to be enhanced across, and adjacent to, the sites.

3.2 Local Planning Policy

(i) Local Planning Policy Framework

The Planning Authority submitted that the Amendment supports the following local planning objectives:

- **Clause 21.03 (A vision for the City of Whitehorse)** outlines the objectives of Whitehorse's Council Plan. The Amendment will assist with achieving the vision through maintaining and enhancing the built environment to ensure a liveable and sustainable city.
- **Clause 21.06 (Housing)** encourages higher density residential growth within 'substantial change' areas, such as activity centres where the site is located (Box Hill MAC), that are best able to sustain substantial change. The size of the site and its characteristics provide the opportunity to accommodate higher density residential development.
- **Clause 21.07 (Economic Development)** establishes Box Hill as an identified MAC which provides significant opportunities for investment in commercial and retail, education, entertainment and medium and higher density residential development that will strength the role of the area as a major regional activity centre. The Amendment will deliver a genuinely mixed use development and precinct through retail, office, and entertainment uses that will maximise employment opportunities and growth for Box Hill and Whitehorse more broadly
- **Clause 21.07-3** will be facilitated through the Amendment enabling the development of this site within the Box Hill MAC for a mixed use development that will become a focus of activity and reflecting an area identified for the substantial change within the municipality.
- **Clause 22.07-2 (Box Hill Metropolitan Activity Centre)** implements the objectives of the Structure Plan. Objectives include ensuring that the MAC can continue to expand in line with market demand, to ensure that Box Hill provides accessible, lively and comfortable public spaces that offer diverse opportunities for recreation and social engagement and to support walking and cycling as sustainable and healthy means of travel in and around Box Hill. Additionally, the objectives also include encouraging significantly increased use of public transport and a reduction of private vehicle use for travel to and from the MAC. The Amendment seeks to

accommodate a more intensive and diverse range of activities that increase choices and opportunities, encourage employment growth, offer opportunities for recreational and social engagement, and supports synergies between different uses. The Amendment also seeks to create accessible and lively public spaces and encourage walking and cycling by creating pedestrian links and providing for bicycle use and storage. The Amendment will facilitate this through the rezoning of the land to better align with the objectives of the Structure Plan. The introduction of the Incorporated Document will apply site specific built form and design objectives and guidelines for the subject land and will deliver a development that aligns with the intent of the Structure Plan.

- **Clause 22.07-3** recognises the need to create more and diverse opportunities for housing that will contribute to the land use mix and economic and social activities of the area, protect access to public open space, improve pedestrian amenity, and promote economic growth within the Box Hill MAC. The Amendment will facilitate these objectives by rezoning the land to MUZ, introducing an Incorporated Document into the Planning Scheme and considering a planning permit application that responds to these objectives.

(ii) The Structure Plan

The Structure Plan provides a vision for Box Hill to become ‘the most significant urban centre in Melbourne’s eastern suburbs’. The Structure Plan identifies:

- a need to increase the population of the region and to provide more residential opportunities in the area
- a trend towards higher density residential development in Box Hill, with strong growth in student accommodation
- the demand for medium to high density residential is likely to increase in the next decade
- future office demand is difficult to forecast accurately but between 55,000 square metres and 75,000 square metres may need to be provided
- the land area required for future office growth is modest, in the order of 1.1 to 2.2 hectares depending on demand.

The *Structure Plan* provides a planning framework, identifying public spaces to support recreational needs, a network of streets and laneways to encourage walking and cycling, Activity Precincts, and seven built form precincts. The subject site is located in Activity Precinct F.

The Structure Plan includes strategies including:

- create street-orientated development
- bridge major barriers
- integrate new development with heritage buildings
- facilitate change in nominated areas while protecting areas of stability
- design appropriately for a high density context
- promote design excellence
- encourage development to contribute to Box Hill’s sense of place.

The Structure Plan also includes actions to give effect to this vision including:

- adopt building height and setback controls for development to support efficient construction and use of land, including:
 - eliminate requirements for side setbacks, encourage party wall construction and prohibit side facing windows
 - minimise requirements for front setbacks where these are of ornamental value only
- apply the *DSE Guidelines for Higher Density Residential Development* within the Activity Centre instead of ResCode
- develop a process to audit the amenity impacts of development proposals including benchmarks for acceptable and superior design, and use these in the application of any discretionary development controls
- evaluate development proposals to ensure protection of adjoining sites' development potential.

3.3 The planning scheme

(i) Relevant Planning Scheme Amendments

Amendment C175 seeks to implement the objectives and strategies of both the Structure Plan and Box Hill Metropolitan Activity Centre Built Form Guidelines (the Guidelines) by:

- introducing Schedule 6 to the Design and Development Overlay (DDO) into Clause 43.02 of the Scheme and applying it to land identified within the Structure Plan area
- rezoning various sites identified within the Structure Plan to the MUZ and the Commercial 1 Zone (C1Z)
- making changes to Clause 21.07 (Economic Development) and Clause 22.07 (Box Hill Metropolitan Activity Centre) of the Scheme to reference the Guidelines and include them as a reference document in the Scheme.

The Panel report was submitted on 6 October 2017.

(ii) Planning scheme overlays

517 and 519-521 Station Street, and 2-8 Oxford Street, are subject to the Parking Overlay – Schedule 1 'Box Hill Activity Centre' (PO1) at Clause 45.09.

2-8 Oxford Street is partially subject to the Heritage Overlay HO77 which relates to the 'Former Wesleyan Methodist Church'.

(iii) Ministerial Directions and Practice Notes

Ministerial Directions

The Planning Authority submitted that the Amendment meets the relevant requirements of:

- Ministerial Direction 11 (Strategic Assessment of Amendments)
- Ministerial Direction on the Form and Content of Planning Schemes under section 7(5) of the Act.

Planning Practice Notes

The Planning Authority submitted that the Amendment is consistent with:

- Planning Practice Note 1 (PPN1) Applying the Heritage Overlay, July 2015
- Planning Practice Note 46 (PPN46) Strategic Assessment Guidelines, June 2015
- Planning Practice Note 59 (PPN59) The Role of Mandatory Provisions in Planning Schemes, June 2015.

3.4 Is the Amendment and Permit Application strategically justified?

The Planning Authority's Part A submission states:

The Structure Plan sets out the preferred land uses for activity precincts which are considered to meet the vision for the Box Hill MAC. However, the current zone applying to some sites does not allow the consideration of uses envisaged by the Structure Plan. In particular the car park site at 519-521 Station Street, Box Hill is currently owned by Whitehorse City Council and zoned PUZ6 which precludes the development of residential and commercial land uses envisaged under the Structure Plan. Additionally, as the land will no longer be in public ownership, it cannot remain in the PUZ.

The Amendment is therefore required to facilitate development that is envisaged in the Structure Plan, being a reference document to Clause 22.07 of the Planning Scheme. In particular, the Amendment is required to facilitate the redevelopment of the land at 517 and 519-521 Station Street for the purposes of a mixed use development.

It is clear that the Amendment and Permit Application are broadly supported by planning policy at both local and state levels given the objectives in *Plan Melbourne*, the *Box Hill Transit City Activity Centre Structure Plan 2007* and a number of relevant clauses in the Whitehorse Planning Scheme. Given the site's excellent location in regards to public transport access, jobs, retail and services in the Box Hill area development of the site is clearly appropriate.

3.5 Conclusion

The Panel concludes that the Amendment is supported by, and implements, the relevant sections of the State and Local Planning Policy Framework, and is consistent with the relevant Ministerial Directions and Practice Notes. The Amendment and Permit is strategically justified, and the Amendment should proceed subject to addressing the more specific issues raised in submissions as discussed in the following chapters.

4 Is the Mixed Use Zone appropriate?

(i) What is the issue?

The Amendment proposes to rezone:

- the land at 517 and 519-521 Station Street from Public Use Zone Schedule 6 (PUZ6) to MUZ
- the land at 2-8 Oxford Street from Residential Growth Zone 2 (RGZ2) to MUZ.

The purpose of the MUZ is:

To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.

To provide for a range of residential, commercial, industrial and other uses which complement the mixed use function of the locality.

To provide for housing at higher densities.

To encourage development that responds to the existing or preferred neighbourhood character of the area.

To facilitate the use, development and redevelopment of land in accordance with the objectives specified in a schedule to this zone.

There are no objectives currently in a schedule to the zone and no objectives are proposed as part of this Amendment for inclusion in the schedule to the zone.

The issue is whether it is appropriate to rezone the land to MUZ.

(ii) Evidence and submissions

The Planning Authority submitted that Clause 22.07 contains an overarching policy that use and development in the Activity Centre should be consistent with the vision set out in the Structure Plan. The land to be rezoned is included wholly within 'Precinct F – Southern and Eastern Precinct' of the Activity Precinct Plan and abuts 'Residential Precinct H' on the south side of Oxford Street.

There is no description in the planning scheme as to the intent of Precinct F, however, the land uses, activities and proposed zoning for land in the precinct are outlined in the Structure Plan. Precinct F encourages:

- *Accommodation of growth in local supply of office space*
- *Continuation of the precinct's role in supporting some retail activity*
- *Office and retail activities that respond to prominent Whitehorse Road and Station Street frontages.*
- *Mixed uses including higher density residential as a buffer to established residential precincts.¹*

¹ Structure Plan, page 55

The Planning Authority submitted that the land to be rezoned is specifically identified within a Mixed Use Zone on a 'proposed zoning' plan in the Structure Plan.

The Planning Authority submitted that Whitehorse City Council currently owns the car park site at 519-521 Station Street and this land is zoned PUZ6, which precludes the development of residential and commercial land uses envisaged under the Structure Plan. Additionally, as the land is to be sold and will no longer be in public ownership, it cannot remain in the PUZ.

The Planning Authority also submitted that the rezoning of the land at 2-8 Oxford Street from RGZ2 to the MUZ would facilitate land use and development in accordance with the Structure Plan. It said that the proposed MUZ would provide an appropriate zone transition between the commercial core of the MAC and the surrounding residential precinct to the south of Oxford Street within the RGZ2.

Mr Barnes gave evidence that there was clear strategic justification to rezone the whole of the Amendment site to a MUZ because:

- Clause 22.07, which implements the Structure Plan, clearly identifies the land for a higher density mixed use development of some form
- the Structure Plan document itself, which is a reference document in the planning scheme, recommends rezoning of the whole of the Amendment site to a MUZ.

Golden Age submitted that the MUZ reflects the increasingly residential nature of land use moving south, away from the Whitehorse Road commercial spine. It supported the application of the MUZ to the whole site.

Mr Elliott of Urbis gave urban evidence on behalf of the Proponent. He said that there was *"clear strategic support ... established in the Structure Plan adopted by Council in 2007, which proposes to rezone the subject land to the Mixed Use Zone"*. He was of the view that the application of the MUZ was appropriate as it *"establishes the expectation for a mixed use development incorporating higher density residential, community and commercial components"*. In response to questions from the Planning Authority, Mr Elliott said that a MUZ would be appropriate even if a structure plan did not exist as the site is on the edge of the activity centre and requires a *"transitional zone"* such as the MUZ.

Mr Robertson represented the 'Uniting Church in Australia Property Trust (Victoria)' (UCA), the owners of 2-8 Oxford Street. He said that the UCA supported the rezoning of its land from the RGZ2 to MUZ and that this was *"entirely consistent"* with the Structure Plan.

Mr Rigoni represented Mr Gaiwad, Chair of the Church Council of the Wesley Uniting Church, Box Hill. The Wesley Uniting Church occupies the land at 2-8 Oxford Street. He said that Wesley Uniting Church does not intend to develop the site or relocate. He submitted that:

The rezoning of the church land to a Mixed Use Zone will not only result in increased development potential but also an increase in land value. The church community fears that they will be pressured to sell the land and relocate the church activities. The historic significance of the site as a place of worship and gathering will be lost, as will the benefits it provides to the immediate community.

The church land currently acts as a buffer between commercial activities to the north and the residential properties to the south and west. The Church Council is concerned that should it be forced to relocate as a result of the rezoning of the land to a Mixed Use Zone and the site redeveloped, this buffer will be lost. Any resultant four storey (or higher) mixed use development on this site is likely to have significant impacts on the amenity of local residents of Oxford Street, particularly from increased traffic and parking pressures, visual bulk and increased activity along the local street which is already congested by existing land uses.”²

Mr Stephenson, a heritage architect, gave evidence that supported this view. He said:

By placing the subject site into a Mixed Use Zone encourages a greater variety of use types and building forms that are currently not permitted under the Residential Growth Zone (Schedule 2). This greater variety will increase the development potential of the site thus increasing its value, resulting in pressure to redevelop the site in a manner that is not akin to the Heritage Place or values ascribed to Oxford Hall and the Main Sanctuary. The typical building forms associated with some of the uses applicable under a Mixed Use Zone would not be appropriate adjacent to the Heritage Place, and has the potential to detract and adversely impact on those heritage values.³

Mr Stephenson also stated that:

The rezoning of the land at 519-521 Station Street is of no concern, providing the proposal is sympathetic in form, scale and materials to the Heritage Place.⁴

(iii) Discussion

The Panel accepts that the MUZ aligns with local planning policy for the Activity Centre as expressed in the Structure Plan. The MUZ is an appropriate zone given:

- the land is between the commercial core and a residential precinct
- the Structure Plan envisages mixed use development at high densities
- the very clear preference for this zone in the Structure Plan
- it has been identified for 10 years as the preferred zone for the site.

As Council is proposing to sell the Council owned car park and child care centre, it is inappropriate to leave this land within PUZ6. The MUZ is a zone that will facilitate the proposed redevelopment of the car park and child care centre site in a manner consistent with the expectations of the Structure Plan.

The Panel does not agree with the Wesley Uniting Church that the rezoning will ‘force’ the relocation of the church. Nor does it agree that the rezoning will result in any direct heritage implications for the buildings on the church site.

² Document 41, pages 8-9

³ Evidence statement, para 47

⁴ Evidence statement, para 50

The Amendment does not require the redevelopment of the church site; it provides the potential to redevelop. The Panel notes that the owner of the land, the UCA, supports the rezoning. Whether the land at 2-8 Oxford Street will be redeveloped is ultimately a matter for the Wesley Uniting Church to discuss with the UCA.

The Panel also observes that:

- the existence of heritage buildings or objects does not, in itself, prevent an appropriate redevelopment of a site
- Mr Stephenson supported the rezoning of the Council owned land to the north of the Church land *providing the proposal is sympathetic in form, scale and materials to the Heritage Place*
- using this same logic, the Church land could, in the future, also be redeveloped *providing the proposal is sympathetic in form, scale and materials to the Heritage Place*
- the heritage issues associated with the Church site would need to be taken into consideration in any redevelopment of its land and this would be the case irrespective of the zoning of the land
- the MUZ does not diminish the heritage values of the church land
- there are many examples of successful developments throughout metropolitan Melbourne that incorporate heritage buildings in a MUZ and various Commercial zones.

(iv) Conclusions

The Panel concludes:

- It is appropriate to rezone the entire site to the Mixed Use Zone.

5 Is the Incorporated Document appropriate?

5.1 What is the issue?

The Incorporated Document proposed by Amendment C194 will only apply to the permit application site. It will not apply to the balance of the Amendment site that fronts Oxford Street.

The key features of the Incorporated Document are:

- it is proposed to be included into the planning scheme through Clause 52.03 Specific Sites and Exclusions
- it provides for a major mixed use development in accordance with the built form guidelines set out in the document
- State and local planning policies will remain applicable, where there is no guidance to the contrary in the document
- the guidelines will apply in addition to other policies and controls contained in the Whitehorse Planning Scheme, except where there is an inconsistency
- it sets out:
 - design objectives
 - built form guidelines in relation to matters such as building height, building setbacks, building form and design, public realm, site layout and landscaping, integrated access
 - decision guidelines
- it exempts development from the application of Clause 32.04-9, which is a provision of the Mixed Use Zone that requires buildings and works on a lot that abuts a residential zone, to meet the specific provisions of Clause 55
- it has an expiry date of 10 years.

There are two key issues to be considered.

The first is whether, in this circumstance, it is appropriate to use an Incorporated Document through Clause 52.03 of the planning scheme.

The second is whether the specific provisions of the Incorporated Document are appropriate.

5.2 Is an Incorporated Document through Clause 52.03 the correct approach?

(i) Evidence and submissions

The Planning Authority submitted that the purpose of Clause 52.03 (Specific sites and exclusions) is:

- *To recognise specific controls designed to achieve a particular land use and development outcome existing on the approval date.*
- *To provide in extraordinary circumstances specific controls designed to achieve a particular land use and development outcome.*

The clause allows land *“identified in a schedule ... [to be] ... used or developed in accordance with the specific controls contained in the Incorporated Document corresponding to that land”*.

Among other things, the specified controls may *“allow the land to be used or developed in a manner that would otherwise be prohibited or restricted”* and to *“exclude any other control in this scheme”*.

The Amendment proposes to exclude the requirements of Clause 32.04-9.

The Planning Authority submitted that the principal function of the Incorporated Document is to lay down design objectives and built form outcomes by way of, among other things, preferred maximum building heights and setbacks. It said:

It is acknowledged that the Incorporated Document will have little ‘work to do’ if the Council land is developed in accordance with the planning permit forming part of the Amendment. If the Council land is developed in accordance with the planning permit, the Incorporated Document’s functions will largely be confined to future requests to amend the permit or for additional permits. A proposal that departs from the Incorporated Document would require a planning scheme amendment.

If, for some reason, the Council land is not developed in accordance with the planning permit, every future ‘replacement’ permit will fall to be assessed against the Incorporated Document and, where not inconsistent, against other relevant provisions of the Planning Scheme.

The Incorporated Document will impart greater certainty and clarity as to the built form and design outcomes for the Council land.⁵

Mr Barnes gave evidence regarding the use of the Incorporated Document and Clause 52.03. He said that in general, the two most common ways to introduce site specific built form requirements into a planning scheme were by either an Incorporated Plan or a Development Plan.

He noted that the key difference between an Incorporated Plan and a Development Plan is that an Incorporated Plan can only be changed by a planning scheme amendment. Changes to a Development Plan can be approved by a responsible authority, without the need for an amendment.

He said that an Incorporated Plan provides a higher level of control, a greater level of certainty, and a formal opportunity for third parties to become involved in any process to change the plan. He concluded that:

Given the significant nature of the development proposed on the permit application site, and the abuttal and proximity of the permit application site to residential zoned land and a heritage building, in my view an Incorporated

⁵ Document 1, paras 107-109

Plan is an appropriate tool to use to set out built form requirements for the site, in preference to a development plan.⁶

Mr Barnes then gave evidence that as far as relevant to this Amendment, there are two ways to include an Incorporated Document into the planning scheme:

- list it in the schedule to Clause 52.03, or
- include an Incorporated Plan Overlay over the land with a schedule that relates specifically to the permit application site, and which requires an Incorporated Plan to be approved before development can occur.

He said that:

Either approach can generally achieve the same planning outcomes. The main differences between the approaches are:

- *Clause 52.03 can change the underlying planning permit triggers or discretion that applies to land ... [because of] the underlying zoning, overlays or 'specific provisions' of the planning scheme. An Incorporated Plan Overlay does not change the underlying discretion provided by the zone (or other controls).*
- *The use of an Incorporated Plan Overlay is arguably more transparent, as the overlay is shown on the planning scheme maps. Use of Clause 52.03 requires a user of the scheme to refer specifically to that clause to determine whether a site specific planning control applies.⁷*

Mr Barnes concluded that:

In my experience, Clause 52.03 would normally be applied where a proposed development is not permitted by the underlying zoning of a site and site specific provisions are needed to allow a development that would otherwise be prohibited or restricted. The provisions are also used to facilitate complex infrastructure projects or projects of state or other significance, which may not be consistent with standard zone provisions and which may be restricted by numerous secondary permit triggers. Generally, Clause 52.03 is intended to be used in extraordinary circumstances.

An Incorporated Plan Overlay would normally be the most appropriate way to include site specific controls and requirements into the planning scheme for a site specific development.

I note that Planning Practice Note 23 comments that (p1):

'The IPO and DPO are the preferred tools for supporting plans.'

The only issue I foresee with the use of an Incorporated Plan Overlay rather than Clause 52.03, relates to Clause 32.04-9 of the proposed Mixed Use Zone. That clause requires any buildings and works abutting land in a residential

⁶ Evidence statement, para 40

⁷ Evidence statement, para 42

zone to meet the requirements of specific provisions of Clause 55. The proposed Incorporated Document exempts the land from that requirement.

In my view, an Incorporated Plan under an overlay could be worded to exempt a development from that clause, if necessary. If that is not the case, then there would be a clear reason to use Clause 52.03 to implement the Incorporated Document, rather than an Incorporated Plan Overlay.⁸

The Planning Authority and Golden Age both submitted that an IPO could not ‘turn off’ Clause 32.04-9 as there was no provision in the ‘parent clauses’ of the IPO to facilitate the exclusion of specific provisions of the planning scheme. Both parties submitted that, as such, the IPO is an inappropriate option to consider in this circumstance and the application of Clause 52.03 was preferred.

Golden Age submitted that the use of Clause 52.03 as a mechanism for the consideration of the proposal is consistent with the purposes of the clause because:

- the site is Council owned land
- the site is a very large (approximately 7,300 square metres) and is within a Metropolitan Activity Centre
- the uses conducted from the land have the capacity to materially impact the operation of the Activity Centre
- the Structure Plan contemplates Council consolidating land, preparing specific design guidelines and on-selling underutilised sites to stimulate investment in the Activity Centre
- in the absence of site specific guidance in the Structure Plan, the Incorporated Document provides “*a helpful layer of regulation and control to achieve particular built form outcomes*”
- the particular circumstances of the site justify the exclusion of the application of clauses 55.04-1, 55.04-2, 55.04-3, 55.04-5 and 55.04-6 along the boundary with the land in the RGZ to the west (imposed by Clause 32.04-9) given that the Structure Plan and Clause 22.07 contemplate mid-rise commercial and mixed use development in the order of four storeys on adjacent land with no (or minimal) front and side setbacks
- the purposes of Clause 52.03 comprise guidelines and do not establish a *test* in the sense that the purposes must be strictly complied with before the clause can be lawfully applied (as referred to in *Boroondara Amendment C143* [2012] PPV 15)
- in any event, the matters referred to above are ‘extraordinary’ for the purposes of Clause 52.03
- the proposed approach ensures the retention of third party notice and appeal rights
- alternative mechanisms such as the use of an Incorporated Plan Overlay would exclude third party notice and appeal rights
- the proposed approach creates a high degree of certainty for the Council and the local community given that the site is a public asset.

⁸ Evidence statement paras 45-49

Mr Elliott gave evidence that the choice of using an Incorporated Document to control the use and development of land was appropriate and selected at the request of Council. He was of the view that:

The intention of the Incorporated Document is to facilitate specific built form and urban design objectives for the site which could not otherwise have been achieved through Amendment C175, which proposes broader guidelines to Box Hill MAC. Proposed Amendment C175 specifically excludes the subject site from the built form guidelines, and instead noted that the site will be subject to a separate "design brief". In this instance, the proposed Incorporated Document will act as the design brief for the site.

Whilst other planning controls could be utilised to guide future development of the site, I am satisfied that an Incorporated Document will achieve the desired outcomes in terms of built form and land use.⁹

Furthermore, Mr Elliott believed that the use of an Incorporated Document on such a large scale site in a Metropolitan Activity Centre necessitates site specific controls and is consistent with the application of Incorporated Documents in other similar sites across Melbourne.

The UCA generally supported the approach of using an Incorporated Document. It suggested several changes to the content of the document and these are discussed in further detail below.

The Wesley Uniting Church did not appear to object to the Incorporated Document as a planning tool. Its primary concerns related to the content of the Incorporated Document and these are discussed in further detail below.

(ii) Discussion

The Panel notes that there were no submissions that opposed the use of the Incorporated Document and its implementation through Clause 52.03.

It was generally agreed that an Incorporated Document is an appropriate method to introduce built form controls for the Council owned land. The only issue was whether the Incorporated Document should be introduced through Clause 52.03 or an IPO.

Mr Barnes said that from a planning perspective, his preference was to use the IPO approach for site specific built form controls. Having said that, he acknowledged that this was within the context of an IPO having the capability to exempt Clause 32.04-9 and he agreed that this was problematic.

The Panel appreciates the views of Mr Barnes, however, on balance it agrees with the Planning Authority and Golden Age that for the reasons they have outlined, the use of Clause 52.03 is the correct approach in this instance. The use of Clause 52.03 will ensure:

- that there is no uncertainty about the capacity to 'turn off' Clause 32.04-9
- third party notice and appeal rights are retained in the event that alternative development proposals are sought

⁹ Evidence statement, paras 101-102

- greater certainty to all stakeholders.

(iii) Conclusion

The Panel concludes:

- It is appropriate to use Clause 52.03 to introduce an Incorporated Document to provide for the built form controls that should apply to the site.

5.3 Are the provisions of the Incorporated Document appropriate?

(i) Evidence and submissions

This section deals with the appropriateness of the proposed provisions in the Incorporated Document. That is, it considers whether or not the requirements in the Incorporated Document should be modified.

Some submitters also made comments that the proposed development did not comply with the Incorporated Document. These matters are discussed in other sections of this Report.

Mr Elliott gave evidence that the design objectives in the Incorporated Document are consistent with the broad built form provisions at Clause 15.01-2 (Urban design principles) and Clause 22.07 (Box Hill Metropolitan Activity Centre). He noted that the design objectives are supported by a series of built form guidelines and highlighted that one of these states:

The development should not overshadow the accessible areas (ie garden beds or landscaped spaces) located within the designated area of public open space at 530 Station Street, Box Hill.

He gave evidence that this requirement does not provide appropriate guidance to determine the acceptability of shadow impacts to the park given a time of day and date of year is not specified. He noted that:

- Clause 22.07 requires new development in the 'Major Development Precinct' to avoid overshadowing to 'Key Public Open Spaces'
- the Structure Plan elaborates that shadow to 'Key Public Open Spaces' should be avoided *"between 11am and 2pm on 22 June, beyond what would result from an 11 metre building over the full extent of the site"*
- the park at 530 Station Street is not identified as a 'Key Public Open Space'
- an equinox test generally avoiding shadow to the park within the late morning and early afternoon hours would be an acceptable outcome given the site is within a Metropolitan Activity Centre.

Mr Elliott recommended that the wording of the requirement be modified to read:

The development should not cast a shadow across the park at 530 Station Street between the hours of 11.00am to 2.00pm on September 22nd. Any additional shadow cast during these hours should not unreasonably reduce the amenity of the public space.¹⁰

¹⁰ Evidence statement, para 124

In response, the Planning Authority agreed that the exhibited requirement lacked specificity and had the potential to cause confusion. It submitted that the requirement should be the shadowing test as for the Key Public Open Spaces in the Structure Plan. That is, shadowing should not impact the park at 530 Station Street *“between 11am and 2pm on 22 June, beyond what would result from an 11 metre building over the full extent of the site”*.

The UCA generally supported the content of the Incorporated Document, however, wanted some minor modifications to the design objectives and the built form guidelines to provide for greater integration between the church land and the Council owned land to the north.

Specifically, the UCA submitted that:

- the third Design Objective be modified to read (underlined words added):
 - *To ensure the scale of the development provides a built form transition between the approved built form at the core of the Box Hill MAC and the ~~land to the south of the site at 2-8 Oxford Street, Box Hill~~ residential area on the southern side of Oxford Street*
- The first dot point under the Built Form Guideline heading ‘Building form and design’ be modified to read (underlined words added):
 - *Provide a clear transition in built form from the approved development at 545 Station Street, Box Hill to the higher density development anticipated on the land owned and occupied by the church at 2-8 Oxford Street, Box Hill*
- Create a new dot point under the Built Form Guideline heading ‘Public realm, site layout and landscaping’ to state:
 - *To promote opportunity for an integrated development between 517 and 519-521 Station Street and 2-8 Oxford Street by promoting a north-south pedestrian connection between properties.*

The UCA also submitted that ‘Figure 1’ in the Incorporated Document should be amended to show the location of the future pedestrian connection.

On the other hand, the Wesley Uniting Church submitted that the land at 517 Station Street should be excluded from the Incorporated Document on the basis that:

- the Structure Plan envisages development on this site to be in the order of four storeys
- the site is excluded from Sub Precinct F2 in the proposed DDO6 in Amendment C175
- the objective of the Structure Plan to provide a transitional scale between low rise development and high density redevelopment areas is not being realised.

Mr Stephenson gave evidence that the Incorporated Document should be modified:

- to ensure that the design objectives provide further detail on how the proposed design is to respond to the significance of the Heritage Place.
- by amending Table 1 Building Heights to require the Podium to have a preferred maximum height of two storeys (instead of three storeys at the south east corner to Station Street) and a modified objective that adds the words *“... to provide a sympathetic integration with the historic Oxford Hall”*
- by amending Table 2 Building setbacks to require:

- the Station Street interface to have a 5-15 metres setback to the Podium (instead of 2.4-15 metres)
- the Southern Interface to 2-6 Oxford Street to have a 7 metre setback to the Podium (instead of 5 metres) and 12 metres to Tower A (instead of 6 metres)
- to delete the requirement under the heading 'Public Realm, Site Layout and Landscaping' that states "*Ensure site design contemplates possible future complementary development outcome on the land to the south at 2-8 Oxford Street with opportunity for a through block connection*".
- To add a new dot point under the Decision Guidelines that states:
 - *Whether the proposal adversely impacts on the church buildings at 2-8 Oxford Street.*

The response to questions from the Panel, the Planning Authority also acknowledged that:

- the preferred maximum height of two storeys for the podium interfacing with 19 Cambridge Street is supported notwithstanding that the proposed development has a height greater than the preferred maximum
- on Figure 1 Building heights, the Street wall height in the legend (B) has been inadvertently left off and should say "*2-3 storey street wall height*".

(ii) Discussion

The Panel is generally satisfied that the form and content of the Incorporated Document is appropriate subject to a few minor modifications.

The Panel considers that the shadowing requirement should be amended to relate to a specific time and day of the year. In this regard, it supports the view of Mr Elliott and agrees that the 'test' should refer to the equinox rather than the winter solstice as preferred by the Planning Authority. The Panel can see no justification for the adoption of the test referred to in the Structure Plan (the winter solstice) given that the open space at 530 Station Street is not specifically listed as a 'Key Public Open Space' in the Structure Plan.

The Panel does not support the various changes suggested by the UCA. It believes that the exhibited Design Objectives and Built Form Guidelines give sufficient comfort that the development on the Council owned land is required to provide for:

- an appropriate transition in built form
- the opportunity for a through block pedestrian connection between the properties.

The Panel also does not support the suggestions of Mr Stephenson on the basis that:

- the Incorporated Document already requires that the heritage buildings on the Church land to be appropriately considered
- the preferred maximum heights and minimum setbacks are acceptable
- it is appropriate to require a through block connection to ensure the integration of the site if ever the Church land is redeveloped
- the decision guidelines already effectively require consideration of the impact of the proposal on the Church buildings because it is a requirement in the Decision Guidelines that the responsible authority must consider whether the design objectives and built form guidelines have been met.

The Panel agrees with the Planning Authority that the Incorporated Document should be amended so that in Figure 1 Building heights, the street wall height in the legend (B) should say *“2-3 storey street wall height”*.

(iii) Conclusions

The Panel concludes:

- That the form and content of the Incorporated Document is generally acceptable, subject to two changes.
- That the shadowing test for the open space at 530 Station Street should be clarified to relate to the equinox between 11.00 am and 2.00 pm.
- That the minor error in Figure 1 Building heights should be corrected.
- That the changes to the Incorporated Document requested by the UCA, Wesley Uniting Church and Mr Stephenson are not supported.

(iv) Recommendations

The Panel recommends:

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

6 Permit issues

6.1 What are the issues?

Most submissions and evidence related to the proposed development on the Council owned land and concerned a range of matters including:

- the mix of proposed land uses
- the height of the proposed buildings
- the impact of the proposed development on land to the south
- the impact of the proposed development on land to the west
- pedestrian access to and through the site
- the external appearance of the proposed buildings
- the internal design of the proposed development
- traffic impacts
- car parking.

This chapter deals with each of these issues.

At the end of this chapter the Panel also deals with some drafting issues associated with the proposed planning permit.

In this chapter, any reference to the subject site refers to the land known as 517 and 519-521 Station Street, Box Hill.

6.2 Mix of land uses

(i) Evidence and submissions

Mr Bartley, representing Council as the land owner of the site, submitted that a key factor in selecting the proponent for the development of the site was the mix of proposed land uses. He submitted that:

The design option was chosen by Council for its inclusion of a new child care facility, healthcare facility, employment opportunities, retail convenience and a gymnasium, in line with the design brief and Council vision.¹¹

Mr Elliott gave evidence that the proposed mixed use development is consistent with the Incorporated Document's intention to deliver "net economic, environmental and social benefits to the community". He stated that:

The proposed development will deliver economic benefits through the provision of office floorspace, retail tenancies and serviced apartments which can be utilised by local businesses and provide employment opportunities within the Box Hill MAC.

The proposed mix of uses will facilitate environmentally sustainable land use patterns through the co-location of retail, community, commercial and residential uses within the same building. Additionally, the development is

¹¹ Document 23, para 7.8

within walking distance of community, cultural, commercial, and retail services within the Box Hill MAC. The subject site is afforded excellent access train, tram and bus services provided from the Box Hill Interchange to reduce reliance on private vehicles in lieu of alternative active and public transport options.

The proposed medical centre and child care centre will benefit the Box Hill MAC and surrounding area's resident population through the provision of valuable community services.¹²

Some submitters objected to the range of proposed uses. Mr and Mrs Wilkinson were concerned that the serviced apartments in Tower C would be turned into sub-standard permanent apartments. They also queried the need for a gymnasium.

Mr Ng submitted that he was disappointed that the existing child care facility on Station Street was being removed as they moved to the area to be close to this facility.

Vicinity Centres PM Pty Ltd (Vicinity) made submissions regarding the land use mix. Vicinity operates the Box Hill Central Shopping Centre, which is a leading regional shopping centre in the eastern suburbs of Melbourne. The centre includes major anchor retailers such as Coles Supermarkets, Woolworths, Big W, Harris Scarfe as well as a variety of service providers and smaller retailers.

Vicinity noted that the proposed permit allows for *“Development of land for the construction of three (3) buildings (two at 18 storey and one at six storey) plus rooftop plant and three (3) levels of basement car parking, comprising retail premises ...”*

Vicinity submitted that under Clause 74 of the Planning Scheme (Land Use Terms), ‘Retail premises’ is defined to include the use ‘Shop’. The definition of Shop includes both ‘Supermarket’ and ‘Department Store’. It submitted that the proposed planning permit therefore allows for these uses.

Vicinity’s main concern was that the proposed planning permit as exhibited allows for the broad land use of ‘Retail premises’ without any restriction and therefore a ‘Supermarket’ or ‘Department store’ could be permitted under the permit without any further permission required.

Vicinity submitted that the proposed development has not been scrutinised with respect to whether it is an appropriate location for a large format supermarket or department store given its proximity to Box Hill Central. It said while the development would be suitable for smaller convenience style supermarkets and speciality grocers, the facilities such as the loading dock and provision of car parking spaces would require further scrutiny if they are to accommodate the needs of large scale retail.

Vicinity submitted that the planning permit should:

- limit the floor space for ‘Supermarket’ on the lower ground and ground floors of the development to 1,200 square metres
- exclude a ‘Department store’ of any size.

¹² Evidence statement, paras 128-130

The Planning Authority and the Proponent submitted that it was not the intention to use the site for a large scale supermarket or a department store and were happy to include conditions on the permit limiting these uses. The two parties worked with Vicinity during the Hearing to arrive at a mutually agreed permit condition.

(ii) Discussion

The Panel agrees that the proposed land use mix is appropriate for the site and is consistent with the expectations of the Structure Plan. The range of uses will add interest and vitality to the area and will service the future residents of the site as well as people coming from further afield.

The Panel notes that the Planning Authority included a condition in the exhibited draft permit that requires an agreement with the Proponent pursuant to section 173 of the *Planning and Environment Act 1987* to ensure the use of the serviced apartments is maintained. The Panel supports this approach.

The Panel also notes that although the existing child care facility is to be removed, the proposed development includes a new child care centre that will expand capacity from approximately 35 child care places to approximately 100 places.

The Panel accepts the concerns expressed by Vicinity and commends the parties for arriving at a sensible resolution regarding this matter. The Panel endorses the wording of the planning permit condition negotiated between the parties.

The result of this proposed amendment is that supermarkets over 1,200 square metres floor space or a department store of any size will require a separate planning permit (or planning permit amendment), and therefore will be subject to further scrutiny prior to being permitted (if at all) within the development.

(iii) Conclusions

The Panel concludes:

- That the proposed mix of land uses is appropriate.
- That the use of the site for a supermarket over 1,200 square metres in area or a department store of any size should be subject to a separate approvals process.

The agreed permit at Appendix D shows these changes.

6.3 Overall building height

(i) Evidence and submissions

The Planning Authority submitted that both State and Local planning policy has continued to direct investment and development to Box Hill due to its designation as a MAC and its location adjacent to major road corridors and public transport routes. Clause 22.07 of the Planning Scheme (Box Hill Metropolitan Activity Centre) notes “*Box Hill has the scope to accommodate substantial growth, as well as the potential for improved amenity to support this growth*”.

The majority of the site is located in the Major Development Precinct (Built Form Precinct F) of the Activity Centre under Clause 22.07 and the Structure Plan. The built form anticipated in Precinct F is described as:

Taller building permitted, enabling increased density. Heights must not cause overshadowing of key Open Spaces, Residential Precincts A or B or residential areas beyond the study area. Transitional heights to be provided at edges of the precinct to respect the scale of neighbouring precincts.

The Planning Authority submitted that:

- Precinct F does not specify a height limit for the precinct
- the small park on the south east corner of Station Street and Harrow Street is not nominated as a Key Open Space
- the Structure plan nominates the site as a 'landmark' site and 'gateway' to Box Hill and has the potential for a "*prominent new building*".

The Planning Authority noted that the western part of the Cambridge Street frontage and 517 Station Street is included in the Mid-rise Commercial and Mixed Use Precinct (Built Form Precinct D), which states that:

4 storey preferred height supporting increased density, with no (or minimal) front and side setbacks to create active frontages onto streets.

The Planning Authority submitted that the subject site is included in sub-precinct F2 within the draft Box Hill Metropolitan Activity Centre Built Form Guidelines. Amendment C175 proposes to introduce the Guidelines into the planning scheme. The Guidelines state that sub-precinct F2 has a preferred maximum building height of 15 storeys but that additional building height is possible on sites which are greater than 1,500 square metres, subject to a positive contribution to its local context. The Planning Authority submitted that the site is over 7,000 square metres and the proposed development is providing a larger capacity child care centre than the existing facility and well as retail and office space which will provide employment and services to the local community.

The Guidelines also specifically refer to the proposed development site as subject to a separate design brief for built form and urban design. The Planning Authority submitted that the Incorporated Document reflects the type of design brief that is envisaged in the Guidelines.

The Planning Authority submitted that the heights of the proposed buildings are consistent with the Incorporated Document and that the built form is considered to be an appropriate response to the context of the site. It submitted that:

- the two taller tower forms are orientated to the main road frontage of Station Street and the Commercial 1 Zone interface along Cambridge Street
- the built form tapers down in height to the south and the west to provide for transition in height to the neighbouring Residential Growth Zone.
- the siting of the towers along the northern edge of the site combined with setbacks from the south of the site, and breaks between the built form, is considered to provide for an acceptable outcome in terms of overshadowing and overlooking to nearby residential properties

- the height of the podium of the building abutting the church to the south matches the height of the ridge of the church and was considered to be an appropriate response by Council's Heritage Advisor in the context of a MAC.
- the six storey height of the building on the western boundary fronting Cambridge Street provides an appropriate transition to the existing 3 storey development to the west.
- setbacks to the six storey component from the western boundary are between 4.5 and 6 metres and those setbacks are consistent with generally accepted equitable development principles.

Mr Elliott viewed the 18 storey proposal as an appropriate transition that was consistent with existing planning policy. Mr Elliott said that the height was acceptable given:

- the large size of the site
- there is support for development on the southwest corner of Station and Cambridge streets as a 'gateway' to the activity centre
- the larger buildings to the north of the site that have been recently approved or constructed
- offsite impacts have been appropriately addressed
- the site is within a MAC.

The proposed building heights were supported by a variety of other expert witnesses, including:

- Mr Coleman, a heritage architect
- Mr Pearce, an architect and Director at Fender Katsalidis Architects
- Mr Wheeler, an architect at MGS Architects.

In his evidence statement, Mr Wheeler noted a number of concerns regarding the height of Building C, abutting the residential land to the west. However, after viewing the images of the proposed buildings along the western boundary prepared by Mr Goss of Orbit Visualisation, he said that he was satisfied with the transition in building heights. As a result, he retracted his initial view that Building C should be modified.

Ms Bell of David Lock Associates gave urban design evidence on behalf of the Proponent. She generally supported the proposed building heights but in her opinion Tower A should be increased in height by two storeys. Furthermore, she recommended the removal of the chamfer of the façade along Station Street.

Ms Bell was of the view that these changes would help to break up the bulk of the building and provide greater differentiation between Tower A and Tower B. She said a more vertical projection at the intersection of Station Street and Cambridge Street was more appropriate.

Ms Bell said she had not completed any visual assessment of her modified proposal or prepared any shadow diagrams to illustrate the offsite amenity impacts resulting from a taller building on the site. Notwithstanding, she thought that the additional height would not have a material impact on the overshadowing of the park at 530 Station Street.

In response to questions from the Panel, Ms Bell said that without these design changes the proposed development would be unacceptable from an urban design perspective.

Golden Age submitted that it did not support the increase in building height to Tower A or the elimination of the chamfer along the Station Street frontage.

The Planning Authority also submitted that it did not support the changes recommended by Ms Bell.

None of the other expert witnesses agreed with Ms Bell's recommendations.

Many submitters were concerned about the height of the proposed development. Ms Chen said that *"buildings beyond 6-8 storeys will appear ostentatious and inappropriate"*, while Mr La said that the height of the buildings *"contravenes the Australian Living Standard"* and that the height is inappropriate for neighbouring properties.

Many submitters said that the proposed towers are higher than what is proposed in the draft Box Hill Metropolitan Activity Centre Built Form Guidelines.

Mrs Wilkinson queried why it was appropriate for towers to encroach on quiet residential areas when there were under-developed blocks in the commercial area of central Box Hill. She said that the proposed buildings were *"simply inappropriate to plonk into the middle of a quiet residential neighbourhood"*.

Mr Wilkinson submitted *"perhaps if Council had not been so 'gung ho' for development at all costs, a better deal of mainly 8 to 10 storeys may have been negotiated"*.

A petition from the Wesley Uniting Church community expressed blanket objection to *"the height, location and built form"* of the proposed development. Mr Rigoni represented the Chair of the Wesley Uniting Church and submitted that the proposed building heights:

- were inconsistent with the Structure Plan
- were inconsistent with the Amendment C175
- were inconsistent with the Incorporated Document
- will overwhelm the Church land and the historic Church building
- does not represent an appropriate transition in building height to the Church land
- will cause shadowing of the Church land.

Mr Stephenson gave evidence on behalf of the Wesley Uniting Church that the height of the podium at the southern end of Tower A along the Station Street frontage should be reduced to two storeys in height in order to reduce the impact of the proposal on the heritage building to the south.

On the other hand, the UCA did not object to the proposed heights of the buildings.

(ii) Discussion

The Panel agrees with the Planning Authority that the height of the proposed development is consistent with:

- State and local planning policy as expressed in the Whitehorse Planning Scheme
- the Structure Plan
- proposed Amendment C175 (in so far as it is relevant)
- the proposed Incorporated Document.

The proposed development must be seen within the context of the existing planning policies for the site, which clearly indicate an intensive and high density development is not only

appropriate, but is desirable. That said, the development of the site should also consider the impact on adjoining properties. These considerations, however, need to be within the context of the overall planning policy for the Activity Centre, including the future preferred character of the area.

The Panel is satisfied that the building height of the proposed development has responded to the site context and the surrounding area. The proposal is a sophisticated design that cleverly addresses a variety of constraints and opportunities and appropriately balances the policy objectives for an intensive landmark development against the necessary amenity considerations for the surrounding properties.

The Panel considers that a height of 18 storeys is appropriate in this location. That is not to say that any building at 18 storeys would be acceptable. The proposed buildings are of a high quality design and demonstrate careful integration with the surrounding area. It is for this reason that the proposed height is acceptable.

The Panel does not agree with Ms Bell's recommendations to increase the height of Tower A or to remove the chamfer in the Station Street façade. No detailed assessment was provided by Ms Bell to justify her conclusion and the Panel is not convinced that an increase in the height of the building will decrease the building bulk or improve the presentation of the building. The Panel notes that the Proponent, the Planning Authority and the other expert witnesses did not support her views. While such variation might reduce the relative bulk of the building composition from a distance, up close it can only have the effect of increasing visual bulk.

The Panel agrees with the Planning Authority that the proposal provides an acceptable transition in building height with the surrounding areas. The variable heights, chamfering and orientation of the buildings provide appropriate transition to the properties to the south and west.

The Panel acknowledges that while there will be some shadowing of the existing park in Station Street, this is within acceptable limits. The park is also not specifically identified as a Key Public Open Space in the Structure Plan.

(iii) Conclusions

The Panel concludes:

- That the proposed building heights are acceptable.

6.4 Southern interface

(i) The issues

In addition to the matters previously discussed in this Report, the Wesley Uniting Church raised a number of matters that the Panel has grouped under the heading 'southern interface'. These issues include:

- the impact of the proposed development on the heritage significance of the Church land
- the impact of the proposed development on the existing vegetation along the northern boundary of the Church land

- concerns regarding noise from the Church impacting on future residents and noise from the proposed development affecting the operations of the Church
- concerns regarding overshadowing from the proposed development.

Each of these issues is discussed below.

The Panel notes that the owner of the church land, UCA, did not object to the Amendment or planning permit application and did not raise any of these issues in its submission other than in response to questions from the Panel.

(ii) Evidence and submissions

Heritage

The Planning Authority submitted that the planning scheme provides guidance over new developments immediately adjacent to properties included in the Heritage Overlay. It noted that Clause 15.03-1 (Heritage conservation) includes the objective “*to ensure the conservation of places of heritage significance*” and strategies include:

- *Encourage appropriate development that respects places with identified heritage values and creates a worthy legacy for future generations.*
- *Retain those elements that contribute to the importance of the Heritage Place.*
- *Ensure an appropriate setting and context for heritage places is maintained or enhanced.*

Clause 22.01 (Heritage Buildings and Precincts) includes an objective:

To ensure that new land use, development, buildings and works in and around properties and precincts subject to a Heritage Overlay is sympathetic to their significance, character, scale, design, setbacks, form and colour scheme.

The Planning Authority submitted that:

- land referred to as ‘*Former Wesleyan Methodist Church 515 Station Street*’ is included in a Heritage Overlay (HO77)
- HO77 covers the early Gothic church building on the site which was constructed in 1886 and is known today as Oxford Hall
- the other buildings on the Church land are not covered by a Heritage Overlay
- the Wesley Uniting Church do not use Oxford Hall for worship
- the main worship space for the Church is in an adjoining building to the west known as the Sanctuary, which was constructed around 1926
- the Sanctuary includes an old pipe organ known as the Willis Pipe Organ which was relocated to this building in 1930
- the Willis Pipe Organ is included in the Victorian Heritage Register (VHR number H2156)
- the remainder of the Church site comprises a range of meeting rooms and halls dating from the 1940s to the late 1960s as well as a manse at the western end of the complex
- no other part of the Church land is included on the Victorian Heritage Register
- the Council owned land to the north of HO77 does not have any heritage controls.

Mr Coleman, a heritage architect, gave evidence that the proposed development includes a three storey podium form along the Station Street elevation that roughly equates in height to the ridge of the 1926 church. It was his view that this is a reasonable and respectful response to the proximity of the church. He gave evidence that:

- the south end of the Station Street elevation of the podium tapers away from the Station Street boundary opening up views to the church when approaching from the north
- the main east wall of the church is setback approximately 5.0 metres from Station Street, whereas the southeast corner of the podium will be setback approximately 12.0 metres
- a line of sight taken along the splayed wall of the podium will reveal most of the north elevation of the church
- the proximity of the existing child care centre at 519 Station Street obscures the existing view of the church, so, in this respect, the proposal improves the visibility of the heritage building
- the south end of the podium is setback approximately 5 metres from the boundary to the church land and therefore approximately 10 metres from the north wall of the church and this provides a reasonable degree of separation, enhanced by the splay to the podium elevation
- the pedestrianised nature of this area should allow for additional opportunity for public views to the church building
- despite the scale of the proposed development the design will retain an appropriate level of visibility to the church and reinstate the 'free-standing' character of the church
- the upper floors of the east elevation of the eastern residential tower is setback approximately 21.6 metres from the Station Street frontage, or about 16.0 metres from the church setback
- the eastern tower is therefore almost in line with the rear (west) wall of Oxford Hall which, combined with the setback of approximately 6.0 metres from the south boundary, provides a good degree of visual separation between the church and the proposed structure.

On the issue of the Willis Pipe Organ, Mr Coleman considered that the organ ought to be protected, given its heritage significance. He stated that the organ is *"of some age and comprises numerous components [which] could be susceptible to damage through movement or vibration and/or falling plaster or other material from above, dislodged by the vibration"*.

The organ is listed on the VHR and is described in the Statement of Significance:

"...as an outstanding and intact example of English organ building of the nineteenth century. It is a fine example of the work of Henry 'Father' Willis, one of Europe's leading nineteenth century organ builders, and is the only example of a nineteenth Willis organ in Victoria. The instrument is notable for its superlative workmanship and materials, together with its excellent sound. It demonstrates the wealth and domestic aspirations of Henry, nicknamed 'Money', Miller, a notable resident of Boom-period Melbourne."

Mr Coleman concluded:

Ultimately, the issue to be considered is whether the proposal will have an adverse impact on the significance of the Former Wesleyan Methodist Church. The 1886 building will remain as a free-standing structure in the streetscape with limited modification to the views of the building and will be physically unaffected by the proposal. Its setting in the Station Street streetscape will be significantly altered however this will not affect the aesthetic or historical values of the building. The building will still demonstrate the style and scale of religious architecture of the Methodist Church in Box Hill in the late 1800s and as a such, at a local level, its significance will not, in my view be diminished. Its architectural features will remain visible as will its historical presence.

The principal concerns identified with the proposal relate to the potential for damage to the fabric of the Former Wesleyan Methodist Church and the Willis Organ contained therein. Accordingly, I strongly recommend that appropriate provisions [and] requirements are put in place before construction commences to substantiate and otherwise demonstrate the measures that are to be put in place to prevent potential damage to the Heritage Place. This should include, but not be limited to, a thorough geotechnical and structural assessment of the state the church fabric and its foundations and a description of the excavation and construction process and techniques to be employed. These should be referred to an independent structural and/or geotechnical engineer with expertise in heritage structures for review.¹³

The Wesley Uniting Church submitted that:

- the proposed height, siting and built form of the proposed development will overwhelm the historic Church and Church land
- the proposed works may compromise the structural integrity of the historic Oxford Hall building
- the potential ground movement from construction works associated with the proposed development may have an impact on the delicate mechanisms of the Willis Pipe Organ.

It relied on the evidence of Mr Stephenson, a heritage architect, who recommended that the planning permit should require modified plans to:

- reduce the height of the podium to two storeys at the southern end of the Station Street façade and return along the south boundary where the new development interacts with the Heritage Place
- remove the sheer wall effect of the proposed southern elevation of Tower A
- increase the setback of the Station Street interface 5-15 metres to the podium
- increase the setback of the southern interface to 2-6 Oxford Street 7 metres to the podium
- increase the setback of the southern interface to 2-6 Oxford Street 12 metres to Tower A

¹³ Evidence statement, paras 55-56

- insert a deep planting landscape buffer between the southern interface and 2-6 Oxford Street
- incorporate a sympathetic design and palette of materials to the south-eastern end of the podium to integrate the proposal with the Heritage Place.

Mr Stephenson also recommended that a condition should require:

All excavation and dewatering techniques to be undertaken within proximity of Oxford Hall and the Main Sanctuary should be completed in a manner that ensures the heritage assets, in particular the Willis Pipe Organ (located within the Main Sanctuary) are properly protected against damage resulting from the works. Where damage does occur, repairs need to be undertaken at the expense of others and in accordance with Heritage Victoria's permit requirements and good heritage practice.¹⁴

In response, the Proponent submitted that:

- it endorsed the Council's submissions and the expert evidence of Mr Coleman in relation to heritage considerations relating to the Church
- the Council's heritage advisor does not object to the proposal
- the proposal will not adversely impact any heritage asset.

It submitted that:

In relation to the protection of the church organ, which is listed on the Victorian Heritage register, Golden Age is required to comply with the Building Act 1993 with respect to protection work and associated notice requirements. Mr Coleman was unable to articulate any basis on which further protection measures are required in respect of the heritage listed organ except that such additional works may afford the church occupiers an additional level of comfort. Golden Age submits that there ought to be a substantive basis to compel additional works.

It is noted that the Council's heritage advisor recommended a permit condition to require a Condition Survey and geotechnical analysis of the foundations and footings of the Church to ensure its structural integrity is not adversely impacted.¹⁵

Vegetation

Wesley Uniting Church submitted that no consideration has been given to the existing trees on the church land adjoining the existing child care centre at 517 Station Street. It said these trees provide a landscaped interface and buffer between the two existing land uses and will be directly affected by the excavation proposed along this shared boundary. It relied on the evidence of Mr Lewis, an arborist, who gave evidence that:

- 5 large trees at the eastern end of the northern boundary are in good health and provide significant amenity to the Oxford Street site

¹⁴ Evidence statement, para 70

¹⁵ Document 18, para 72-73

- the remaining three trees along the northern boundary are environmental weeds and have a low retention value
- none of the trees are shown on the proposed development plans
- the trees are not protected by any planning overlays or local laws
- observations and measurements taken of the set back of the subject trees from the common boundary indicate that roots significant to tree health and anchorage will most probably be within the grounds of the property to the north
- the health of the five trees at the eastern end would be severely compromised by the proposed development and it is likely that uprooting will occur
- an exploratory excavation should be used to determine the extent of the trees root mass within the subject site and the setback required to maintain tree health and anchorage
- before any permit is issued the continued health and stability of the subject trees must be provided for by arboricultural advice that informs the design
- an arborist report must demonstrate, to the satisfaction of the responsible authority, that the trees will remain viable
- the report must be produced prior to any design changes being made or a permit issued
- a Tree Management & Tree Protection Plan in accordance with AS4970 2009 and to Councils satisfaction, should form part of the permit conditions.

In response to questions from Mr Connor, representing the Proponent, Mr Lewis agreed that if the trees were not able to be retained then it would be acceptable to replace the trees, however, he noted that it would take many years for the trees to provide the same level of amenity as the existing trees.

In response to questions from the Panel, the UCA responded that although it was desirable to retain the trees, it was not seeking a mandatory requirement to do so.

Noise

The Wesley Uniting Church submitted that:

- noise from the Church organ may cause nuisance to the future residents
- the increased pedestrian activity within proximity to the Church and noise from the proposed child care centre will compromise *“the peace and tranquillity the parishioners require”*.

It relied on the expertise of Mr Liu, an acoustic engineer, who gave evidence that, with respect to the noise from the pipe organ:

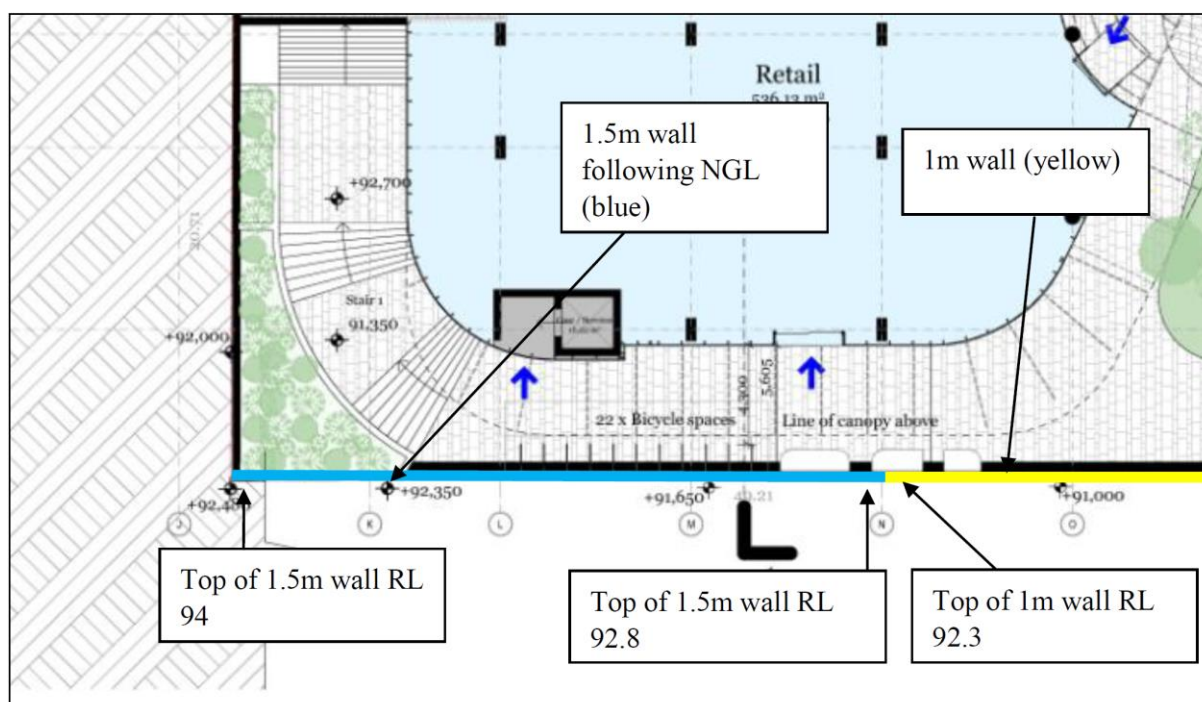
- based on testing, the organ noise will slightly exceed SEPP N-2 limits by up to 3 dB in the frequency bands 125 Hz and 250 Hz and this would be considered a small exceedance but may give rise to complaints by future residents
- it is the responsibility of the church to comply with SEPP N-2, however, in planning application matters where a new sensitive use is introduced such as a new apartment building, it is appropriate that consideration be given to the design of the new development and whether it responds to those noise sources in a manner which limits the amenity impacts of the noise sources

- the bedroom glazing for the southern end apartments of building A (levels 3-6) should therefore “be either 6.38 millimetre laminated glass or if IGU double glazing is required for thermal performance, that the 6/12/6 or 6/12/6.38 combinations not be used but instead use either a 6/12/10 or 6/12/10.38 combination to meet the 23 dB transmission loss requirement at 250 Hz”.¹⁶

Mr Liu also gave evidence that loud voices or noisy trolley movements will ‘carry’ across to the church and these noises may be heard from time to time inside the Sanctuary. He noted that the area immediately north of the church is also proposed to be used for bicycle parking and possible outdoor dining. He recommended:

... a 1.5 metres high wall along the south boundary (church side) following the NGL to the extent shown in Figure 7 below to provide greater protection against such noises. A 1.5 metre high wall will be approximately RL 94 at the west end and approximately RL 92.8 at the east extent. A 1 metre high wall to the east will be acceptable as shown in Figure 7 (approx. RL 92.3 at west end and RL 91.5 at the east end). The wall should be of a solid construction, with mass 10-12 kg/sqm, with no gaps or cracks. Suitable materials include 6 millimetre glass, 15 millimetre perspex, 20 millimetre timber or 6 millimetre cement sheet.¹⁷

Figure 6: ‘Figure 7’ from Mr Liu’s evidence statement



With respect to the child care centre, Mr Liu gave evidence that noise from the level 2 play area will be less than the current levels produced by the existing child care (61 dB(A) L10) assuming that 1.2 metres high solid balustrading is provided. He concluded that:

¹⁶ Evidence statement, page 11

¹⁷ Evidence statement, page 15

I do not foreshadow the proposed child care causing noise issues to the operations of the church, provided that the balustrading around the play area is a solid panel (for example glass with no gaps) and at least 1.2 metre high.¹⁸

Shadowing

Wesley Uniting Church submitted that the proposed development would cause unacceptable shadowing of the church and the church land. It was particularly concerned that:

- the north facing leadlight window will be in shadow for a large part of the year
- the existing outdoor space and trees will be compromised by additional shadow.

The Planning Authority submitted that there will be some shadow impact to the church buildings to the south of the subject site, however, the shadows will be fast moving and at no time during the day will the church buildings be completely under shadow. Moreover, it submitted that the church is in an area designated for substantial change and it is unreasonable to expect that the existing amenity will not vary over time.

Ms Bell gave evidence that shadow diagrams show that the church will receive five hours of sunlight to private open space in accordance with B21 of ResCode. She considered that the proposal's overshadowing outcome was acceptable.

Mr Elliott also completed an assessment of the shadows cast by the proposed development on surrounding properties and also concluded that the impacts were acceptable.

(iii) Discussion

Heritage

The Panel has carefully considered all of the views regarding the impact of the proposed development on the heritage significance of Oxford Hall and the Willis Pipe Organ. It supports the evidence presented by Mr Coleman and is satisfied that the design of the proposal respects the heritage values of the church land and results in an acceptable outcome.

The Panel believes that the proposed setbacks and heights are appropriate to ensure that the church is acknowledged and celebrated within the streetscape. As outlined by Mr Coleman, the proposed design includes a range of features that enhances the presentation of the Tower A to the heritage building to the south. The Proponent has prepared a thoughtful and appropriate design response that should be acknowledged as an excellent result.

It is without question that the proposed development will be more prominent than Oxford Hall and this is not an unreasonable outcome within the context of a Metropolitan Activity Centre. The design of the proposed building has, however, provided an appropriate transition to the church buildings and this is what is most important.

The Panel also agrees with Mr Coleman that the greatest threat to the heritage values of the church property is during the construction of the proposed development, especially the

¹⁸ Evidence statement, page 16

deep excavations that will be required close to the common boundary with the church. For this reason, the Panel accepts his recommendations regarding a detailed geotechnical and structural assessment on Oxford Hall and the Sanctuary building to ensure that the heritage values of these places are not compromised.

Although, as the Proponent pointed out, there may be other requirements under the *Building Act 1993* that are relevant, the Panel considers it prudent to have this issue clearly flagged in the planning permit to alert all stakeholders to the significance of this issue.

Vegetation

The Panel was surprised that the existing vegetation on the boundary with the church was not identified on the development plans and was not considered as part of the proposal. This appears to have been an oversight on behalf of the Proponent and the Planning Authority.

The Panel agrees with Mr Lewis that a structural root assessment of the five trees that he identified should be completed in order to determine whether the proposal will impact the useful life expectancy of the trees.

If the useful life expectancy of the trees is likely to be materially impacted, techniques for avoiding the roots should be explored. If avoiding the roots is not reasonably practicable then mature screen tree planting should be provided along the boundary of the church land in consultation with the owner.

Noise

The Panel supports the recommendations of Mr Liu with respect to:

- the need for special glazing on selected windows of the proposed development to ensure that these residential units are not affected by noise from the Willis Pipe Organ
- a requirement for a wall along the northern boundary of the Church property to attenuate noise from the proposed development
- a requirement for solid balustrading at the open play area of the proposed child care centre to attenuate noise from this facility.

The Panel notes that the Proponent and the Planning Authority agreed to these requirements without objection.

Shadowing

The Panel accepts that the extent of shadowing over the church land and buildings is acceptable within the context of the location of the site. It acknowledges that there will be additional shadows that will impact on the church, however, this is not unreasonable and should be expected in an area identified for significant change.

The Panel does not see any reason to amend the design or siting of the proposed buildings to address shadowing of the church land.

(iv) Conclusions

The Panel concludes:

- That the siting and design of the proposed buildings respects the heritage significance of the adjoining Church land to the south.
- That the construction of the proposed development has potential to impact on the structural integrity of Oxford Hall and the Willis Pipe Organ and this should be assessed and monitored to ensure that the heritage assets on the Church land are appropriately protected.
- That a tree Protection and Management Plan for the five trees identified by Mr Lewis along the northern boundary of the Church should be completed to assess the impact of the proposed development on these trees and consider techniques for avoiding the roots or, if this is not reasonably practicable, then replacement of these trees with mature screen planting.
- That additional noise attenuation measures are appropriate generally in accordance with the recommendations of Mr Liu.
- That the impacts of shadowing from the proposed development on the Church land and buildings is acceptable.

Appendix D shows these changes.

6.5 Western interface

(i) The issues

The height of the proposed development along the western interface has already been discussed in this report. This section deals with other amenity considerations along this boundary, particularly overlooking.

(ii) Evidence and submissions

The western part of the proposed development includes a six storey building designated as serviced apartments. This building is adjacent to an existing 3 storey multi-unit development. The proposed plans show a 4.5 metres wide landscaped buffer along the entire western boundary of the development site. This strip is annotated on the plans as having 'deep soil' and is not affected by the basement levels below.

The Planning Authority noted that the western part of the Cambridge Street frontage and the land to the west of the proposed development is included in the Mid-rise Commercial and Mixed Use Precinct (Built Form Precinct D) in the Structure Plan, which states that:

4 storey preferred height supporting increased density, with no (or minimal) front and side setbacks to create active frontages onto streets.

Mr Elliott gave evidence that generally, no habitable room windows or areas of secluded private open space are located within 9 metres of the proposed development. He noted that draft planning permit condition 1(m) requires the *"Provision of overlooking screens up to 1.7 metres in height above the relevant finished floor level to the western elevation of the serviced apartments"* and considered this will appropriately minimise overlooking opportunities to 19 Cambridge Street.

He also noted that the Incorporated Document exempts the proposed development from assessment against the provisions of Clause 55.04-5, which relate to overshadowing.

After reviewing the images of the serviced apartments produced by Orbit Visualisation, Mr Wheeler gave evidence that the western interface issues have been adequately addressed except for overlooking. To address this issue, he recommended screening of the windows to 1.7 metres above the finished floor level at the upper levels where the distance to the neighbouring property's windows is less than 9 metres. Alternatively, he recommended that the proposed buildings could be pushed back to ensure that there is a 9 metre separation and therefore no screening would be required.

Mr Pearce gave evidence that it would be preferable to have any screening of the windows along the western boundary integrated into the design of the building.

The Planning Authority and the Proponent accepted that screening of some windows in the western elevation was appropriate.

(iii) Discussion

The Panel has assessed the treatment of the western interface within the context of existing planning policy for the Activity Centre. State planning policy and the Structure Plan in particular envisage more intensive development in this area and therefore amenity issues need to be carefully balanced to ensure that the broader policy objectives are met.

The Panel has, however, also considered what is a fair and reasonable outcome for the existing residents and has concluded that the design and siting of the proposed development along the western boundary of the site is acceptable. The proposed landscape strip along the western boundary and the increasing setbacks of the various serviced apartment levels will help to ensure a reasonable separation between the buildings on the adjoining property.

The issue of overlooking can be readily addressed through screening of the relevant windows to ensure appropriate privacy measures are achieved. The Panel notes that the wording of Condition 1(m) would appear to require all windows in the western elevation of the serviced apartments to have screening. This is not necessary, as only some of the windows do not have a separation of 9 metres with the adjoining private open space or habitable room windows. The wording of this condition should be amended to reflect the need for screening to the relevant windows in the serviced apartments.

The Panel agrees with Mr Pearce that it would be preferable to have this screening incorporated into the overall design of the western façade rather than appear as an 'add on'. While this is preferable, it is not mandatory. The Panel encourages the Proponent to consider innovative methods of screening to meet the requirement.

(iv) Conclusions

The Panel concludes:

- That the proposal generally protects the reasonable amenity of the dwellings to the west of the site.

- Provision of effective screening to some windows of the serviced apartments at the western elevation is required to prevent overlooking of adjoining private open space and habitable room windows.

Appendix D shows these changes.

6.6 Pedestrian access

(i) Evidence and submissions

The proposal includes a 7 metre wide pedestrian link between Towers A and B and a further link along the southern setback of Tower A connecting Station Street and Cambridge Street. A pedestrian crossing over Cambridge Street at the northern end of the pedestrian link connects to an existing pedestrian link between Cambridge Street and Carrington Road.

Mr Wheeler gave evidence that the pedestrian link between Towers A and B should be increased to 10 metres in width *“to offer an increased opportunity for this laneway to support ‘hawker’ trade”*.

The Planning Authority and Golden Age both submitted that a 7 metre wide lane was acceptable to provide for outdoor café seating and comfortable pedestrian passage while maintaining a lively and vibrant atmosphere.

Various parties discussed a variety of examples of central Melbourne lane widths, although no specific measurements or analysis were provided.

Mr Wheeler also gave evidence that the lower level retail space has a ‘dead end’ aisle to the north. He said that this was undesirable and should be rectified by a pedestrian connection between Cambridge Street and the lower ground floor, possibly in the form of escalators.

The Planning Authority noted that this was a condition on the draft planning permit.

The Proponent said that escalators were unnecessary as there is already a high degree of pedestrian connectivity through the site, but it agreed that it could consider further modifications to the internal design to further enhance pedestrian permeability.

Mr Wheeler also noted that there was a lack of clarity regarding pedestrian access to the north eastern retail tenancies on the upper ground level. He said that these tenancies do not appear to connect at grade to Cambridge Street or Station Street and it was important that there are direct pedestrian connections from the street to these retail spaces.

Mr Wheeler gave evidence that although Condition 1b acknowledged this issue, it was not sufficient for access to these areas to be ‘Disability Discrimination Act (DDA) compliant’, as this could involve ramps. He noted that the plans currently show a notation that access is to be *“via internal ramp and stairs”*. He said that this important tenancy at such a *“critical corner”* should be connected to the street.

Mrs Wilkinson submitted that the existing pedestrian connection to the north of the site is difficult to follow and is unsafe. She queried how a series of back lanes could be categorised as a pedestrian link through to Carrington Road.

Mr Rigoni, on behalf of the Wesley Uniting Church submitted that a potential pedestrian link through the church land is inappropriate. He said there was no strategic or policy support

for a link and that the level differences between the sites would make any future link difficult to provide.

On the other hand, the UCA submitted that it supported a pedestrian link through to the church land and in fact expressed a desire for the link to be a permit condition requirement. It submitted there should be an annotation on the architectural plans at the upper ground level “to encourage cross boundary connection between the two sites”, with the exact location being “subject to the future consent of the responsible authority”.

The UCA submitted that:

This amended plan condition will allow the land owner of 2-8 Oxford Street to plan and design a pedestrian access point connecting to the proposed north-south laneway in the development at 517 and 519-521 Station Street, Box Hill which will provide net community benefit.¹⁹

(ii) Discussion

The Panel agrees that there are generally strong pedestrian connections through the site. These have been well thought through and should ultimately provide improved pedestrian connectivity in the area. The Panel commends the idea of connecting Station Street through the site to Cambridge Street and providing the potential for further links to the north and south of the site. In this respect, the Panel does not agree with Mrs Wilkinson. Although the current pedestrian connection from Cambridge Street to Carrington Street is not ideal, it provides good potential over time to be an important link as further development occurs.

The Panel agrees with the Planning Authority and the Proponent that a 7 metre wide lane between Towers A and B is acceptable. It was not presented with any compelling evidence to suggest that a 10 metre wide lane was necessary and is satisfied that a 7 metre wide lane can comfortably accommodate the expected functions of this space.

The Panel appreciates the issue raised by Mr Wheeler regarding the lack of pedestrian connectivity from the lower ground floor retail space to Cambridge Street. It supports the idea of improved connectivity but agrees with the Proponent that this could, perhaps, be achieved without a lift or escalators. It is prepared to leave the method of connectivity to the ingenuity of the architect rather than to mandate an approach. It is the principle that is important, not the method.

The Panel also agrees with Mr Wheeler’s concerns regarding pedestrian access to the north east tenancies on the upper ground floor. This is a critical issue. It is very important that there is clear and easy direct pedestrian access from Cambridge Street and Station Street to these tenancies. Without such access there is a risk that the development could ‘turn its back’ onto the street at ground floor level and this would not be acceptable.

This is particularly important at the corner of Cambridge Street and Station Street and the Panel agrees with Mr Wheeler that this is a ‘critical corner’. It is imperative that there is strong interaction from the street to the abutting retail space at this corner.

¹⁹ Document 46, para 38

During the Hearing, the Panel explored a number of possible design solutions to address this issue with various parties. The Panel acknowledges that there is not necessarily an 'easy' solution that it can prescribe to deal with this matter. It is reluctant to specify particular access points, floor levels or other parameters in a permit condition because it is mindful that there may need to be a degree of flexibility in the detailed design process in order to meet the Panel's preferred outcome. The Panel considers that a more 'performance based' condition is appropriate in this instance.

Finally, the Panel supports the potential for a pedestrian link to the south of the site, onto the church land. This idea is flagged in the Incorporated Document and is a forward-looking approach to the integrated design of the broader area.

The Panel agrees with the submission by UCA regarding the location of the proposed link to the south. It would seem logical for the link to be at the southern boundary of the open plaza to the west of the stairs. The Panel acknowledges that there will be level differences in the sites at this point, however, in the long term any future development of the land to the south could readily accommodate this issue.

Although the Wesley Uniting Church has concerns with such a link, the land owner (UCA) is supportive and the Panel gives this position significant weight. The question is whether or not the pedestrian link should be formalised on the permit plans.

The Panel believes that it is reasonable for the adjoining land owner to seek greater certainty about the future pedestrian connection point. This should help to ensure greater integration in the long term planning and design of the two sites. The Panel does not believe that the proposed development of the Council owned land would be disadvantaged if the planning permit flagged the long term pedestrian connection to the south. The desire for the connection is already expressed in the Incorporated Document. Moreover, there is some sense in also ensuring that the buildings and works in the location of the connection point are designed in such a way to require minimal (if any) demolition when the time comes to connect to the south. These are matters of detailed design, but the Panel considers it appropriate to identify this intent within the planning permit conditions.

(iii) Conclusions

The Panel concludes:

- That a 7 metre wide lane between Towers A and B is an acceptable outcome.
- There is a need to improve the pedestrian connectivity between the lower ground floor space and Cambridge Street, however, it is not appropriate to specify that this must be achieved through the use of escalators or a lift.
- The retail tenancies in the north east of the upper ground floor should have direct access from Cambridge Street and Station Street without the need for extensive ramps.
- That a pedestrian link to the south of the site would help to integrate the two large land parcels within the Mixed Use Zone.
- The architectural plans should acknowledge the future pedestrian connection point to the Church land to help the long term planning and design for the land to the south and the buildings and works in this location should be modified to minimise

the need for extensive demolition or reconstruction works to facilitate the future pedestrian connection.

Appendix D shows these changes.

6.7 External appearance

(i) Evidence and submissions

The Planning Authority said that there is clear policy support for a landmark building demonstrating high quality architectural design with a prominent appearance. It submitted that section 4.8 H of the Structure Plan is headed 'Encourage development to contribute to Box Hill's sense of place' and states that:

Several landmark sites and 'gateways' to Box Hill are vacant or underutilised. Redevelopment of these sites could contribute significantly to Box Hill's identity both through the visual impact of prominent new buildings, and by accommodating significant uses.²⁰

The same section of the Structure Plan includes an 'Action' to "encourage redevelopment of landmark sites including ... the south west corner [of] Station Street/ Cambridge Street".

Mr Pearce, an architect, gave evidence regarding the appearance of the proposed buildings. He thought that the proposed building works from a distance as an interesting sculptural form and the particular detailing of the facade then adds another level to this to enable the building to provide further interest when viewed on approach and from across the street.

Mr Pearce noted that the façade uses a series of horizontal bands to express the overall form and he supported this treatment. He said:

The horizontal banding can remain continuous and unaffected while allowing a variety of apartment layouts and sizes, balcony locations and solid or glazed walls behind. This allows flexibility to the planning while maintaining the strong visual aesthetic.

The banding has been manipulated with some finesse around the tower forms. To the thinner tower sides and the edges of the wider faces, the banding is thickest, creating more solidity.

In my opinion, the architects could consider increasing the thickness or height of the bands to increase their visual prominence. Centrally on the wider faces the bands are twisted to become thinner but deeper – this has the visual effect of the bands dissolving within the centre of the wider faces. Those faces almost appear slightly concave when viewed straight on. A glancing view of these faces shows the central bands as an expressed element, pushed out from the facade. A simple technique that has a complex effect on the facade and provides a finer level of detailing to be appreciated as you get closer to the building.²¹

²⁰ Structure Plan, page 51

²¹ Evidence statement, section 3.3

Mr Pearce said that the colours of the buildings are appropriate to their location and noted that:

- the white facade banding contrasts with and stands out from the darker glazed walls behind allowing the banding to express the form
- darker colours are used for recessive podium elements such as around the car entry and for plant louvres
- the white brick cladding for the podium banding is a clever use of materials and the colour ties the podium in with the banding of the tower facades above.

Mr Pearce gave evidence that:

The proposal also takes advantage of their being two towers, by the pair being not just copies of each other but having subtle variations in their finishes. This creates a dialogue between the two towers such that the sum is greater than the two parts. The eastern tower has matte finish banding the western tower gloss finish. The eastern tower has grey glass the western tower bronze tinted glass.²²

Ms Bell, an urban designer and planner, gave evidence that:

There is a clear architectural concept underpinning the proposal, consisting of a distinct 'base' and an upper tower form. The curved floorplates will give the towers a sculptural quality with their own individuality.

Within each tower, each floor up to the top of the balustrade forms the "ribs" of the building, whilst also breaking up the mass with the glass line set back into the balcony. This thread extends through both buildings.

The main distinction proposed between the two towers architectural finish is glass colour, with bronze proposed for Tower B and grey on the eastern tower (Tower A).

I consider that the materiality difference between the two towers could be further emphasised, creating a more interesting skyline.²³

Mr Wheeler, an architect, gave evidence that:

In my opinion the architectural quality of the design suffers from a level of homogeneity in its expression using a modernist architectural language that is relatively globalised.

The design presents a response that is limited in the distinction of the character of place, 'Box Hill', best illustrated by a limited palette of materials across the 2-3 buildings, lack of material and or façade articulation towards the boundaries, neighbouring context and solar orientation.²⁴

Mr Stephenson, a heritage architect, gave evidence that:

²² Evidence statement, section 3.3

²³ Evidence statement, paras 39-44

²⁴ Evidence statement, paras 157-158

*The strong horizontal lines, enhanced by the application of contrasting dark and light-coloured materials forms no relationship with the Heritage Place. The use of large areas of glazing, coloured and clear, produces a glossy rather than recessive response, which detracts from the Heritage Place. While nothing much can be done about the overall design approach, a revision of the design to the podium, especially at the southeastern end, could easily incorporate a revised design and palette of materials that better relate to the Heritage Place and soften the proposed visual impact that currently is being proposed.*²⁵

Mrs Wilkinson submitted that the proposed buildings looked like “over-sized space aged monsters” and said that there should be increased setbacks and more landscaping to improve the amenity of the area.

Mr Orange also was concerned that the existing trees on the site were not given greater priority in the design of the development, particularly the trees along the Cambridge Street frontage. He said that these trees had the potential to soften the appearance of the building and provide additional protection from the sun and wind.

(ii) Discussion

The Panel generally supports the overall design and appearance of the proposed buildings and in this respect it agrees with the evidence presented by Mr Pearce. That said, it is also apparent to the Panel that there is potential to increase the differentiation between the two towers. The differentiation between the two buildings should, however, be through the subtle use of colour shades, materials, architectural treatments, finishes and so on rather than bold contrasting statements – as discussed at the Hearing no one was saying that one tower should be red and the other blue.

The Panel notes that during the Hearing there was general acceptance from the Proponent and Planning Authority that a greater degree of differentiation was appropriate and that this could be accommodated in a planning permit condition.

(iii) Conclusions

The Panel concludes:

- That there should be greater differentiation in the external appearance of Towers A and B through the use of varied architectural treatments, colours, materials, finishes or similar.

Appendix D shows these changes.

6.8 Internal design

(i) Evidence and submissions

The Proponent submitted that the proposal delivers high quality, functional and efficient apartments and other spaces. It submitted that:

²⁵ Evidence statement, para 61

- dwellings are generally orientated to minimise views between towers and maximise privacy
- appropriate daylight access has been verified by modelling completed by a specialist consultant
- dwellings have been provided with dual aspect outlook where possible
- dwellings optimise a northern, eastern and southern outlook and single aspect south facing dwellings are limited to the south side of Tower B
- a minimum eight square metres private open space is provided for each dwelling
- all corridors have natural ventilation and daylight access
- communal open space is provided in locations that will achieve good daylight access
- the outlook from the one-bedroom dwellings in Tower A at levels 3-17 that have a single aspect, west orientation to Tower B is acceptable given a 12 metres separation between the towers.

Mr Pearce gave evidence that:

Within the apartments the spatial layouts are ... clear and logical. The internal apartment planning is functional and considered, providing good, liveable apartments. The balconies are recessed and so protected somewhat from wind. All bedrooms have windows direct to the facade. Appropriate robe space appears to have been provided. The apartments are not overly deep, allowing for good access to natural light, and appropriate room sizes have been provided.²⁶

The Planning Authority and the Proponent submitted that the Better Apartments Design Standards (BADS), released in December 2016, did not apply to the proposed development because:

- the design predates the final and gazetted versions of the BADS
- transitional provisions at Clause 32.04-6 apply as the permit application was lodged on 21 December 2016, before the date on which Amendment VC136 was gazetted (13 April 2017).

The Proponent submitted that as a result, Clause 58 is not relevant to the application and ought not be considered by the Panel in its decision making.

The Planning Authority said that, notwithstanding the fact that Clause 58 does not apply, it had completed an assessment against the requirements in the BADS and concluded that the proposed development largely complied.

Mr Elliott gave detailed evidence regarding the internal amenity of the proposal. In his opinion, the proposed development exhibits a good level of internal amenity for the future residents, consistent with the provisions of the Incorporated Document. He made a number of specific observations and recommendations, including:

- a permit condition requiring wind conditions be within the criterion for short term stationary activities for all wind directions for:
 - ground level on Station Street and Cambridge Street

²⁶ Evidence statement, section 3.1

- the podium roof level of Tower A
- a permit condition requiring additional communal space to be provided within Tower A with facilities supporting the needs of future residents such as large dining areas, meeting rooms, theatrettes or similar
- modifying permit condition 1(m) to require the four northern most east facing serviced apartments to have windows screened to 1.7 metres above the finished floor level to prevent internal views to neighbouring windows in Tower B
- a permit condition to require additional (unspecified) setbacks between the dwellings in Tower B and the serviced apartments in Tower C to improve the amenity of the dwellings on levels 2-5 in the northwest corner of Tower B
- redrafting of Condition 1(i) to provide for:
 - balconies of a minimum of eight square metres for 1 and 2 bedroom apartments
 - balconies of a minimum of 12 square metres for three bedroom apartments
- a permit condition requiring the provision of larger alcoves in Tower A to improve the amenity of the long corridors in this building.

The Proponent and the Planning Authority agreed with all of these recommendations except for the suggestion to increase the separation between the dwellings in Tower B and the serviced apartments in Tower C.

(ii) Discussion

The Panel agrees with the Planning Authority and the Proponent that the proposal provides a good level of amenity for the future residents of the site. The design of the apartments has been well considered and generally provides acceptable outcomes.

The Panel agrees with the evidence of Mr Elliott that several relatively minor modifications to the detailed design should be made to rectify some small deficiencies. The Panel supports all of Mr Elliott's recommendations except for the requirement to increase the separation between the dwellings in Tower B and the serviced apartments in Tower C. It considers that the separation between the buildings is adequate in the circumstances, particularly once the windows are screened appropriately.

The Panel agrees with the Planning Authority and the Proponent that it is inappropriate to consider the proposal against the provisions of Clause 58 (BADS) as the application was lodged before the introduction of this clause and the transitional provisions exempt the proposal.

(iii) Conclusions

The Panel concludes:

- In general, the internal design of the proposed dwellings provides a good level of amenity for the future residents.
- It is inappropriate to assess the proposal against the BADS because transitional provision apply.
- Several minor modifications the plans will improve the internal amenity of the buildings with respect to balconies, communal space, screening, internal corridor

design and the impact of wind and these can be dealt with by planning permit conditions.

Appendix D shows these changes.

6.9 Traffic

(i) Evidence and submissions

The Planning Authority submitted that the proposal supported the increased use of sustainable transport options for travel to and within the Activity Centre. It said this was consistent with the objectives of the Structure Plan and the Whitehorse Integrated Transport Strategy (2011).

The Structure Plan has a range of road traffic management strategies including:

- manage traffic and choice of travel modes
- create transit-supportive roads
- improve connectivity of streets while deterring through traffic.

An action listed under the last of these dot points above is to '*convert Cambridge Street to two-way operation*'.

Nineteen submissions raised concerns about traffic and public transport. Eleven submitters believed that the traffic in Box Hill is congested and that the proposed development will contribute to increased traffic congestion. Some submitters were concerned about how the proposed development will affect access to their place of employment and several submitters are also concerned about access for emergency vehicles.

Ms Dunstan, a traffic expert, gave evidence that:

- the development will be accessed through Cambridge Street with the majority of traffic impacts to occur to Station Street or to other roads within the local area, through Cambridge Street
- the traffic generated by the development can readily be accommodated by Cambridge Street, Station Street, Carrington Road as well as the surrounding intersections, with acceptable impacts to their respective operation
- the alteration to Cambridge Street to create a two-way arrangement along the site's frontage and restriction to left-out movements only at the intersection of Station Street and Cambridge Street is appropriate and will not compromise the safety or operation of Cambridge Street
- creation of a shared left/right-turn lane at the intersection of Carrington Road and Station Street, replacing the left-turn lane is appropriate
- the Harrow Street car park redevelopment and relocation of off-street car parking from the west side of Station Street to the east side will create the need for a signalised pedestrian crossing within this general area
- the proposed development of the Cambridge Street car park site does not necessitate the installation of the pedestrian signals on Station Road
- there is no nexus between the development of the site and the location and design of the signalised pedestrian crossing and this issue should be resolved outside of the permit application.

In its submission dated 2 June 2017, VicRoads supported the Amendment but expressed concerns with the Traffic Impact Assessment Report exhibited as supporting documentation for the Amendment and Permit and requested further information. VicRoads required four planning permit conditions to be included on the permit:

- 1 Unless otherwise agreed in writing by VicRoads, and before the development starts, the following must be submitted to and approved by the Roads Corporation (VicRoads):*
 - a) Functional layout plan (FLP) provided to the satisfaction of VicRoads and Responsible Authority and at no costs to VicRoads to show:*
 - i. Revised layout for Station Street/ Cambridge Street intersection, along with an appropriate line marking and signage plan*
 - ii. the installation of pedestrian operated signals ... on Station Street at a location determined by VicRoads and the Responsible Authority*
 - iii. the lane configuration changes along Carrington Road on approach to the Station Street intersection*
 - iv. Swept path analysis to demonstrate turning manoeuvres for loading trucks at Cambridge Street and Carrington Road intersections with Station Street.*
 - b) Traffic Signal Layout Plan.*
 - c) Functional stage Road Safety Audit.*
- 2. Subsequent to the approval of the Functional Layout Plan and prior to the commencement of any road works, the applicant must submit the detailed engineering design plans along with detailed design stage road safety audit to VicRoads for review and obtain written approval. The detailed design plans must be prepared generally in accordance with the approved functional layout plan and functional stage road safety audit;*
- 3. Prior to the commencement of the use of the development hereby approved, all road works as required by VicRoads must be completed generally in accordance with approved FLP and detailed design plans to the satisfaction of VicRoads and the Responsible Authority and at no costs to VicRoads;*
- 4. No work may be commenced in, on, under or over the road reserve without having first obtaining all necessary approval under the Road Management Act 2004, the Road Safety Act 1986, and any other relevant Act or regulations created under those Acts.*

At the Hearing, Mr Freeman, from VicRoads, submitted that following further review of the information and the evidence statement of Ms Dunstan, VicRoads was generally satisfied with the proposed development and the associated permit conditions. He submitted that:

The current proposal will lead to increased traffic entering Station Street from Carrington Road and, as a result, the management of the intersection to

support bus movements from the Transit Interchange at both its Station Street and Carrington Road egress points will become more challenging. Accordingly, VicRoads considers it appropriate that the traffic lanes in Carrington Road be reconfigured to provide for two right-turn lanes.

In relation to the consequent loss of on-street parking on Station Street, between Ellingworth Parade and Harrow Street, VicRoads is of the view that Council's proposal to construct a large car park on Harrow Street will provide an appropriate and suitably located replacement.

In relation to other matters, I note that Ms Charmaine Dunstan is generally supportive of the conditions requested by VicRoads with the exception of the timing of approval of a functional layout plan for the installation of pedestrian operated signals on Station Street.

In this regard, I agree with Ms Dunstan that there is no compelling reason for a functional layout plan to be approved prior to the commencement of the development on the site as ... the provision of the signals will not require land from the development site.

I also consider that there is no compelling reason for a functional layout plan of the lane configuration changes to the Station Street/Carrington Road intersection to be resolved prior to the commencement of development on the subject site for the same reason.²⁷

VicRoads submitted that it supported modifications to the original conditions by deleting (what were now numbered) Condition 62a ii, 62a iii and 62b and amending Condition 3 to read:

Prior to the commencement of the use of the development (or the occupation of the development), the following works shall be completed to the satisfaction of the VicRoads and the Responsible Authority and at no cost to VicRoads:

- a. Modifications to the intersection of Station Street and Cambridge Road, generally in accordance with the approved functional layout plan*
- b. Installation of pedestrian operated signals on Station Street in the general vicinity of the subject site (exact location to be determined)*
- c. Modifications to the intersection of Station Street and Carrington Road to provide for the existing left-turn lane on Carrington Road to operate as a shared left and right-turn lane, including any required alterations to traffic signals.*

The Proponent submitted that:

On the basis of Ms Dunstan's assessment, Golden Age does not generally contest the VicRoads recommended conditions, however, the nexus as between this proposal and the need for a pedestrian crossing at Station Street

²⁷ Document 47, paras 22-26

*is queried. Ms Dunstan's evidence is that the construction of the enlarged Harrow Street car park precipitates the need for pedestrian signals, rather than the proposed development. There is no need to require pedestrian signals before the development commences.*²⁸

Mr Bartley represented Council as the land owner of the site to be developed and submitted that as part of the construction of the new Harrow Street car park, Council will be funding the construction of the new pedestrian signals across Station Street. He agreed that the need for the pedestrian signals related to the new Harrow Street car park and it was not appropriate to include conditions requiring the provision of the pedestrian signals on the permit for the redevelopment of the Cambridge Street car park.

In response to questions from the Panel, VicRoads supported this approach. Mr Freeman said VicRoads was not concerned who funded the pedestrian signals (as long as it was not VicRoads) and that the signals should be in place before the new Harrow Street car park is completed.

Public Transport Victoria (PTV) submitted that the installation of the pedestrian signals on Station Street may impact the existing bus stop on Station Street and requested further consultation in the consideration of the location of the pedestrian signals.

(ii) Discussion

The Panel accepts the evidence of Ms Dunstan and agrees that the traffic generated by the proposed development will create acceptable impacts on the operation of the existing road network.

The Panel is satisfied that the various modifications to the Cambridge Street/Station Street and Carrington Road/Station Street intersections are appropriate. These minor changes are also supported by VicRoads.

The Panel agrees with the Proponent and Ms Dunstan that the future signalised pedestrian crossing of Station Street is a matter that is associated with the development of the Harrow Street car park. It was clearly put to the Panel by Ms Dunstan that if the location of the new public car park were to the west of the current Cambridge Street car park, then no pedestrian crossing of Station Street would be warranted. It is evident that the proposed development does not generate a significant need for pedestrians to cross Station Street.

On the other hand, the new Harrow Street car park will create a desire for those using the car park to cross Station Street to access the core of the Activity Centre.

The Panel accepts the assurances made at the Hearing that Council will ultimately fund and construct the future pedestrian crossing. As such, it is inappropriate to include conditions on the subject permit that requires the construction of a pedestrian crossing.

There is, however, some sense in considering the location of the proposed pedestrian crossing during the preparation of the functional layout plan dealing with other traffic matters in the permit conditions. It seems to the Panel that there are likely to be inter-

²⁸ Document 18, para 64

relationships between the siting and design of these matters and it would be good planning to ensure that they are fully integrated.

The Panel supports further consultation with PTV in the finalisation of the location of the pedestrian crossing so as to ensure that any modification to the existing bus stop in Station Street is properly considered.

(iii) Conclusions

The Panel concludes:

- That the traffic generated by the proposed development will create acceptable impacts on the operation of the existing road network.
- That there is no nexus between the proposed development and the future signalised pedestrian crossing on Station Street and it is therefore inappropriate to require the Proponent to construct the pedestrian crossing.
- Good planning should ensure that the location of the pedestrian crossing is considered during the preparation of the functional layout plan required as part of the planning permit conditions.

Appendix D shows these changes.

6.10 Car parking

(i) Evidence and submissions

The Planning Authority submitted that it is aware of increasing car parking pressures within the Activity Centre, and in anticipation of the concurrent increase in community perceptions of parking issues, prepared the Box Hill Central Activities Area Car Parking Strategy ('the Strategy') in 2014. The Strategy is a reference document in the planning scheme and underpinned the recent introduction of a Parking Overlay for the Activity Centre.

The Strategy also guides the optimisation of existing car parking and supply of new car parking and included an assessment and recommendations for Council owned car parking. The Planning Authority submitted that this led to strategic decision making by Council regarding the future use and development of some Council sites in Box Hill, including the Cambridge Street car park and the Harrow Street car park.

The Planning Authority submitted that in general term, there is clear policy to reduce reliance on car travel and it is an objective of the Structure Plan to reduce demand for car parking.

The Proponent submitted that transport policy at both State and local levels places emphasis on promoting sustainable and walkable neighbourhoods and encourages alternative travel modes as distinct from ensuring that parking demand is met by parking supply.

The proposal generates a statutory car parking requirement of 698 car spaces and provides 651 spaces within three basement levels. A permit for the reduction of 47 spaces is required.

The Proponent submitted that:

- the site is subject to a Parking Overlay (Schedule 1)

- the proposal incorporates parking for office, medical and childcare uses at the Parking Overlay rates
- residential parking is provided at the statutory rate
- the rates for residential visitors, retail, serviced apartments and gymnasium are conservative given the extent of multi-use trips to the area
- the total number of car parking spaces is supported by Council's traffic engineers
- the total long term car parking demand for staff and residents (including the serviced apartments) is 443 spaces which will be accommodated through the provision of 452 spaces in Basement Levels 2 and 3
- the short term car parking demand will vary, with a maximum demand of 194 spaces on weekday evenings and this will be accommodated through the provision of 199 spaces on Basement Level 1.

Ms Dunstan gave evidence that:

- the car parking demand generated by the proposed mixed use development will be fully accommodated on the site at all times within the 651 space three-level car park
- the car park design and access arrangements are satisfactory and in accordance with the relevant requirements of the Planning Scheme and AS2890.1-2004 subject to the following recommendations:
 - a sight distance triangle which complies with the requirements of Clause 52.06-9 should be provided on the west side of the vehicle accessway
 - convex mirrors should be provided at the top of each of the internal ramps to assist with sight distance at the top of the ramps
 - the width of curved ramp sections should be designed in accordance with Clause 2.5.2 of AS2890.1-2004 including median separator
 - details of the ticketing system and control arrangements at Basement Level 1 and suitable queuing analysis should be undertaken to ensure that queue lengths are to the satisfaction of the responsible authority
- bicycle parking and associated end of trip facilities are appropriate and in accordance with the relevant requirements of the Planning Scheme and AS2890.3-2015
- the proposed loading arrangements are acceptable for the site, subject to the following recommendations:
 - the loading bay entrance to be widened in order to accommodate the turning requirements of a 12.5 metres long 'Heavy Rigid Vehicle' such that on-street car parking does not need to be removed from the north side of Cambridge Street
 - the retail tenancies which are adjacent to the loading area or adjacent to the core/services corridor should include doors to access the corridors/loading bays
 - a service corridor which provides a link between the loading area and the retail tenancies located in the eastern half of the upper ground level should be provided (to the east of Grid Line K) which could run adjacent to the foyers along Grid Line 3
 - a service corridor which services the retail tenancy located in the southeast corner of the lower ground level

- a connection to the services corridor for the retail tenancy located in the northeast corner of the lower ground level
- the waste collection arrangements for the site are satisfactory and loading activities can be fully accommodated on-site within the loading bay area.

Ms Dunstan gave evidence that some minor redesign of the internal configuration of the car parking layout may be needed in order to address some of these recommendations. She said that in her experience she believed that any loss of car spaces as a result of this process could be regained through the redesign process and that in any event, a small loss of around 15 car spaces would not materially impact on the overall car parking provision for the development.

Forty of the submissions raised concerns about car parking. In particular, submitters objected to the removal and development of the Council owned car park on the corner of Station Street and Cambridge Street.

Many of the submissions stated that there is a “dire shortage of car parking” and that the proposed new multi-storey car park in Harrow Street will be less convenient than the current car park as it is further away from the shopping centre and transport, and will force people to cross Station Street. A number of submissions objected to the development because the car parking provision does not meet the statutory car parking requirements or is inadequate.

Several of the submissions were received from employees in the immediate vicinity (Carrington Health), who objected to the loss of car parking for staff and clients of their business.

The Council in its capacity as the land owner submitted that:

- the existing Cambridge Street car park provides 163 car spaces
- the existing Harrow Street car park provides 128 car spaces
- the proposed Harrow Street car park will provide 562 car spaces, which will provide a net increase of 271 car spaces
- no shortage of public car parking will result at any point in time due to the terms of sale of the Council owned car park in Cambridge Street
- the new car park is 70 metres east of the current Cambridge Street car park
- pedestrian access to the Box Hill commercial area will be provided as a result of a new crossing over Station Street.

Vicinity submitted that car parking at Box Hill is already under high pressure and is very limited. Vicinity was concerned that current patrons of the car park located at the Amendment site, once dislocated as a result of construction of the proposed development, will place further pressure on the car parking at Box Hill Central if a suitable alternative has not already been provided by way of the new multi storey car park on Harrow Street. It submitted that in order to provide for fair and orderly planning in the Activity Centre there should be a condition on the permit that states:

The development (including demolition of existing car parking spaces but excluding demolition of the existing childcare centre) must not commence until 163 spaces of car parking capacity has been constructed at an alternative location to the satisfaction of the responsible authority.

The Proponent and the Planning Authority agreed with Vicinity's proposed condition.

The Council as land owner of the site submitted that it was not appropriate to include the condition on the basis that the replacement of the car spaces is a matter independent of this permit and is being dealt with separately by the Council.

(ii) Discussion

The Panel accepts that there is general State and local policy support for the encouragement of public transport, cycling and walking within the Activity Centre and that careful consideration should be given to ensure that car parking does not encourage the use of the car. That said, it is also necessary to provide an appropriate quantity of car parking to provide for the expected demand generated by the proposed development.

The Panel agrees with the evidence of Ms Dunstan that the proposed development will provide an acceptable level of car parking commensurate with the proposed mix of uses and its location within a MAC that is very well serviced by significant public transport infrastructure.

The Panel also accepts the recommendations of Ms Dunstan regarding the various detailed design issues summarised in this report. The Panel was impressed with the thorough and comprehensive assessment provided by Ms Dunstan.

The Panel understands the concerns of many of the submitters regarding the potential 'loss' of parking resulting from the development of the existing Cambridge Street car park, however, it is satisfied that Council intends to carefully manage the closure of this car park with the construction of the new car park in Harrow Street. This should minimise disruption to the availability of parking and will ultimately result in the net addition of extra public car parking in the area.

The Panel supports the inclusion of the condition requested by Vicinity to ensure the orderly provision of parking and that the closure of the Cambridge Street car park does not result in the temporary loss of car parking.

(iii) Conclusions

The Panel concludes:

- That the car parking demand generated by the proposed mixed use development will be adequately accommodated by the proposed on-site car parking.
- The car park design and access arrangements are satisfactory subject to the minor design changes recommended by Ms Dunstan.
- Bicycle parking and associated end of trip facilities are appropriate.
- The proposed loading arrangements are acceptable for the site subject to the minor design changes recommended by Ms Dunstan.
- The waste collection arrangements for the site are satisfactory.
- A permit condition should be added to ensure that the development must not commence until 163 spaces of car parking capacity has been constructed at an alternative location to the satisfaction of the responsible authority.

Appendix D shows these changes.

6.11 Drafting

(i) The issues

In reviewing the exhibited version of the planning permit, the Panel has noted there a number of minor drafting changes that should be addressed.

(ii) Discussion

The proposed drafting changes are recommended in order to:

- improve the structure of the permit conditions
- eliminate duplication of requirements
- provide greater clarity to the meaning of some conditions
- ensure consistency of terms and requirements
- correct minor errors or for administrative purposes (such as renumbering).

The drafting changes do not modify the intent of the permit conditions. Where the Panel has recommended changes to the substantive content of the conditions then these changes have been discussed in other sections of this report.

(iii) Conclusions

The Panel concludes:

- The Permit would benefit from minor drafting changes to improve the structure of the Permit, clarify the meaning of some conditions, remove duplication, and correct minor errors.

Appendix D shows these drafting changes. The Panel has not sought to resolve all the minor drafting issues in the permit.

6.12 Recommendation

The Panel recommends:

- 2. That Planning Permit WH/2016/1196 be issued with the amendments shown in Appendix D.**

Appendix A Submitters to the Amendment

No.	Submitter
1	Wei Guan
2	Laura Chen
3	Landream
4	PTV
5	EPA
6	Phu La
7	Melinda Purnell
8	Venetia Su
9	Fuk Wah Ng
10	Michael Jang
11	Tatiana Apenianski
12	David Norman
13	Samantha Ho
14	Sam Stoppa
15	Lisa Edwards
16	Sally Western
17	Marie Stubbs
18	Julie Yuen
19	Whitehorse City Council as landowner
20	Karen Ling
21	Ruth Dickie
22	Adam Tan
23	Katie Hardy
24	David Hardy
25	Liliana Chindris
26	Miron Chindris
27	Iona Chindris
28	Maria Chindris
29	Miche Huang
30	Qing Xian Zang

No.	Submitter
31	Neil Wilkinson
32	J M Wilkinson
33	Rowena Brook
34	Janie and Bruce Gibson
35	Vicinity Centres
36	Don Ramsay
37	Fraser and Lin Clark
38	Neil Gaikwad
39	Mark Hart
40	Carrington Health
41	Uniting Church of Australia
42	Time and Place
43	Natalie Easton
44	Emily Cheetham
45	Terrain Consulting Group
46	William Orange
47	Inner East Primary Care Partnership
48	VicRoads
49	Wei Hoon Ng
50	Martin Brook
51	Sue Fenton
52	Margo Freeman
53	Church community of Wesley Uniting Church Box Hill
54	Melbourne Water

Appendix B Parties to the Panel Hearing

Submitter	Represented by
Whitehorse City Council (Planning Authority)	John Rantino of Maddocks who called evidence from: <ul style="list-style-type: none"> - Ian Coleman of Coleman Architects in Heritage - David Barnes of Hansen Partnership in Urban Design
Whitehorse City Council (Land owner)	Mark Bartley and Kirsten Sugden of HWL Ebsworth, who called evidence from: <ul style="list-style-type: none"> - Joshua Wheeler of MGS Architects in Urban design
Golden Age Station Street Box Hill Development Pty Ltd	Paul Connor QC and Nicola Collingwood of Minter Ellison who called evidence from: <ul style="list-style-type: none"> - Lloyd Elliott of Urbis in Planning - Charmaine Dunstan of Traffix Group in Traffic - James Pierce of Fender Katsalidis in Architecture - Julia Bell of David Lock Associates in Urban design
Nilesh Gaikwad (Chairman) and members of the Church Council of the Wesley Uniting Church, Box Hill	Lorenzo Rigoni assisted by Gabrielle Sesta of Terrain Consulting Group, who called evidence from: <ul style="list-style-type: none"> - Graeme Lewis of Stemarboriculture in Arboriculture - Darren Liu of Acoustic Control in Acoustics - Mark Stephenson of Trethowan Architecture in Heritage
Nilesh Gaikwad and tenants, occupiers and parishioners of the Wesley Uniting Church, Box Hill	Nilesh Gaikwad
Uniting Church in Australia Property trust (Victoria)	Andrew Robertson of Tract Consulting
VicRoads	Michael Freeman
Vicinity Centres PM Pty Ltd	Kate Kirby of Gadens
Joan Wilkinson	
W Neil Wilkinson	
Phu La	
Wei Guo Gan	
William Orange	

Appendix C Document list

No.	Date	Description	Tabled by
1	2/10/17	Planning Authority Part A submission	Mr Rantino
2	2/10/17	Draft Planning Permit WH/2016/1196 with tracked changes	Mr Rantino
3	2/10/17	Draft Planning Permit WH/2016/1196 with tracked changes showing Vicinity Centres preferred wording	Ms Kirby
4	2/10/17	Bound set of A3 Plans for 517-521 Station Street	Mr Connor
5	2/10/17	Planning Practice Note 23	Mr Connor
6	2/10/17	Planning Authority Part B Submission	Mr Rantino
7	2/10/17	Extract from Panel Report, Boroondara Planning Scheme Amendment C143, 2012	Mr Rantino
8	2/10/17	Urban Design Advice for proposed development at 517-521 Station Street prepared by Professor Robert McGauran, January 2012	Mr Rantino
9	2/10/17	Planning Authority Clause 58 Assessment, 12/9/17	Mr Rantino
10	2/10/17	Planning Authority Memorandum – Transport comments by Mr Kouinis, Acting transport Coordinator	Mr Rantino
11	3/10/17	Folder titled 'Appeal Book' prepared by Minter Ellison on behalf of Golden Age	Mr Connor
12	3/10/17	VCAT decision – W Property Group Pty Ltd v Boroondara CC [2017] VCAT 740	Mr Connor
13	3/10/17	Visual Amenity Evidence Addendum (A3 images and A4 Register sheet), C Goss	Mr Goss
14	3/10/17	517 Station Street Design Story/Evolution	Mr Connor
15	3/10/17	545 Station Street (Sky One) Plans by DKO	Mr Connor
16	4/10/17	Letter from Uniting Church in Australia Synod of Victoria and Tasmania, Mr P Thomas, Director Property Services	Chair
17	4/10/17	Revised Northern Elevation showing correct colours of building glazing	Mr Connor
18	4/10/17	Submission on behalf of Golden Age	Mr Connor
19	4/10/17	Submission on behalf of Mrs J Wilkinson	Mrs Wilkinson
20	4/10/17	Submission on behalf of Mr W N Wilkinson	Mr Wilkinson
21	4/10/17	Submission on behalf of Mr Phu La	Mr La
22	4/10/17	Annotated plans TP103 and TP104	Mr Wheeler
23	4/10/17	Submission on behalf of Permit Site Owner	Mr Bartley
24	4/10/17	Extract from Local Government Act 1989	Mr Bartley

No.	Date	Description	Tabled by
25	4/10/17	Council Vision 2013-2023	Mr Bartley
26	4/10/17	Extract from Council Plan 2013-2017	Mr Bartley
27	4/10/17	Extract from Whitehorse Economic Development Strategy 2014-2019	Mr Bartley
28	4/10/17	Extract from <i>Plan Melbourne</i>	Mr Bartley
29	4/10/17	Memo from Hansen Partnership, 517 and 519-521 Station Street General Principles and Design Guidelines, March 2016	Mr Bartley
30	4/10/17	Extract from Whitehorse Housing Strategy, April 2014	Mr Bartley
31	4/10/17	Extract from Whitehorse Ordinary Council Meeting Agenda, 16/5/16	Mr Bartley
32	4/10/17	Whitehorse Ordinary Council Meeting Attachment, 16/5/16	Mr Bartley
33	4/10/17	Extract of Whitehorse Special Committee Minutes, 9/5/16	Mr Bartley
34	4/10/17	Extract of Whitehorse Ordinary Council Meeting Minutes, 20/2/17	Mr Bartley
35	4/10/17	Extract of Ordinary Council Meeting Minutes, 17/7/17	Mr Bartley
36	4/10/17	Harrow Street Car Park Redevelopment – Media Release, 7/9/17	Mr Bartley
37	4/10/17	Harrow Street Car Park Redevelopment – Web site information	Mr Bartley
38	4/10/17	Harrow Street Car Park Redevelopment – Summary Flyer	Mr Bartley
39	4/10/17	Scope of Mixed Use Zone Control – Clause 32.04-9	Mr Bartley
40	5/10/17	Submission on behalf of Mr W Orange	Mr Orange
41	5/10/17	Submission on behalf of Wesley Uniting Church, Box Hill (Mr Gaikwad as Chair of Church Council)	Mr Rigoni
42	5/10/17	Appendices to Document 41	Mr Rigoni
43	6/10/17	Draft Permit Conditions on behalf of Golden Age	Mr Connor
44	6/10/17	Table of recommendations	Mr Connor
45	6/10/17	Submission from Mr Gaikwad	Mr Gaikwad
46	6/10/17	Submission on behalf of Uniting Church in Australia	Mr Robertson
47	6/10/17	Submission on behalf of VicRoads	Mr Freeman
48	6/10/17	Submission on behalf of Vicinity Centres	Ms Kirby
49	6/10/17	Shadow Diagrams, winter solstice	Mr Connor
50	6/10/17	Response to Document 43 – Annotated Draft Permit Conditions	Mr Rantino
51	6/10/17	Permit condition regarding supermarket/department store	Mr Connor

Appendix D Planning Permit – Panel Preferred Version

PLANNING PERMIT

GRANTED UNDER section 96I OF THE PLANNING AND ENVIRONMENT ACT 1987

Permit No.: WH/2016/1196

Planning scheme: Whitehorse Planning Scheme

Responsible authority: Whitehorse City Council

ADDRESS OF THE LAND: 517-521 STATION STREET, BOX HILL (LOT 1 TP 223614, LOTS 1 & 2 LP 73741, LOT 1 TP 157268, LOT 1 TP 238992, LOT 1 TP 387903, LOT 1 TP 566708, LOT 1 TP 384071, CP 167167)

THE PERMIT ALLOWS: Development and use of land for the construction of three (3) buildings (two at 18 storey and one at 6 storey) plus rooftop plant and three (3) levels of basement car parking, comprising retail premises, office, restricted recreational facility (gymnasium), medical centre, accommodation, serviced apartments, child care facility, a reduction in the standard requirements for car parking and alteration of access to a road in a Road Zone, Category 1

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

1. Before the development starts, excluding demolition, bulk excavation and site preparation works, amended plans (three copies) ~~shall~~ must be submitted to and approved by the Responsible Authority. The plans must be drawn to scale, with dimensions, and be generally in accordance with the plans prepared by DKO Architects, Ref 11367, Dated 21 December 2016, submitted with the application but modified to show, to the satisfaction of the Responsible Authority:
 - a) Provision of revised direct access, ~~in the form of escalator and lift from the lower ground level to~~ Cambridge Street ~~adjacent to the proposed pedestrian crossing, to the Lower Ground Level retail spaces.~~
 - b) Provision of direct convenient pedestrian access from the corner of Station Street and Cambridge Street to the north eastern retail tenancy. The Finished Floor Level of the northeastern retail tenancy, as well as the tenancy to the west of the abovementioned tenancy, to be adjusted to provide DDA compliant access from Cambridge Street.
 - c) The location for a future pedestrian connection to the south with buildings and works at this location modified to ensure that the future connection minimises the need for demolition or reconstruction works.
 - d) The Finished Floor Level of each retail tenancy, commercial and residential foyer areas of Building A ground level to be annotated.
 - e) Provision of waiting areas with seating and mail facilities within the ground level lobby of Buildings A and B.
 - f) Ground level lobby area of Building C to be redesigned for the provision of reception, luggage storage, laundry and waste management and toilet facilities.
 - g) ~~The boundary fence or retaining wall along the southern boundary abutting 2-6 Oxford Street must not exceed 1 metre in height.~~
 - h) The built form must not protrude outside the title boundary onto the Station Street and Cambridge ~~Road~~ Street road reserves. This does not apply to canopy overhanging the footpath.

- i) All ~~balconies to residential balconies one and two bedroom apartments~~ must have a minimum area of 8 square metres uninterrupted by any plant or equipment, such as air-conditioner external units and balconies to three bedroom apartments must have a minimum area of 12 square metres.
- j) Provision of play equipment or playable elements for children, such as sculpture or seating elements in communal areas.
- k) An additional communal area or room within Building A (to accommodate food and beverage facilities for at least 10 persons or other commensurate use).
- l) Provision of effective screening to a height of ~~overlooking screens up to~~ 1.7 metres ~~in height~~ above the relevant finished floor level to the relevant windows of the serviced apartments at the western elevation ~~of the serviced apartments within 9 metres of private open space or habitable windows.~~
- ~~l) Provision of overlooking screens up to 1.7 metres in height above the relevant finished floor level to the three northernmost east facing serviced apartments on each level of Building C to avoid internal overlooking into Building B.~~
- m) Provision of effective screening to a height of 1.7m above the relevant finished floor level to the northern most east facing serviced apartments on each level of Building C to avoid internal overlooking into Building B.
- n) Improved amenity to the long corridors to residential levels 3 to 14 of Building A by increasing the width of the alcove adjacent to the stairwell to 2.1m, recessing dwelling entries or similar.
- o) A 1.5m and 1m high wall along the southern boundary of the site adjacent to the Church buildings (Oxford Hall and the Sanctuary building) as required by Condition 49(a).
- p) The provision of the additional noise mitigation measures required by condition 49.
- q) The accurate depiction on the development plans of trees 1 – 5 on the Church land, referenced in Condition 19.
- r) The requirements of the approved Parking and Loading Management Plan and Green Travel Plan, where relevant.
- s) All car parking spaces with sideage to a wall must have a minimum width of 2.7 metres.
- t) All columns in car parking areas must be setback ~~at least 750mm~~ from the edge of aisle in accordance with the requirements of Clause 52.06 of the Whitehorse Planning Scheme to allow vehicle door opening.
- u) Provision of a minimum of the (10) motorcycle parking spaces within the basement.
- v) A minimum 4.5 metre height clearance is to be provided at the entrance to the loading and unloading area at the street level and the building canopy abutting the entrance.
- w) Car parking allocation for each of the uses in accordance with the Parking and Loading Management Plan
- ~~v) A minimum of 23 car parking spaces reserved for the child care centre during drop off and pick up hours in Basement Level 1 to be line marked and signed appropriately with a parking time limit no less than 15 minutes~~
- ~~w) A minimum of 14 car parking spaces reserved for practitioners and patients of the medical centre during its operating hours in Basement Level 1 to be line marked and signed appropriately.~~
- ~~x) All other car parking spaces in Basement Level 1 to be line marked and signed appropriately to reflect the relevant commercial uses.~~

- ~~y) The provision of 82 car parking space on Basement Level 2 to be made available for non-residential uses.~~
- ~~z) Residential visitor car parking spaces to be line-marked and signed appropriately.~~
- x) The car park entry and exit ramp off Cambridge Street must be increased to 6.1 metres in width.
- y) The accessway to the loading ~~and unloading area must be at least 3.5 metres wide~~ bay must be widened to accommodate a 12.5m long heavy rigid vehicle such that on-street car parking does not need to be removed from the north side of Cambridge Street.
- z) Provision of pedestrian sightline triangles to vehicle accesses along Cambridge Street in accordance with Clause 52.06-9 (Car Parking).
- aa) The provision of convex mirrors at the top of each internal ramp.
- bb) Curved ramp widths in accordance with Clause 2.5.2 of AS2890.1-2004 including a median separator.
- cc) The 50 bicycle racks along Station Street frontage to be relocated away from the façade of buildings, to enhance pedestrian safety and remove potential tripping hazards especially to those who are visually impaired. The provision of bicycle parking must be located with the subject site.
- dd) Details of shading devices for the childcare outdoor play area.
- dd) Provision of access to toilet facilities for staff and visitors of all commercial tenancies, including the retail, indoor recreation facility, medical centre, office and child care centre.
- ee) Provision of way finding signs throughout the pedestrian link, public realm and associated public open space within the subject site.
- ff) Provision of a metal capping or a different treatment along the Station Street and Cambridge Street frontage to delineate the title boundary. While the rest of the public open space should be designed to match Council's Box Hill Urban Design guidelines.
- gg) The location of grease pits and exhaust flues serving all of the retail tenancies, to future proof the use as food and drink premises. Details are to include the connection points for the grease removal truck, from a loading area that will not block vehicular access to and from the site.
- hh) All wind mitigation measures as recommended by the Wind Report in accordance with Condition 22.
- ii) All of the relevant requirements of the Lighting Strategy in accordance with Condition 31.
- jj) All external cladding materials, colours and finishes, including fine grain details of façade treatments such as door and window openings at all levels. Consideration must be given to energy efficiency properties, durability and maintenance requirements of selected materials, colours and finishes.
- kk) Greater differentiation between Buildings A and B through the use of varied architectural treatments, colours, materials, finishes or similar.
- ll) Specification of glazing materials to be used on all external walls, including details demonstrating that they will not reflect unreasonable glare when viewed from any nearby road network, to the satisfaction of the Responsible Authority.
- mm) All sustainability features indicated in the updated Sustainability Management Plan required by Condition 28. Where features cannot be visually shown, include a notes table providing details of the requirements (i.e. energy and water efficiency ratings for heating/cooling systems and plumbing fittings and fixtures, etc.)

nn) The following reports to be amended as required will form part of the endorsed documentation:

- i. Landscape [and Public Realm](#) Plan in accordance with Condition [4114](#).
- ii. Landscaping Maintenance Plan in accordance with Condition [4215](#).
- iii. Amended Wind Report in accordance with Condition [4922](#).
- iv. Amended Sustainability Management Plan in accordance with Condition [2628](#).
- v. Lighting Strategy in accordance with Condition [2931](#).
- vi. Art Strategy in accordance with Condition [3230](#).
- vii. Green Travel Plan in accordance with Condition [3234](#).
- viii. Disability Access Report in accordance with Condition [3335](#).
- ix. An amended Waste Management Plan in accordance with Condition [3436](#).
- x. Parking [and Loading](#) Management Plan in accordance with Condition [3941](#).
- xi. Detailed Engineering Design Drawings for treatment of land within surrounding road reserve in accordance with Condition [4042](#).
- [xii. Acoustic ~~Treatment~~ Report in accordance with Condition \[5049\]\(#\).](#)
- [xiii. Acoustic Management Plan in accordance with Condition 51.](#)
- [xiv Signage Strategy in accordance with Condition 33](#)
- [xv Construction Management Plan in accordance with Condition 37](#)
- [xvi Tree Protection and Management Plan in accordance with Condition 19](#)

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

2. The layout of the site and the size, design and location of the buildings and works permitted must always accord with the endorsed plans and must not be altered or modified without the further written consent of the Responsible Authority.
- [3. The uses as approved, must not commence until all of the buildings and works, landscaping hereby approved are completed for the relevant section of the approved buildings including the necessary access from the public realm to the satisfaction of the Responsible Authority.](#)
- [4. The site must not be used for a supermarket over 1,200 square metres in area or a department store of any size.](#)
- [5. The development \(including demolition of existing car parking spaces but excluding demolition of the existing childcare centre\) must not commence until 163 spaces of car parking capacity has been constructed at an alternative location to the satisfaction of the Responsible Authority.](#)
6. Notwithstanding signage that can be displayed as of right or as approved by a planning permit, any transparent glazing at facades of the lower ground and ground levels must be retained without visual obstruction, to the satisfaction of the Responsible Authority.
7. The communal areas, including the gardens at Level 1 of Building B and the rooftop area, must be available for use by all residents of the particular building.
8. The pedestrian link connecting Station Street and Cambridge Street must remain accessible to the public between 6am and 12 midnight daily.
9. This Planning Permit does not and should not be taken as authorising the occupation of or carrying out of works upon or over land or airspace not under the ownership or control of the permit holder. The permit holder must satisfy itself that it holds the permissions or interests necessary to carry out the use and/or development.

Child Care Centre

10. Unless with the prior written consent of the Responsible Authority, the child care centre must not have the provision for more than 107 children on the premises at any one time.
11. The outdoor play area must only be utilised between the hours of 7am to 7pm, unless with the prior written consent of the Responsible Authority.
12. The layout and design must be in compliance with the National Education and Care Act 2010 and Regulations 2011 and licenced accordingly with the appropriate authority.
13. The operation of the child care centre must be in accordance with the Acoustic Management Plan required by Condition 51.

Landscaping and Public Realm

14. No building or works are to be commenced until an amended Landscape and Public Realm Plan prepared by a suitably qualified and experienced person or firm has been submitted to and endorsed by the Responsible Authority. This plan when endorsed will form part of this permit. This plan must show:
 - a) Details of all street frontage features and footpath areas from the building façade to the kerbs of Station Street and Cambridge Street. The design and materials must be consistent with the Box Hill Urban Landscape Design Guidelines Urban Core Treatment.
 - b) Details of all proposed landscaping within the communal area, road reserves, pedestrian link and public open spaces.
 - c) Nomination of all proposed services, e.g. street lights and all existing infrastructure services, street furniture, bins, etc.
 - d) Details of all containerised planting infrastructure.
 - e) Play equipment or playable elements such as sculptures for children residing in or visiting the building.
 - f) Cross-section of the planting area in the central courtyard on Lower Ground Level through to the Ground Level.
 - g) A planting schedule of all proposed vegetation (trees, shrubs and ground covers) which includes: botanical names, common names, pot size, mature size and total quantities of each plant.
 - h) A survey of all existing vegetation, abutting street trees, natural features and vegetation.
 - i) The proposed design features such as paths, paving, lawn, mulch, garden beds and lighting.
 - j) A planting schedule of all proposed vegetation (trees, shrubs and ground covers) which includes, botanical names, common names, pot size, mature size and total quantities of each plant.
 - k) Location of any wayfinding signage, information or other wayfinding measures.
 - l) Detail of public realm upgrades including lighting.
 - m) Indicative detail of public art, including budget and timing of delivery.

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

Once approved this plan will become part of the endorsed plans of this permit and must be implemented and maintained on an ongoing basis in accordance with the plans.

15. Prior to the occupation of the development, 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) Details in relation to the transportation of substrates and proposed species for all proposed garden or landscaping areas.
- b) Details of the ongoing maintenance procedures to ensure that the vegetation planted in garden and landscaping areas remain healthy and well maintained to the satisfaction of the Responsible Authority. This must include:
 - i. Irrigation frequency and delivery method.
 - ii. Drainage.
 - iii. Pruning and mulching.

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

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

16. 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. Landscaping in accordance with the approved plan and schedule ~~shall~~ **must** be completed before the building is occupied unless otherwise agreed with the Responsible Authority.
17. Prior to the occupation of the approved building, the road reserve between the subject site and the kerb along the Station Street and Cambridge Street frontages must be constructed and laid out in accordance with the endorsed plans to the satisfaction of the Responsible Authority. The design and materials must be consistent with the Box Hill Urban Landscape Design Guidelines Urban Core Treatment, to the satisfaction of the Responsible Authority.
18. No street tree may be removed without the prior written consent of the Responsible Authority.
19. Prior to the endorsement of plans, a structural root assessment of the trees located on the southern boundary of the site adjacent to the Church (trees 1 – 5 identified in the arboricultural report prepared by Graeme Lewis of Stem Arboriculture, dated 14 September 2017) must be undertaken by a suitably qualified professional to determine whether the proposal will impact the useful life expectancy of the trees:
 - (a) if the useful life expectancy of the trees is likely to be materially impacted, techniques for avoiding the roots must be explored and if reasonably practicable, implemented to the satisfaction of the Responsible Authority;
 - (b) if avoiding the roots is no reasonably practicable, mature screen tree planting must be provided along the boundary of the Church land in consultation with the owner of the Church land, to the satisfaction of the Responsible Authority

Before the commencement of works, a Tree Protection and Management Plan consistent with Australian Standard AS 4970-2009 must be prepared in relation to any of the 5 trees that are to be retained, to the satisfaction of the Responsible Authority.

Section 173 Agreement

20. Prior to the commencement of works on site, a legal agreement under Section 173 of the Planning and Environment Act 1987 must be entered into with the Council to ensure the use of the land for the purpose of serviced apartments is maintained.
21. Prior to the commencement of works on the site, a legal agreement under Section 173 of the Planning and Environment Act 1987 must be entered into with the Council in respect of any structure built over the Cambridge Street road reserve. The permit holder must also seek authorisation from the Roads Corporation for construction of any canopy or structure over Station Street road reserve.

Landscape and Public Realm Plan

~~22. Within 6 months of commencement of works on the site, excluding demolition, bulk excavation and site preparation works a Landscape and Public Realm Plan prepared by a suitably qualified and experienced person or firm to be submitted to and endorsed by the Responsible Authority. This plan should be generally in accordance with or complementary to the Box Hill Urban and Landscape Guidelines and shall show:~~

- ~~a) A survey of all existing vegetation, abutting street trees, natural features and vegetation.~~
- ~~b) The proposed design features such as paths, paving, lawn, mulch, garden beds and lighting.~~
- ~~c) A planting schedule of all proposed vegetation (trees, shrubs and ground covers) which includes, botanical names, common names, pot size, mature size and total quantities of each plant.~~
- ~~d) Location of any wayfinding signage, information or other wayfinding measures.~~
- ~~e) Detail of public realm upgrades including lighting.~~
- ~~f) Indicative detail of public art, including budget and timing of delivery.~~

~~Landscaping and public realm works in accordance with this approved plan and schedule shall be completed prior to the occupation of the all tenancies and dwellings of this development. Once approved these plans become the endorsed plans of this permit.~~

Amended Wind Report

22. Prior to the commencement of the development, excluding demolition, bulk excavation and site preparation works, an amended Wind Report, carried out by a suitably qualified consultant, must be submitted to the satisfaction of the Responsible Authority. The amended report must include wind amelioration measures that achieve the specified comfort level in the following areas in association with the proposed uses, unless otherwise agreed with the Responsible Authority:

- a) Short term stationary criterion at the seating area to the west of the central courtyard of the pedestrian link.
- b) Short term stationary criterion at the seating area of the public open space and communal area on Level 1 of Building B.
- c) Short term stationary criterion at the seating areas of rooftop communal areas and walking criterion in other rooftop areas.
- d) Short term stationary criterion at ground level on Station and Cambridge Streets.

The recommendations of the report must be implemented at no cost to the Responsible Authority. ~~and must not include reliance on street trees.~~

Glazing

23. Glazing materials used on all external walls must be of a type that does not reflect more than 20% of visible light when measured at an angle of 90 degrees to the glass surface, to the satisfaction of the Responsible Authority.

Services

24. All building plant and equipment on the roofs, balcony 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.

Street Trees

~~No street tree may be removed without the prior written consent of the Responsible Authority.~~

Mechanical Exhaust Systems

25. 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.

Loading/unloading

26. The loading and unloading of goods from vehicles ~~shall~~ must only be carried out within the boundaries of the site or a dedicated loading bay and ~~shall~~ must not unreasonably impede access along the laneway to the west of the site.
27. The deliveries to the commercial tenancies must occur between the following hours:
 - a) 7am to 7pm Monday to Saturday.
 - b) 9am to 7pm Sundays and Public Holidays

Sustainability Management Plan

28. Prior to the commencement of development on the site, excluding demolition, bulk excavation and site preparation works, an amended Sustainability Management Plan (SMP) must be prepared by a suitably qualified environmental engineer or equivalent, elaborating on the design initiatives and construction methods. This may include use of high performance glazing, low water use bathroom and kitchen fittings, energy efficient appliances, light fittings, gas boosted solar hot water and stormwater storage for garden irrigation. The report must also be amended to include the following:

- a) Clarification on the type of glazing used in the BESS daylight calculations.
- b) The Lower Ground Level in the BESS daylight calculations.
- c) The internal partition wall impact on commercial tenancies in the BESS daylight calculations.

The outcomes of the above SMP must be illustrated on the plans and elevations submitted for endorsement, and the requirements of this plan must be implemented by the owners and occupiers of the site when constructing and fitting out the residential building, and for the duration of the building's use in accordance with this permit.

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

29. Prior to the occupation of the building approved under this permit, a report from the author of the SMP, approved pursuant to this permit, or similarly qualified person or company, must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must confirm that all measures specified in the SMP have been implemented in accordance with the approved plan.
30. All works must be undertaken in accordance with the endorsed SMP to the satisfaction of the Responsible Authority. No alterations to the SMP may occur without the written consent of the Responsible Authority.

Lighting Strategy

31. Prior to the commencement of the development, a Lighting Strategy must be prepared to the satisfaction of the Responsible Authority. The Lighting Strategy must provide details of proposed lighting of Station Street, Cambridge Street and throughout the pedestrian link, public realm and public open spaces, and must be prepared in accordance with the ~~Safer Design Guidelines~~ Urban Design Guidelines for Victoria, Department of ~~Sustainability and Environment~~, Land, Water and Planning, ~~June 2005-2017~~, to the satisfaction of the Responsible Authority.

All external lights must be of a limited intensity and must ensure no unreasonable nuisance is caused to surrounding road network, adjoining properties or nearby residents.

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

Art Strategy

32. Prior to the occupation of all the tenancies and dwellings of this development, an Art Strategy must be prepared to the satisfaction of the Responsible Authority. The Art Strategy must provide details of a process to allow review of the conceptual design of artwork by Council representatives, prior to the installation of the artwork, in order to ensure that the artwork achieves the following objectives:

- a) To activate the facades of the building and facilitate pedestrian activity at the interfaces;
- b) To be constructed in a safe and structurally sound manner and of durable and appropriate materials; and
- c) To display appropriate content.
- d) To be of high quality and demonstrate artistic excellence.

The permit holder must convene a Review Committee comprising (but not limited to) an Arts Officer and a Planning Officer from Whitehorse City Council, a building surveyor/structural engineer, and representatives of the land owner, artist and architect. The Review Committee must review the artwork at concept stage to ensure it will comply with the objectives listed above. The final artwork must be consistent with the Review Committee's recommendations, and must also achieve structural certification by a suitably qualified structural engineer, as appropriate.

The artwork must be installed and maintained in accordance with the outcomes of the Artwork Strategy, to the satisfaction of the Responsible Authority.

Signage Strategy

33. Prior to occupation of the development a Signage Strategy ~~shall~~ must be submitted to and approved by the Responsible Authority. The strategy ~~shall~~ must include details on signage 'zones' and typology on the building facades including maximum dimensions for future signage planning applications. Details are to include wayfinding and business identification signage.

Green Travel Plan

34. Prior to occupation of the development, an amended Green Travel Plan must be prepared to the satisfaction of the Responsible Authority. The amended Green Travel Plan is to be updated and include details of the proposed design initiatives and sustainable management practices to reduce car usage and improve sustainable transport options (including walking, cycling, public transport and car pooling) available to residents and visitors. The Green Travel Plan must include, but not be limited to the following:

- a) End of trip facilities such as showers, change rooms, secure storage and bicycle storage.
- b) Education and awareness initiatives and incentives for residents and visitors to encourage more sustainable modes of travel to/from the site.
- c) Management practices identifying sustainable transport alternatives.
- d) The provision of a car share facility, if so, details of the car share facility including management and operational arrangements.
- e) Consider the provision of electric vehicle charging facilities.
- f) Lobby areas of building to include real time information of train, tram and bus services.

- g) Details of bicycle spaces for visitors and residents.
- h) Allocation of parking for food and drink premises and restaurant tenancies to be provided within the on-site car park.
- i) Employee and resident packs (e.g. myki cards for new residents/workers);
- j) Any other relevant matters.

When approved to the satisfaction of the Responsible Authority, the plan will be part of the documents endorsed as part of this planning permit. The Green Travel Plan must be implemented to the satisfaction of the Responsible Authority.

Disability Access

35. Prior to the commencement of development, excluding demolition, bulk excavation and site preparation works, a detailed report on the compliance with disability access ~~shall~~ must be undertaken to the satisfaction of the Responsible Authority.

Waste Management Plan

36. The approved Waste Management Plan applying to all uses within the site must be implemented by the owners/occupiers of the site to the satisfaction of the Responsible Authority unless with the further written consent of the Responsible Authority.

Construction Management Plan

37. Prior to the commencement of development, a Construction Management Plan must be prepared and submitted to Council for approval. This plan is to be to the satisfaction of the Responsible Authority and ~~shall~~ must include but not limited to the following:
- a) Site contamination and disposal of contaminated matter.
 - b) Containment of dust, dirt and mud within the site and the method and frequency of clean up procedures in the event of build up of matter outside of the site.
 - c) On-site facilities for vehicle washing.
 - d) Parking facilities for construction workers.
 - e) Delivery and unloading points and expected frequency.
 - f) A liaison officer for contact by residents and the Responsible Authority in the event of relevant queries or problems experienced.
 - g) An outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services.
 - h) A waste minimisation and recycling strategy.
 - i) Truck access routes.
 - j) A Traffic Management Plan ~~shall~~ must be developed for the site and the surrounding road network to address the following:
 - i. Offsite car parking.
 - ii. Vehicle movements, queuing, appropriate informational and directional signs.
 - iii. Management of the basement car park.
 - iv. Pedestrian Management.
 - v. Road and footpath closure details.

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

When approved the 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 Traffic Management Plan.

Car Parking

38. The car parking areas and accessways as shown on the endorsed plans ~~shall~~ must be formed to such levels so that they may be used in accordance with the plan, and ~~shall~~ must be properly constructed, surfaced, drained and line-marked (where applicable) to the satisfaction of the Responsible Authority
39. The car park and driveways ~~shall~~ must be maintained to the satisfaction of the Responsible Authority.
40. The nature strip must be reinstated where any existing vehicle crossover is redundant, to the satisfaction of the Responsible Authority.
41. Prior to the commencement of buildings or works on the land, a Parking and Loading Management Plan, detailing how car and bicycle parking areas, accessways and loading bays will be allocated and managed, must be submitted to and approved by Council.

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

- a) Allocation of spaces generally in accordance with the Traffic Impact Assessment prepared by GTA dated 19 December 2016 (total of 651 spaces).
- b) Details of ticketing system to be used and incentives to encourage customers visiting the commercial component of the development to utilise the on site car park, including, but not limited to, free parking for patients of the medical centre, staff of the retail tenancies and medical centre.
- c) Details on how visitors of the residential component access the residential car park without resulting in unreasonable queuing, verified by a queuing analysis to be provided to the satisfaction of the Responsible Authority.
- d) Details of car share, accessible (disabled) or motorcycle parking spaces to be nominated within the basement car parking areas.
- e) Allocation of staff parking and a short term visitor and child care centre drop off or pick up ~~and taxi zone~~ within the basement car park, and details as to how this space will be managed to allow access (including outside standard business hours) and advise residents and customers as to its location.
- f) Details of the management of the use of the car park for staff and users of the child care centre during special events.
- g) Details of how the management plan will be distributed to staff and parents visiting the child care centre to ensure all are aware of the document and parking arrangements.
- h) Amendment to the swept path diagrams of vehicles accessing the loading area, to ensure no on-street parking spaces will be required to be deleted except for the construction of vehicle crossovers.
- i) Pedestrian access and movement within the car parking areas, including strategies to minimise the potential for conflict between pedestrians and vehicles. This may include line marking such as hatched shared areas, directions signs and/or physical barriers.
- j) Allocation of bicycle spaces to tenancies and visitors.
- k) Bicycle parking facilities are to be provided in accordance with the Australian Standard.
- l) Locations and details of bicycle parking signs in accordance with Clause 52.34-5.
- m) Signage for car and bicycle parking spaces.
- n) Line marking of car parking spaces.

- o) Details of how access to car spaces, disabled car spaces and bicycle spaces will be achieved by visitors (i.e. an intercom) and how parking will be secured.
- p) Details of the car share scheme.
- q) Details of how access to the loading bay and waste collection area will be achieved by delivery vehicles and waste collection vehicles (i.e. an intercom) and how these areas will be secured.
- r) Details of the access arrangements to the loading facilities for the tenancies, including the storage and collection of waste.
- s) How the car park will be managed to ensure that all vehicles exit the site in a forwards direction.
- t) Details of signage or alternate measures to ensure that delivery and waste vehicles reverse into the loading area and exit the site in a forwards direction.
- u) Centre lines to be provided along curved sections of the access ramp to guide motorists and keep vehicles to the left of the ramp.
- v) Accessibility and parking for the grease removal truck, from a parking space that will not block vehicular access to or from the site.

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

Public Realm

- 42. Prior to any works, design plans and specifications of the civil works within the site associated with the development are to be prepared by a registered consulting engineer (who is listed on the Engineers Australia National Professional Engineer Register), and submitted to the Responsible Authority. Certification by the consulting engineer that the civil works have been completed in accordance with the design plans and specifications must be provided to the Responsible Authority.
- ~~42. Stormwater connection to the nominated point of discharge and stormwater on-site detention (if required) must be completed and approved to the satisfaction of the Responsible Authority prior to the occupation of the buildings.~~
- ~~43. Stormwater that could adversely affect any adjacent land must not be discharged from the subject site onto the surface of the adjacent land.~~
- ~~44. The Applicant/Owner must be responsible to meet all costs associated with reinstatement and/or alterations to Council or other Public Authority assets deemed necessary by such Authorities as a result of the development. The Applicant/Owner shall be responsible to obtain an "Asset Protection Permit" from Council at least 7 days prior to the commencement of any works on the land and obtain prior specific written approval for any works involving the alteration of Council or other Public Authority assets.~~
- 43. ~~No~~ Buildings or works ~~shall~~ must not be constructed over any easement without the written consent of the relevant Authorities.
- 44. Prior to the commencement of any works the owner of the land ~~shall~~ must enter into an agreement with the City of Whitehorse which will indemnify Council against any loss or damage it may incur as a result of any proposed buildings and works constructed on or over Council owned land.

Amenity

- 45. The amenity of the area ~~shall~~ must not be detrimentally affected by the commercial uses or development allowed by this Permit, through:
 - a) Transportation of materials, goods or commodities to or from the land,
 - b) Appearance of any building, works or materials,

- c) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil,
- d) Presence of vermin, or
- e) In any other way,

to the satisfaction of the Responsible Authority.

- 46. The commercial use and development of the site ~~shall~~ must be so ordered and maintained so it will not prejudicially affect the amenity of the locality by reason of appearance to the satisfaction of the Responsible Authority.
- 47. All external lights associated with the commercial use and development of the site allowed by this Permit must be of a limited intensity to ensure no nuisance is caused to adjoining or nearby residents and must be provided with approved baffles, so that no direct light or glare is emitted outside the site to the satisfaction of the Responsible Authority.
- 48. The commercial premises allowed by this Permit ~~shall~~ must be provided with a filter system to eliminate cooking odours, fumes and smoke to the satisfaction of the Responsible Authority.

Acoustic Treatment

- 49. Prior to the commencement of the development, excluding demolition, bulk excavation and site preparation works a report generally in accordance with that prepared by Acoustic Logic, dated 9 December 2016, filed with the permit application must be submitted to and be to the satisfaction of the Responsible Authority documenting acoustic and vibration mitigation measures to be implemented in the building to achieve compliance with the Australian Standards and the additional noise criterion set out in the Acoustic Logic report. Additional noise mitigation measures include:

- (a) the construction of a 1.5m and 1m high fence along the southern boundary with the Church buildings (the Sanctuary building and Oxford Hall) in accordance with Figure 7 of the evidence report of Mr Darren Liu of Acoustic Control, dated 20 September 2017. The fence must be of solid construction with a mass of 10 – 12kg/sqm with no gaps or cracks. Suitable materials could be 6mm glass, 15mm perspex, or 20mm timber.
- (b) the construction of the proposed 1.2m high balustrading around the child care centre play area to be of a solid panel with no gaps.
- (c) The glazing treatment for the residential apartments in accordance with the Glazing Schedule at Appendix A of the report by Acoustic Logic with the exception that the glazing to the four bedrooms at levels 3 to 6 of the southern end of Building A must achieve a noise transmission loss of 23dB (at 250Hz) in accordance with recommendation 5.3 and Figure 5 of the evidence report of Mr Darren Liu of Acoustic Control, dated 20 September 2017.-

- 50. Prior to the occupation of the development, a letter of confirmation from a suitably qualified Acoustic Consultant must be submitted for approval by the Responsible Authority to certify that the development is designed and constructed in accordance with the Acoustic ~~Treatment Plan Report, to ensure that noise measured in the proposed dwellings and existing residential dwellings surrounding the subject site does not exceed the levels set out under the Australian Standard.~~
- 51. Prior to occupation an Acoustic Management Plan must be submitted to the satisfaction of the Responsible Authority which sets out the noise management requirements for the loading dock, retail / commercial tenancies, gymnasium and child care centre. The Acoustic Management Plan should incorporate all of the management requirements in the Acoustic Report prepared by Acoustic Logic, dated 9 December 2016, filed with the permit application. The Acoustic Management Plan must be complied with at all times to the satisfaction of the Responsible Authority.

Melbourne Water

52. No polluted and / or sediment laden runoff is to be discharged directly or indirectly into Melbourne Water's drains or watercourses.

Drainage and assets

53. Council's existing stormwater pipe and pits within the road reserves must be protected and all times. Any proposal to alter the Council drainage assets in any way must be submitted to Council for approval and if approved by Council be undertaken at the expense of the applicant.
54. All stormwater drains must be connected to a point of discharge to the satisfaction of the Responsible Authority.
55. Stormwater connection to the nominated point of discharge and stormwater on-site detention (if required) must be completed and approved to the satisfaction of the Responsible Authority prior to the occupation of the building.
56. Detailed civil plans and computations for stormwater drain must be prepared by a registered consulting engineer (who is listed on the Engineers Australia National Professional Engineer Register) and submitted for approval for the Responsible Authority prior to the commencement of any works. Dual Certification by a registered consulting engineer (who is listed on the Engineers Australia National Professional Engineer Register) for design of the on-site detention must be provided to Council prior to the approval of the civil plan.
57. As constructed civil drawings that are computer drafted are to be provided to Council after the completion of civil works prior to the occupation of the building.
58. Stormwater that could adversely affect any adjacent land must not be discharged from the subject site onto the surface of the adjacent land.
59. The Applicant/Owner must be responsible to meet all costs associated with reinstatement and/or alterations to Council or other Public Authority assets deemed necessary by such Authorities as a result of the development. The Applicant/Owner ~~shall~~ must be responsible to obtain an "Asset Protection Permit" from Council at least 7 days prior to the commencement of any works on the land and obtain prior specific written approval for any works involving the alteration of Council or other Public Authority assets.

Environmental Assessment

60. Prior to the commencement of any buildings and works on the subject site, the following documentation must be submitted to and endorsed by the Responsible Authority:
 - a) A certificate of environmental audit must be issued for the land in accordance with Part IXD of the Environment Protection Act 1970, or
 - b) An environmental auditor appointed under the Environment Protection Act 1970 must make a statement in accordance with Part IXD of that Act that the environmental conditions of that land are suitable for the sensitive uses.

Heritage

61. Prior to the commencement of any buildings and works the permit holder ~~is required to undertake a full Condition Survey prior to commencement of the works, including a geotechnical analysis of the foundations and footings of the 1886 church building and provide a geotechnical and structural~~ must provide a report detailing how the structural integrity of the adjoining Church buildings are ~~is~~ to be protected during works, to the satisfaction of the Responsible Authority.

VicRoads

62. Unless otherwise agreed in writing by VicRoads, and before the development starts, the following must be submitted to and approved by the Roads Corporation (VicRoads):
 - a) Functional layout plan (FLP) provided to the satisfaction of VicRoads and Responsible Authority and at no costs to VicRoads to show:

- i. Revised layout for Station Street/ Cambridge Street intersection, along with an appropriate line marking and signage plan;
 - ii. Swept path analysis to demonstrate turning manoeuvres for loading trucks at Cambridge Street and Carrington Road intersections with Station Street.
 - iii. The location of the proposed pedestrian crossing to be constructed by Council.
 - b) Functional stage Road Safety Audit.
63. Subsequent to the approval of the Functional Layout Plan and prior to the commencement of any roadworks, the applicant must submit the detailed engineering design plans along with detailed design stage road safety audit to VicRoads for review and obtain written approval. The detailed design plans must be prepared generally in accordance with the approved functional layout plan and functional stage road safety audit, but do not need to include the proposed pedestrian crossing;
64. Prior to the commencement of the use of the development (or the occupation of the development), the following works must be completed to the satisfaction of VicRoads and the Responsible Authority and at no cost to VicRoads:
- a. Modifications to the intersection of Station Street and Cambridge Road, generally in accordance with the approved functional layout plan, but excluding the pedestrian crossing;
 - b. Modifications to the intersection of Station Street and Carrington Road to provide for the existing left-turn lane on Carrington Road to operate as a shared left and right-turn lane, including any required alterations to traffic signals.
65. No work may be commenced in, on, under or over the road reserve without having first obtaining all necessary approval under the Road Management Act 2004, the Road Safety Act 1986, and any other relevant Act or regulations created under those Acts;

Public Transport Victoria

~~63. 'To be provided once Further information requirements addressed.'~~

Expiry

66. This permit will expire if one of the following circumstances applies:
- a) The development is not commenced within three (3) years from the date of issue of this permit;
 - b) The development is not completed within seven (7) years from the date of this permit.
- The Responsible Authority may extend the periods referred to if a request is made in writing in accordance with Section 69 of the *Planning and Environment Act 1987*.

PERMIT NOTES

Engineering and Assets

- A. Soil erosion control measures must be adopted at all times to the satisfaction of the Relevant Authority during the construction stages of the development. Site controls and erosion minimisation techniques are to be in accordance with the EPA (Environment Protection Authority) Victoria "Environmental Guidelines for Major Construction Sites". The works during and after construction must comply with the above guidelines and in potentially high erosion areas a detailed plan may be required to indicate proposed measures and methodology.
- B. The property owner/builder is to obtain the relevant permits and consents from Council in relation to asset protection, drainage works in easements and works in the road reserve prior to the commencement of any works.

- C. No alteration to existing interface levels will be permitted other than to maintain or introduce adequate and consistent road reserve crossfall and longitudinal fall all to the satisfaction of the Responsible Authority. The developer is requested to provide existing levels on the surrounding road reserve and footpath areas to show how exiting and entering the development will be undertaken with the proposed floor levels shown on the plans.
- D. Any alteration to existing interface levels in the road reserve along Station Street will require the prior approval of VicRoads, and is not supported by Council.
- E. Any services that need to be removed and relocated due to the location of the proposed vehicular crossing must be financed by the developer.
- F. Access to the development must be resolved within the development site. No provision for access and/or Disability Discrimination Act (DDA) compliance will be permitted external to the site being within any adjacent road reserve, right-of-way, reservation or other land owned or managed by Council as may be applicable.
- G. Access doors to the development must not open out onto the road reserves and result in an obstruction.
- H. All stormwater drainage within the development site and associated with the buildings (except for connection to the nominated point of discharge within the site) must be approved and completed to the satisfaction of the Building Surveyor prior to the occupation of any of the buildings, in accordance with the provisions of the Building Regulations (2006) section 610.
- I. The surface treatment and design of all crossovers and driveways ~~shall~~ must be of materials submitted to and approved by the Responsible Authority and must be constructed in accordance with the submitted details.

Street Trees

- J. Please contact Parkside Department on 9262 6289 if the removal of the trees is required or if any works related to this development is going to impact on trees. A security deposit for tree protection may be requested.

Property

- K. This is a town planning permit only. It does not and should not be taken as authorising the occupation of or carrying out of works upon or over land or airspace not under the ownership or control of the permit holder. The permit holder must satisfy that it holds the permissions or interests necessary to carry out the use and/or development. In respect to any intrusions into the adjacent Road Reserve, the owner of the property may be required to enter into a Section 173 Agreement with Council, acting as the Road Authority for Cambridge Street. In respect to any intrusions into the Station Street Reserve, permission must be obtained from the Roads Corporation.

Residential Parking Permit

- L. Residents of this development and their visitors will not be eligible for Residential Parking Permits.

Vic Roads

- M. In order to improve safety and traffic flow along Station Street, Cambridge Street and Carrington Road, and to undertake improvement works as part of the approved Functional Layout Plan, on-street parking along Station Street may need to be removed.
- N. The preparation of the functional layout plan, detailed engineering design and the construction and completion of all work must be undertaken in a manner consistent with current VicRoads' policy, procedures and standards and at no cost to VicRoads. In order to meet VicRoads' requirements for these tasks the applicant will be required to comply with the requirements documented as "Standard Requirements – Externally Funded Projects" and any other requirements considered necessary depending on the nature of the work.

- O. Functional layout plan may need to be amended to accommodate any changes that may arise during the detailed design stage review; in response to the road safety audit; in relation to services and their relocation; vegetation; drainage; treatment of hazards within clear zones and other matters.
- P. The proposed development requires works within in the road reserve. Separate approval under the Road Management Act may be required from VicRoads (Roads Corporation). Please contact VicRoads prior to commencing any works.