

Our Ref:

19 May 2017

Ms Noelene Duff
Chief Executive Officer
Whitehorse City Council
Locked Bag 2
Nunawading Delivery Centre Victoria 3133

Dear Noelene

**Re: Notice of Intention to Sell Land located at 2 Carrington Road Box Hill
(certificate of title volume 10089 Folio 896, with area of 179m² (Council's Land))**

In accordance with Section 223 of the *Local Government Act 1989*, VicTrack hereby submits its objection to the proposed sale of Council's Land based on the following statements:

1. We refer to the public notice of intention to sell Council's Land as advertised in The Age dated 22 April 2017, a copy is attached in **Annexure A**.
2. VicTrack is the owner of the VicTrack Land as delineated in blue and shown in **Annexure B**, which includes a shopping centre known as 'Box Hill Central' which has been on leased by VicTrack.
3. A copy of the title search of Council's Land is attached in **Annexure C**, from which we note the following:
 - Council's Land was historically used as a road;
 - Council's Land was discontinued as a road and removed from Council's road register on 31 October 1990 but nevertheless VicTrack's tenants and subtenants have continued to access and use Council's Land as a carriageway; and
 - The whole of Council's Land is encumbered by a carriageway easement.
4. The loading dock at Box Hill Central shopping centre is located next to Council's Land. The current tenants and sub-tenants of the shopping centre actively use Council's Land to gain access to the shopping centre loading dock for purposes of loading and unloading. Please refer to picture as shown in **Annexure D**.
5. Due to the width of the loading dock and dimensions of the loading trucks, Council's Land is required to physically manoeuvre the trucks into the loading

VicTrack

Level 8, 1010 La Trobe St Docklands VIC 3008
GPO Box 1681 Melbourne VIC 3001
T 1300 VICTRACK (1300 842 872)
victrack.com.au

VicTrack

dock. It should also be noted that Carrington Road is a one-way street which prevents using Carrington Road as an alternative path of reversing into the loading dock. Please find attached diagram of the turning circle and path of the loading trucks at the loading dock as shown in **Annexure E**, which also includes Council's Land.

6. The Council through its external lawyer, Maddocks, made enquires on 21 December 2016 as to whether VicTrack had any requirements with the proposed sale of Council's Land. Please refer to email as attached in **Annexure F**.
7. VicTrack responded to Maddocks on 21 February 2017 stating that while in principle VicTrack has no objection to the proposed sale it would be subject to the continued access and use by VicTrack's tenants and subtenants. Please refer to email as attached in **Annexure G**.

It is evident from the above that the sale of Council's Land would render the loading dock unusable and greatly impact VicTrack's tenants and the community. The alternative we propose is that as a condition of the sale, the Council will require the purchaser do all things reasonably required to protect VicTrack's existing use as a carriageway easement.

Thank you.

Yours sincerely



Annexure A – Public Notice of Proposed Sale of Council's Land

Public Notices

Public Notices

Public Notices

Public Notices



PUBLIC NOTICE

WHITEHORSE CITY COUNCIL

NOTICE OF INTENTION TO SELL LAND

Whitehorse City Council (Council) gives notice under section 189 of the *Local Government Act 1989* (Act) that it intends to sell the land located at 2 Carrington Road, Box Hill; being the whole of the land contained in certificate of title Volume 10089 Folio 896, with an area of 179m² (Land) and shown as single hatching in the attached plan.

The proposal is for Council to sell the Land to the adjoining owner of 545-563 Station Street, Box Hill, being Golden Age Box Hill Development Pty Ltd ACN 607 666 188, on the following terms:

1. a price of \$2,068,000 plus GST;
2. a deposit of 10 per cent, payable on the day of sale; and
3. payment of the balance of price within 30 days after the day of sale.

Any person may make a submission on the proposal under Section 223 of the Act. The closing date for submissions is **Monday 22 May 2017 at 5pm**. All submissions will be considered in accordance with section 223 of the Act.

Submissions should be addressed to the Chief Executive Officer and can be hand delivered to Council's Civic Centre at 379-397 Whitehorse Road, Nunawading, or posted to the following address:

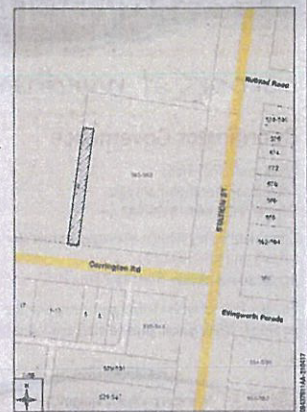
Ms Noelene Duff
Chief Executive Officer
Whitehorse City Council
Locked Bag 2
Nunawading Delivery Centre, Victoria 3131

Any person requesting to be heard in support of his or her submission is entitled to be heard before Council or be represented by a person acting on his or her behalf, to be held at **Whitehorse Civic Centre Council Chamber 379 Whitehorse Road Nunawading on Tuesday 13 June 2017 at 8.00pm**.

A person must clearly state in their submission whether they, or their representatives, wish to speak at the meeting.

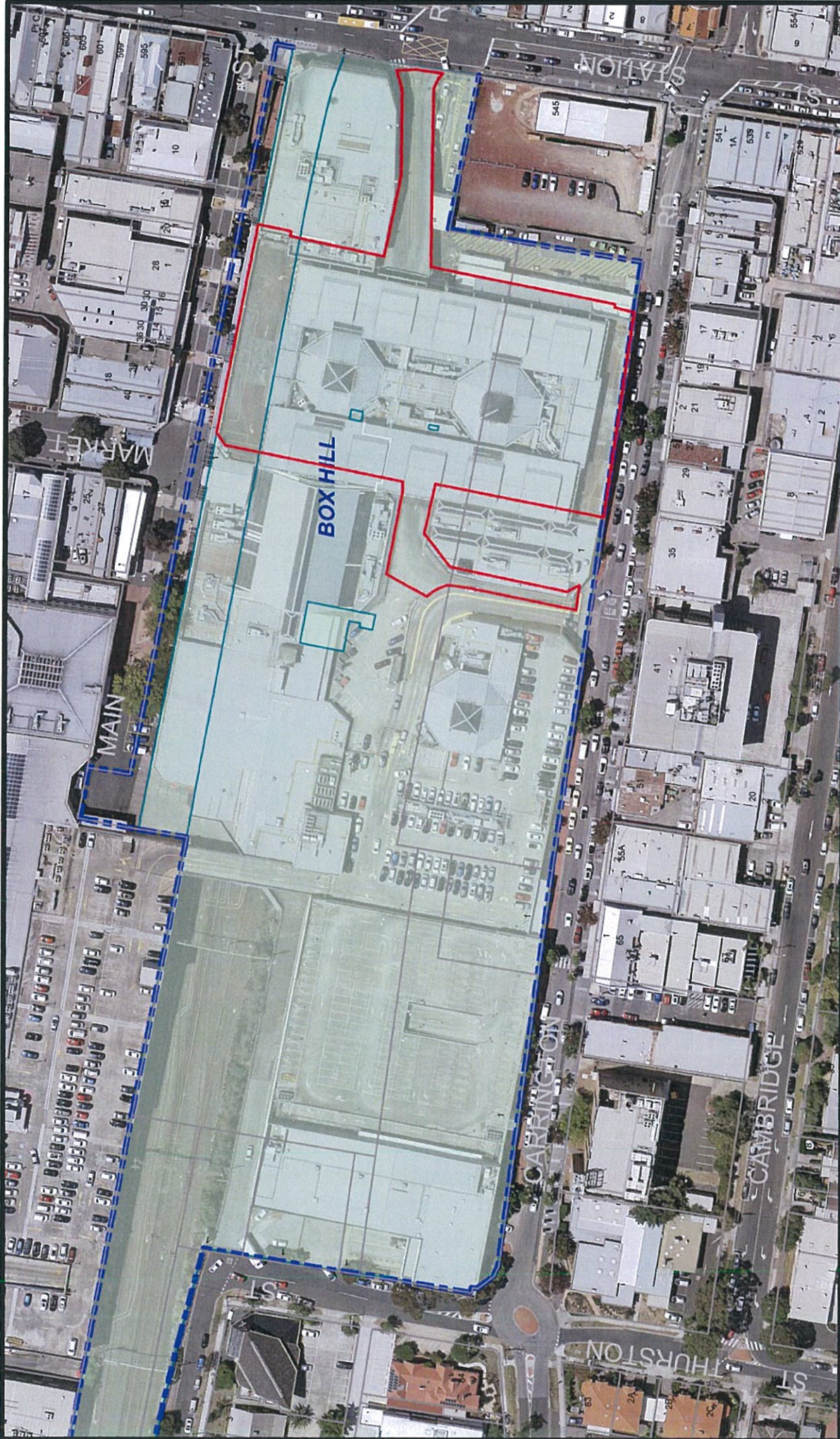
Further information regarding the proposal may be obtained from Tony Peak, Manager Property & Rates on (03) 9262 6469 or mobile 0438 302 036.

Noelene Duff
Chief Executive Officer
Whitehorse City Council



Annexure B – VicTrack’s Land

[As Attached]



<p>Copyright</p> <p>This plan is the property of Victorian Rail Track and shall not be reproduced or used in any form whatsoever without the prior written consent of Victorian Rail Track</p> <p>Plan Prepared By: Business Services Level 6, 1010 La Trobe Street, Melbourne 3006</p>		<p>NOTE</p> <p>This plan has been compiled using information from a number of sources and some plan elements may not be shown accurately. Independent verification is recommended before reliance is placed on using the plan information.</p> <p>Victorian Rail Track will not accept any liability for any use to which the plan may be put and gives no guarantee as to its accuracy.</p>	<p>LEGEND</p> <table><tr><td></td><td>RAIL RESERVE</td></tr><tr><td></td><td>METROPOLITAN TRAINS MELB</td></tr><tr><td></td><td>BUS INTERCHANGE</td></tr></table>		RAIL RESERVE		METROPOLITAN TRAINS MELB		BUS INTERCHANGE	<p>0 10 20 30 40 Meters</p> <p></p>	<p>VICTORIAN RAIL TRACK</p> <p>BOX HILL</p> <p>ORIGINAL SHEET SIZE A4 SHEET OF</p>
	RAIL RESERVE										
	METROPOLITAN TRAINS MELB										
	BUS INTERCHANGE										

Annexure C – Copy of Title Search of Council's Land

[As Attached]

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REGISTER SEARCH STATEMENT (Title Search) Transfer of Land Act 1958

VOLUME 10089 FOLIO 896

Security no : 124065874685K

Produced 08/05/2017 12:46 pm

LAND DESCRIPTION

Lot 1 on Title Plan 840750F (formerly known as part of Portion 29A Parish of Nunawading).

PARENT TITLE Volume 07899 Folio 150

Created by instrument R839687G 26/03/1992

REGISTERED PROPRIETOR

Estate Fee Simple

Sole Proprietor

BOX HILL CITY COUNCIL of 379-397 WHITEHORSE ROAD NUNAWADING VIC 3131

R839687G 26/03/1992

ENCUMBRANCES, CAVEATS AND NOTICES

Any encumbrances created by Section 98 Transfer of Land Act 1958 or Section 24 Subdivision Act 1988 and any other encumbrances shown or entered on the plan set out under DIAGRAM LOCATION below.

DIAGRAM LOCATION

SEE TP840750F FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS

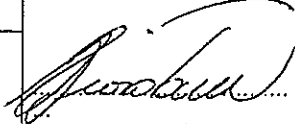
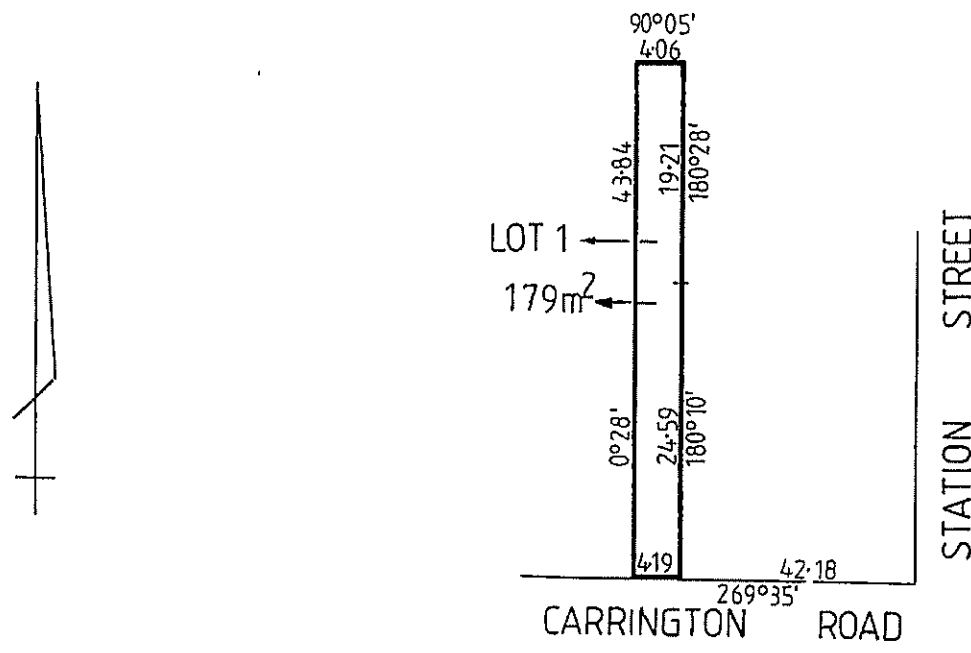
NIL

-----END OF REGISTER SEARCH STATEMENT-----

Additional information: (not part of the Register Search Statement)

Street Address: 2 CARRINGTON ROAD BOX HILL VIC 3128

DOCUMENT END

TITLE PLAN		EDITION 1		TP 840750F	
Location of Land Parish : NUNAWADING Township : -- Crown Allotment : -- Crown Portion : 29 A (PART) Section : -- Last Plan Reference : -- Title Reference : VOL .10089 FOL. 896 Depth Limitation : NIL				Notations NOTE 1 : LOT 1 = PART OF CROWN PORTION 29 A	
Easement Information E – Encumbering Easement R – Encumbering Easement (ROAD) A – Appurtenant Easement					THIS PLAN HAS BEEN PREPARED BY LAND REGISTRY, LAND VICTORIA FOR TITLE DIAGRAM PURPOSES Checked by :  Assistant Registrar of Titles Date 4 / 1 / 04
Easement Reference	Purpose / Authority	Width (Metres)	Origin	Land benefited / In favour of	
LOT 1	ANY EASEMENTS	SEE DIAGRAM	VOL. 10089 FOL. 896	UNSPECIFIED	
					
LENGTHS ARE IN METRES	SCALE	SHEET SIZE A3			

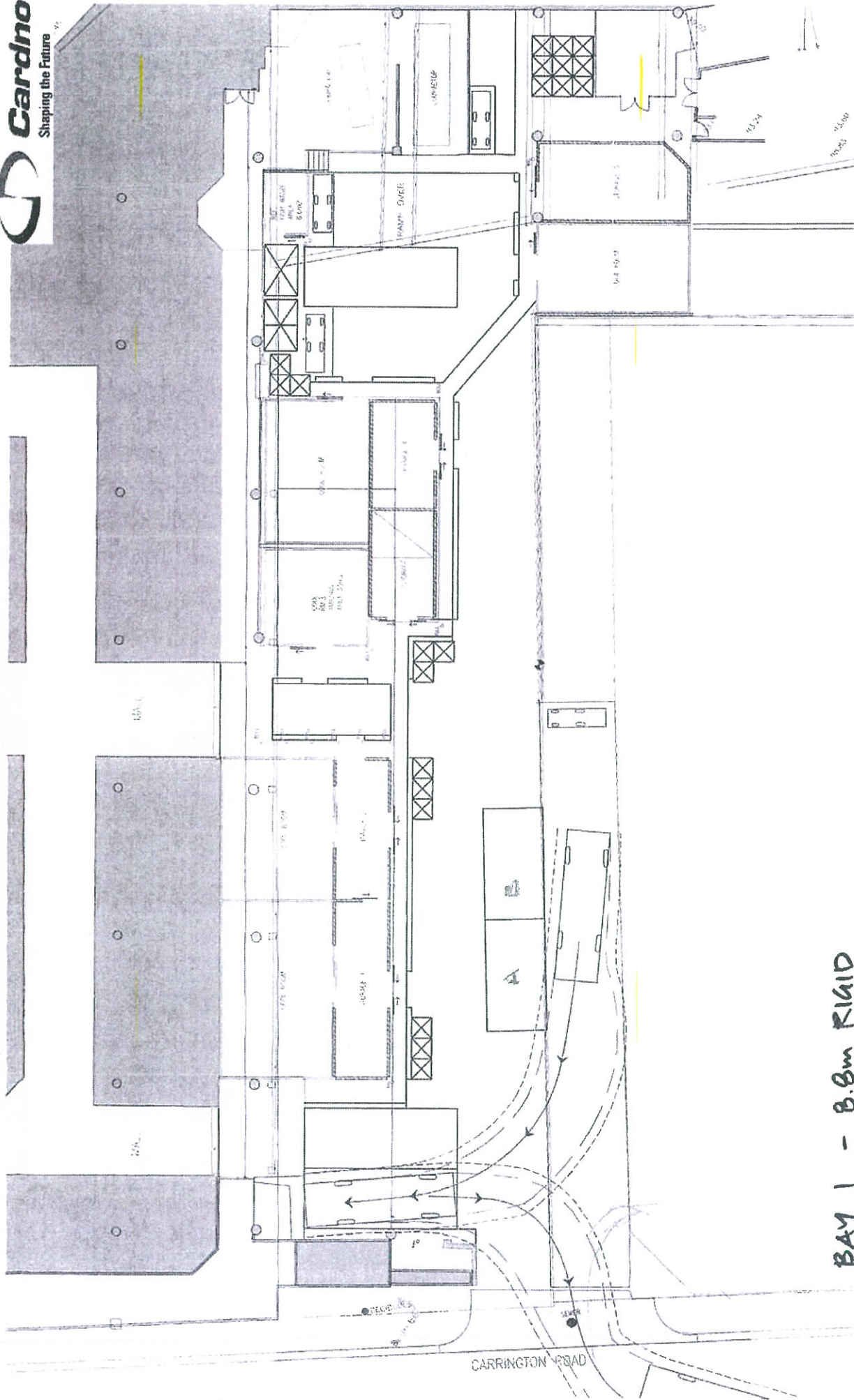
Annexure D – Photograph of Loading Dock at Box Hill Central (including Council's Land)

[As Attached]



Annexure E – Loading Dock Turning Circles

[As Attached]



BAY 1 - B.8m RIGID

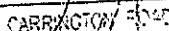
Form 4 - Attachment 2

A-04E

PEEDLETHORP ARCHITECTS PEEDLETHORP APPROVALS

PEEDLETHORP ARCHITECTS

LOADING DOCK EASTING COFFERED DRAWING



BAY 1 - 6.9m RIGID

Annexure F and Annexure G of the VicTrack submission contains email discussion between legal representatives of Council and of VicTrack.

The Annexures have not been reproduced here.