

# URBAN PLANNING DELEGATED COMMITTEE



## MINUTES

(Open to the public)

**Monday 16 October 2023**

Council Chamber, 8 Inglesby Road, Camberwell.

**Commencement**     6:34pm

**Attendance**

Councillor Nick Stavrou (Chairperson)  
Councillor Jim Parke  
Councillor Felicity Sinfield (Mayor)  
Councillor Victor Franco  
Councillor Di Gillies  
Councillor Lisa Hollingsworth  
Councillor Cynthia Watson  
Councillor Susan Biggar  
Councillor Garry Thompson

**Apologies**

Councillor Wes Gault  
Councillor Jane Addis

<b><u>Officers</u></b>	Daniel Freer	Director Places and Spaces
	Scott Walker	Director Urban Living
	David Cowan	Manager Statutory & Strategic Planning
	Bryan Wee	Manager Governance & Legal
	Arturo Ruiz	Head of Placemaking
	Robert Costello	Coordinator Strategic Planning
	Daniel Murphy	Appeals Coordinator
	Jack Richardson	Senior Urban Planner
	Liam Merrifield	Senior Governance Officer

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**1. Adoption and confirmation of the minutes of the Urban Planning Delegated Committee meeting held on 2 October 2023**

**MOTION**

**Moved Councillor Sinfield**

**Seconded Councillor Gillies**

**That the minutes of the Urban Planning Delegated Committee meeting held on 2 October 2023 be adopted and confirmed.**

**CARRIED**

**2. Declaration of conflict of interest of any councillor or council officer**

Nil.

**3. Presentation of officer reports**

**3.1 Draft Camberwell Junction Structure and Place Plan**

Purpose

This report presents the Draft Camberwell Junction Structure and Place Plan (Attachment 1) for endorsement to proceed to community engagement.

The Draft Plan presents an aspirational, yet achievable plan to shape the future of Camberwell Junction. It has been developed in consultation with our community and informed by detailed background research and technical analysis.

Background

The Camberwell Junction Structure and Place Plan project commenced in late 2021 with initial community engagement and extensive background research. This research and engagement informed the preparation of the Vision & Priorities Report which was subject to community consultation in Sept-Oct 2022.

The overarching Vision for Camberwell Junction below received 90% support from the community during consultation:

*Camberwell Junction will be revitalised as a dynamic, desirable and prosperous metropolitan hub.*

*Residents, visitors and locals will be attracted to its thriving retail, smart economy, lively public spaces, attractive character and highly liveable urban environment.*

*The Junction precinct will attract significant public and private investment to create an exciting economic and lifestyle destination that is welcoming to all.*

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Key Issues

The Draft Camberwell Junction Structure and Place Plan presents an overarching vision for the centre; a planning framework to guide future development; place precincts identifying key placemaking projects; and an implementation plan to guide delivery.

The planning framework is structured under the following 6 themes:

1. Thriving Economy
2. Sustainable Living
3. Built Form
4. Public Realm
5. Access & Movement
6. Community Wellbeing

The Draft Plan then focuses in on 6 place precincts to provide more detailed guidance on how development should be designed and the key placemaking projects that will assist with revitalising the centre in the future.

The following key aspects of the plan are likely to be of particular interest to the community and key stakeholders, and addressing these effectively in the Draft Plan is integral to successfully planning for the future of Camberwell Junction.

#### *Building Form*

The Draft Plan sets out the proposed Built Form parameters for new development in Camberwell Junction on pages 23-28. These parameters are based on robust projections and detailed modelling to demonstrate that future demand in both employment and residential development up to 2051 can be accommodated within these proposed building envelopes and other built form parameters. Demonstrating that projected growth can be accommodated in the centre will be essential for gaining State Government approval for the corresponding planning scheme amendments. The built form guidance will also be integral to ensuring well designed developments are achieved for the centre.

#### *Public Space*

As Camberwell Junction grows in the future with increasing resident, worker and visitor populations there will be greater demand placed on the limited public spaces available. This growth needs to be complemented by an increase in the supply and quality of public realm to ensure the centre is liveable for residents and an attractive destination for business, visitors and shoppers. The Plan identifies targeted public realm investments to enhance the centre in the future, including a new Market Plaza, upgrades to Burke Road and new street connections in Junction West. The Draft Plan also seeks to facilitate improved access to existing open spaces such as Fritsch Holzer Park.

#### *Carparking*

The centre has a substantial supply of publicly accessible car parking with over 3,273 car spaces available. Parking surveys show that only around 60% of these are occupied at peak periods. This parking supply will significantly increase as new private development occurs, however more parking will be consolidated into multi-level facilities as the centre grows. The available parking can then be better managed and utilised at all times of the day.

The Draft Plan proposes to repurpose around 160 surface car parking spaces (less than 5%) over the plan period (approx. 28 years) to deliver new public spaces and safer streets to attract more visitors and shoppers to the centre and create a more inviting place to live and work. Car parking will then be allocated, provided and managed for future activity having regard to new demand.

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### Next Steps

The Draft Camberwell Junction Structure and Place Plan provides the foundations for community engagement, currently proposed to start on 30 October 2023 and extend for a period of 6 weeks until 11 December 2023.

Following community engagement officers will analyse community feedback and finalise the Camberwell Junction Structure and Place Plan in early 2024 to present to Council for adoption.

*One speaker supporting the officers' recommendation addressed the meeting.*

### **MOTION**

**Moved Councillor Gillies**

**Seconded Councillor Thompson**

**That the Urban Planning Delegated Committee resolve to endorse the Draft Camberwell Junction Structure and Place Plan report and to proceed with community engagement for a period of 6 weeks starting from 30 October 2023.**

### **CARRIED**

## **3.2 115-133 Cotham Road, Kew - VCAT Outcome for Mixed Use Development - PA23/0031**

### Purpose

The purpose of this report is to consider the 'in-principle' agreement reached by the parties to the 115-133 Cotham Road Kew Victorian Civil and Administrative Tribunal planning review matter. The in-principle agreement was reached at the compulsory conference on 12 September 2023.

### Background

Planning Permit No. PP06/01357 was issued on 4 January 2008 and has subsequently been amended on three (3) occasions. The permit currently allows: *Development and the use of the land for the purposes of office and residential hotel, the sale and consumption of liquor (pursuant to clause 52.27), and a reduction in the standard car parking requirement and of the loading requirements in accordance with endorsed plans.*

On 29 May 2023, Council resolved to refuse an application to amend Planning Permit No. PP06/01357 based on the following grounds:

1. The proposed buildings and works including the relocation of the hotel entry and restaurant/bar outdoor dining terrace area and open bi-fold doors to Ridgeway Avenue results in an increased commercial presence and significant intensification of activity, which will adversely impact the amenity of surrounding and nearby residential properties.
2. The increase in patron numbers, area and hours for sale and consumption of liquor associated with the existing restaurant/bar will adversely impact the amenity of surrounding residential properties, resulting in increased noise and nuisance.

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An Application for Review against Council's Refusal to Amend a Permit was lodged with VCAT on 7 June 2023.

There were eleven (11) statements of grounds received by VCAT, including eight (8) objectors who elected to become a party and actively participate in the proceedings.

At the VCAT compulsory conference on 12 September 2023, the parties reached an in-principle agreement to settle the matter via consent and subject to the conditions outlined under the officer recommendation, below.

The in-principle agreement includes a suite of changes which differ from that of the officer recommendation reported to UPDC on 15 May 2023. The changes, included in the agreement as permit conditions, overcome the layout and off-site amenity concerns raised by Council and objectors.

The matter is set down for the following key dates:

- Administrative Mention – 17 October 2023 (to advise VCAT of Council's resolution);
- Hearing – 20-22 November 2023 (3 day hearing) if required.

Should Council resolve to settle the application via consent, a planning permit will be issued and the VCAT hearing dates will be vacated. Alternatively, should Council resolve not to settle, the Application will proceed to a hearing which is currently listed for three (3) days commencing on 20 November 2023. At the hearing, Council would rely upon the grounds contained within the Notice of Refusal dated 29 May 2023, outlined above.

The in-principle agreement is 'without prejudice'. In other words, the agreement and anything said or done in the course of the compulsory conference process is not admissible at a hearing should this matter not resolve.

### Proposal

The details of the proposal, as a result of the agreed outcomes by the parties at the compulsory conference on 12 September 2023, can be summarised as follows:

#### *Buildings & Works - Residential Hotel*

- The residential hotel entrance will be relocated to the internal porte cochere, which is accessible via the existing double crossover to Ridgeway Avenue.
- The existing landscaping buffer along the western boundary of the subject site, adjacent to the residential hotel entrance, will be reinstated.
- The west-facing doors and outdoor seating area adjacent to the residential hotel lobby will be deleted.

#### *Buildings & Works - Restaurant and Bar*

- The western restaurant and bar entrance will be reconfigured. This includes relocating the entry to the premises from a new door in the southern elevation, which is orientated towards Cotham Road.
- A timber batten screen, adjacent to the restaurant and bar entrance will be introduced to prevent patrons from exiting the premises directly onto Ridgeway Avenue.
- The outdoor seating area adjacent to the corner of Cotham Road and Ridgeway Avenue will be reorientated towards Cotham Road, rather than Ridgeway Avenue as previously proposed.
- The bi-folding windows to Ridgeway Avenue will be deleted.



- The existing landscaping along the western boundary of the subject site, adjacent to the restaurant and bar entrance, will be reinstated.

#### *Liquor Licence*

- The operating hours of the restaurant and bar will be amended to 7am-11pm - Sunday to Wednesday, 7am-midnight - Thursday and 7am-1am - Friday to Sunday.
- The outdoor seating areas of the restaurant and bar will close at 10pm each day.
- The maximum number of patrons permitted in the restaurant and bar will be 220.
- There will be consequential changes to the layout of the red line plan to facilitate the other modifications of the in-principle agreement.

*One speaker supporting the officers' recommendation addressed the meeting.*

## **MOTION**

**Moved Councillor Sinfield**

**Seconded Councillor Watson**

**That the Urban Planning Delegated Committee resolve to advise the Tribunal and Parties that Council formally agrees to the 'in-principle' agreement reached at the Compulsory Conference on 12 September 2023 and that Council request the Tribunal make orders with the consent of the parties to the same effect including the issue of a permit with the following conditions:**

### **Amended Plans Required**

1. **Prior to the commencement of buildings and works associated with the altered Residential Hotel lobby and extended operation of the restaurant and bar approved under this amended planning permit, amended plans must be submitted and approved by the Responsible Authority. When approved, they will be endorsed. The plans must be drawn to scale with dimensions and electronic copies provided (unlocked PDF). The Plans must be generally in accordance with the following plans:**
  - **TP00 - TP12 (Inclusive) Dated 10 October 2022 prepared by JAM Architects; and**
  - **TP04.0 dated 21 November 2022 prepared by JAM Architects; and**
  - **Red Line Plan advertised in January 2023**

### **And modified to show:**

- (a) **The entry and terrace to the residential hotel lobby facing Ridgeway Avenue deleted and the landscaping area to be retained generally in accordance with the Sketch Plan VCAT 12 September 2023.**
- (b) **An updated Materials Schedule (TP12) to show the clear glazing as GL8 and to show the colour and finish of any new glazing.**
- (c) **The outdoor bar area reorientated to face Cotham Road generally in accordance with the Sketch Plan VCAT 12 September 2023.**
- (d) **The outdoor bar area interfacing with Ridgeway Avenue to be screened with a full height treatment that prevents pedestrian access directly to Ridgeway Avenue generally in accordance with the Sketch Plan VCAT 12 September 2023.**
- (e) **The location of any external lighting.**

N/S

- (f) An updated Red Line Plan associated with the restaurant/bar that shows the red line area in the context of the proposed buildings and works.
- (g) Deletion of the word 'bar' from the residential hotel lobby.
- (h) An updated waste management/ recycling plan in accordance with Condition 19.

### Layout

- 2. The development and layout of the uses, levels design and location of buildings and works shown on the endorsed plan must not be modified for any reason without the prior written consent of the Responsible Authority.
- 3. On the proviso that permission and access to erect such lattice is given by the owner of 3 Kent Street Kew, the owner of the subject land must by the end of April 2012 (or at a later date as agreed to by 3 Kent Street and the Responsible Authority) and at its own expense entirely, erect the following self supported lattice extension to the southern and western boundary fences to 3 Kent Street Kew to an overall height of 2.4 metres above natural ground level for fence and lattice extension and to the following specifications (unless otherwise agreed to by 3 Kent Street and the Responsible Authority):
  - (a) a powder-coated steel lattice and powder-coated steel support posts of suitable strength to hold the lattice without sag or bending and to raise the fence height to 2.4 metres above ground level;
  - (b) Colourbond "Rivergum" colour or other colour to the satisfaction of the owner of 3 Kent Street Kew;
  - (c) the steel support posts to be set in concrete and located along the western fence, but located outside the fence line on the southern side of 3 Kent Street; and
  - (d) the lattice to extend from the south west corner of 3 Kent Street:
    - approximately 5 metres along the west boundary;
    - approximately 20 metres along south boundary, thus providing sight protection for kitchen and bathroom windows.

### Trees and Landscaping

- 4. Prior to the commencement of Buildings and Works associated with the altered Residential Hotel lobby and extended operation of the restaurant and bar approved under this amended planning permit (), a revised landscape plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. The plan must be drawn to scale with dimensions and three (3) copies must be provided. The plan must be substantially in accordance with that prepared by CDA Design Group and endorsed by the Responsible Authority on 16 August 2011 but modified to show changes to the ground floor layout depicted on plan 0466\_TP06 Revision J prepared by JAM Architects amended to show changes from condition 1.
- 5. All proposed new street trees must be to the satisfaction of the Responsible Authority.
- 6. Before the use starts or by such later date as is approved by the Responsible Authority in writing, the landscaping works shown on the

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**endorsed landscape plan must be carried out and completed to the satisfaction of the Responsible Authority.**

- 7. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced to the satisfaction of the Responsible Authority.**
- 8. An in-ground sprinkler system must be installed in all landscaped areas, to the satisfaction of the Responsible Authority.**

#### **Infrastructure**

- 9. The land must be drained to the satisfaction of the Responsible Authority and all drainage works and ground water management works must be completed prior to the occupation of any building. A drainage contribution may also apply, the cost of which will depend on the method of stormwater discharge adopted. Prior to the commencement of construction under this planning permit, the permit holder must submit a ground water management plan and a drainage management plan to the satisfaction of the Responsible Authority which once approved will be endorsed as forming part of this permit.**
- 10. Prior to the commencement of the approved uses, stormwater drains must be connected to a legal point of discharge approved by the Responsible Authority.**
- 11. Prior to the completion of the development, evidence must be provided to the satisfaction of the Responsible Authority that:**
  - (a) the existing drainage reserve on the north-eastern part of the site has been removed;**
  - (b) the existing MMBW easement on the land has been expunged;**
  - (c) all to the satisfaction of the Responsible Authority.**
- 12. All disused and redundant vehicular crossings must be removed at the same time as the construction of any new crossovers and prior to the completion of development works. The cost of removal of the existing crossings and the reinstatement of street assets (i.e. footpath, nature strip and kerb and channel etc.) is to be borne by the applicant and must be in accordance to Council's standards. A Council Supervision Permit is required for this work.**
- 13. All Council assets damaged as a result of building or construction works (such as streets, roads, crossovers, footpaths, nature strip, kerb and channel, drainage assets, etc.) must be reinstated in accordance with Council's Standards and to the satisfaction of the Responsible Authority.**
- 14. Reticulated electricity must be provided underground to the satisfaction of the Responsible Authority.**
- 15. No buildings or works are to be constructed over any easement or other restriction on the land or any sewers, drains, pipes, wires or cables without the prior written consent of the relevant authority or company and the Responsible Authority.**
- 16. Before the commencement of the use authorised by this permit:**

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- (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 IXD of that Act that the environmental conditions are suitable for residential use.

Any conditions required on a Statement of Environmental Audit must be implemented prior to the occupation of any building or otherwise in accordance with those conditions, to the satisfaction of the Responsible Authority and the Environment Protection Authority.

#### Amenity

17. The amenity of the area must not be adversely affected by the use or development as a result of:
  - (a) Transport of materials, goods or commodities to or from the land;
  - (b) Appearance of any building, works, stored goods or materials;
  - (c) Artificial light, vibration, smell, fumes, smoke, vapour, steam, dust, waste water, waste products, grit or oil; to the satisfaction of the Responsible Authority.
18. All security alarms or similar devices installed on the land must be of a silent type approved by the Standards Association of Australia and be connected to a registered security service.
19. Before the use starts a Waste/Recycling Management Plan must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of this permit. In the preparation of the waste/recycling management plan, specific attention must be made to the following items (but not limited to):
  - (a) How the collection of refuse and recycling material will be managed;
  - (b) The type of refuse and recycling bins to be used on the site and where they will be stored including details of screening and ventilation;
  - (c) What will be the frequency for the removal of such refuse and recycling materials?
  - (d) How it is intended to control the emission of odour caused by such refuse and recycling material when it is being stored within the site.
  - (e) That the bin storage areas are sufficient to cater for the amount of waste that will be produced;
  - (f) What type of bins will be used on the site;
  - (g) The private collection of bins;
  - (h) Who will be responsible for taking refuse and recycling bins in and out for collection, where this will occur and how collection of refuse and recycling materials will be managed;
  - (i) Hours of bin collection not being outside the hours of: 7am to 8pm Monday to Saturday; and 9am to 8pm Sunday and public holidays.
  - (j) Access routes for private waste collection vehicles that do not rely on extensive reversing movements;
  - (k) Compaction of refuse and the breaking up of bottles not occurring whilst the collection vehicle is standing stationary at or near the site.

The approved Waste/Recycling Management Plan must be implemented to the satisfaction of the Responsible Authority.

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**Car Parking**

20. Before any new building is occupied, the areas set aside for car parking, access roads and lanes and driveways shown on the endorsed plans must be:
- (a) constructed;
  - (b) formed to such levels and properly drained so that they can be used in accordance with the plans;
  - (c) line marked to indicate each car spaces; and
  - (d) clearly marked to show the direction of traffic along the accessway; to the satisfaction of the Responsible Authority.
21. Prior to the extension of trading hours associated with the restaurant and bar, an updated Car Parking Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. Once approved, the Car Parking Management Plan will be endorsed and will then form part of the permit. The plan must include details of the following:
- (a) allocation of car parking with the minimum number of car parking spaces allocated to each use set out as follows unless otherwise approved in writing by the Responsible Authority:
    - Office — 157 spaces;
    - Medical centre — 20 spaces;
    - Residential Hotel — 67 spaces;
    - Restaurant and Bar — 32 spaces (six of which must be available for restaurant/bar staff).
  - (b) that the lower level car park will be open for vehicles entering the site (i.e. not have access obstructed by any roller door or boom gate or the like, and not have access dependent on any phone or intercom system or other type of security system) for access between the hours of 6.30am and hours of closing of the restaurant and bar daily. , and the ability for vehicles to leave the site at any time without restriction
  - (c) all tandem car parking allocated to the same tenancy
  - (d) provision of disabled car parking
  - (e) outline of directional signage
  - (f) directional signage to, and available times of, use of the loading bay in the porte cochere for loading purposes
  - (g) signage of available times of use for visitor car parking in the loading bay in the porte cochere
  - (h) outline of car parking and traffic management devices used within the development to comply with the relevant Australian Standard including linemarking, traffic calming devices, mirrors, car parking barriers and other such matters
  - (i) Management of visitor drop off bay.
  - (j) Security measures and
  - (k) Signs to the satisfaction of the Responsible Authority must be provided directing drivers to customer and patient car parking spaces associated with the restaurant/bar and medical centre uses, and directing patrons of the restaurant/bar from the allocated car parking area to available lift access. Such sign must be located and maintained to the satisfaction of the Responsible Authority and must not exceed 0.3sqm in area.
  - (l) The lower basement roller door to be maintained so that noise is managed to the satisfaction of the responsible authority.
  - (m) The drop of and pick up for the residential hotel must occur from the porte cochere.

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- 22. The Car Parking Management Plan must be implemented to the satisfaction of the Responsible Authority.**
- 23. The areas set aside for car parking shown on the endorsed plans must be clearly marked and made available for use by visitors to and staff of the facility at all times and must not be used for any other purpose, to the satisfaction of the Responsible Authority.**

#### **Loading and Unloading**

- 24. A Loading and Waste Plan must be provided to the satisfaction of the Responsible Authority prior to the commencement of the use permitted by this permit. This plan must restrict the size of loading vehicles using the porte cochere to no larger than 6.4 metres.**

#### **General**

- 25. No plant, equipment, services or architectural features other than those shown on the endorsed plan are permitted above the roof level of the buildings without the prior written consent of the Responsible Authority.**
- 26. Service and storage areas must be kept in a tidy, rubbish-free condition at all times to the satisfaction of the Responsible Authority.**
- 27. All pipes (except down pipes and rain heads), fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from view to the satisfaction of the Responsible Authority.**
- 28. Any outdoor clotheslines or other clothes drying devices must be positioned so as not to be visible from any land nearby, to the satisfaction of the Responsible Authority.**

#### **Lighting**

- 29. Low intensity lighting must be provided to the satisfaction of the Responsible Authority ensuring that carpark areas and pedestrian access ways are adequately illuminated during evening periods without any loss of amenity to occupiers of nearby land.**
- 30. External lighting must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on adjoining land.**

#### **Construction**

- 31. All building and works associated with the construction of the development must be limited to the following hours, unless otherwise approved in writing by the Responsible Authority:**
- (a) Monday to Friday: 7.00am to 7.00pm**
  - (b) Saturday: 8:00am to 5.00pm**
  - (c) Sunday & gazetted Public Holidays: No construction**
- 32. Prior to the commencement of any works, a Construction Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. Once approved, the Construction Management Plan will be endorsed to form part of the approval documents**

**and must be implemented to the satisfaction of the Responsible Authority.**

**The plan must include details of the following:**

- (a) site contamination and disposal of contaminated matter;**
- (b) delivery and unloading points and expected frequency;**
- (c) a liaison officer for contact by residents and the Responsible Authority in the event of relevant queries or problems experienced;**
- (d) an outline of requests to occupy public footpaths or roads, or anticipated disruptions to local services;**
- (e) any requirements outlined within this permit as required by the relevant referral authorities;**
- (f) hours for construction activity in accordance with any other condition of this permit;**
- (g) measures to control noise, dust, water and sediment laden runoff;**
- (h) the location and design of a vehicle wash down bay for construction vehicles on the site;**
- (i) the location of parking areas for construction and sub-contractors' vehicles on the site and on nearby land, and nomination of timeframe of which the basement car parking will be available for vehicles associated with the construction activity to minimise disruption to surrounding premises and traffic flows;**
- (j) measures to ensure that sub-contractors/tradespersons operating on the site are aware of the contents of the Construction Management Plan;**
- (k) that all vehicles involved in construction of the development must access and egress Ridgeway Avenue and Kent Street via Cotham Road only;**
- (l) the location of any site sheds;**
- (m) any construction lighting to be baffled to minimise intrusion on adjoining lots.**

#### **Noise**

- 33. Noise levels emanating from the premises must not exceed the relevant levels prescribed by the State Environment Protection Policy (Noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues - Publication 1826.4) or any successive relevant legislation, to the satisfaction of the Responsible Authority.**

#### **Medical Centre**

- 34. Except with the further written consent of the Responsible Authority, not more than five (5) practitioners shall operate from the medical centre under this permit at any one time.**

#### **Restaurant/Bar**

- 35. The hours of operation for the restaurant/bar may only be 7:00am to 11:00pm Sunday to Wednesday (inclusive), 7.00am to 12 midnight on Thursday and 7.00am to 1.00am (the following day) Friday to Saturday (inclusive).**
- 36. The combined total of patrons allowed in the restaurant/bar at any one time must not exceed two hundred and forty (240) Friday to Sunday and two hundred and ten (210) at any other time.**
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- 37. The outdoor bar terrace must be closed at 10pm each day to the satisfaction of the responsible authority.**
- 38. The gym shown on the endorsed plans shall only be used by guests of the Residential Hotel.**

#### **Expiry**

- 39. This permit will expire if:**
- (a) The development approved under this planning permit does not start within two years of the issue date of this permit; or**
  - (b) The development is not completed within five years of the issue date of this permit.**

The Responsible Authority may extend the times referred to if a request is made in writing before the permit expires or within the three months afterwards.

- 40. The Buildings and Works associated with the altered Residential Hotel lobby and extended operation of the restaurant and bar approved under this amended planning permit must be commenced within 2 years of the issue date of this amended planning permit and completed within four years of this amended planning permit.**
- 41. The extended restaurant and bar operation approved under this amended planning permit must be commenced within 2 years of the issue date of this amended planning permit.**

#### **Noise Amenity Action Plan**

- 42. Prior to the extended operation of the restaurant and bar approved under this amended planning permit a Noise Amenity Action Plan must be provided to the satisfaction of the Responsible Authority. The Noise Amenity Action Plan must be in accordance with that dated November 2022, but amended to show:**
- (a) Clear reference that no live music will be played on the premises.**
  - (b) Methodology of restricting patrons from occupying footpaths adjacent to the premises.**
  - (c) The provision of CCTV.**
  - (d) A dedicated community hotline for communications available at during the hours of operation specified in Condition 35 and an additional half an hour either side of these times.**

#### **Serving of Alcohol**

- 43. Liquor must only be made available for consumption on the premises at such time when food is available to be prepared and served for consumption on the licence premises.**
- 44. Tables and chairs must be placed in position on the licensed premises so as to be available for at least 75% of the patrons attending the premises at any one time, to the satisfaction of the Responsible Authority.**
- 45. Sale and consumption of liquor must only occur within the endorsed red line plan area.**



## Testing of Noise Emissions

- 46. At the request of the Responsible Authority, the owner or occupier must, within 30 days, supply an assessment by a qualified acoustic consultant of noise levels emitted from the approved restaurant and bar with readings taken at times and locations specified by the Responsible Authority.**

**The cost of the assessment is to be borne by the owner or occupier. If necessary, additional noise control features must be installed in consultation with an acoustic engineer, or activities and noise sources on the premises regulated at the direction of and to the satisfaction of the Responsible Authority. The frequency of this request will be at the discretion of the Responsible Authority.**

## CARRIED

### 3.3 Mont Iris Estate and Environs Heritage Precinct Review - Exhibition Outcomes and Request for Panel - Amendment C394boro

#### Purpose

The purpose of this report is to inform the Urban Planning Delegated Committee (UPDC) of the outcomes of public exhibition of Amendment C394boro relating to the Mont Iris Estate and Environs Precinct peer review. The report also seeks a resolution to request the Minister for Planning to appoint an independent Planning Panel, and to refer all submissions to an independent planning panel for consideration.

Amendment C394boro seeks to implement the recommendations of the Mont Iris Estate and Environs Precinct peer review prepared by GJM Heritage, by including three precincts and two individually significant properties in the Heritage Overlay on a permanent basis.

#### Background

On 2 May 2022, the UPDC resolved to undertake a peer review of the Mont Iris Estate and Environs Precinct. This was in response to a recommendation by the independent Planning Panel which considered Amendment C333boro - Glen Iris Heritage Gap Study. The Planning Panel found the Mont Iris Estate and Environs Precinct could not be justified in the form recommended through Amendment C333boro, and recommended further review.

In May 2022, GJM Heritage was commissioned to carry out a peer review of the Mont Iris Estate and Environs Precinct. GJM Heritage recommended three (3) smaller precincts and two (2) individually significant properties within the Mont Iris Estate and Environs Precinct be included in the Heritage Overlay.

Following completion of the peer review, Council wrote to the Minister for Planning to request authorisation to prepare an amendment to the Boroondara Planning Scheme to implement the recommendations of the Mont Iris Estate & Environs Precinct peer review. Authorisation was granted to prepare and exhibit Amendment C394boro on 27 April 2023.

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### Key Issues

Amendment C394boro was publicly exhibited from 15 June to 27 July 2023. Twenty-four (24) submissions were received including nine (9) supporting submissions, four (4) partially supporting submissions, and eleven (11) opposing submissions. The following key issues were raised:

- The area has undergone significant change, resulting in heritage protection being unjustifiable.
- The recommendation to delete the Mont Iris Estate and Environs Precinct from Amendment C333boro sets a precedent for no heritage protection being justified.
- Increased maintenance costs associated with the upkeep of heritage properties.
- Imposition of the Heritage Overlay on property owners without agreement, and impacts on property rights.
- Increased regulatory burden associated with upgrading properties to current safety and structural integrity standards.

During the process of reviewing submissions, an inconsistency was identified in the planning scheme amendment documents relating to the property at 33 Tower Hill Road, Glen Iris. The property is identified as a contributory graded property to the Tower Hill Estate Precinct and is included within the exhibited precinct citation. However, the property is not included within the exhibited Planning Scheme Map No. 18HO prepared by the Department of Transport and Planning. Furthermore, the property is not included in the interim Heritage Overlay affecting the remaining properties in the precinct. No submission was received from the property owner through the public exhibition process.

This matter has been raised with the Department of Transport and Planning, who advised Council that it can be raised at a future Panel Hearing and noted as a post-exhibition change to the amendment documents. As the Statement of Significance was correctly exhibited with the property included in the precinct, the owner notified correctly as an affected property owner, and no submission being received, it is recommended the mapping correction be made as part of any adoption of the amendment by Council.

All submissions have been considered by Council officers and Council's heritage consultant. A summary of all submissions received, the officers' response and recommended changes made to the amendment is provided at **Attachment 1**. A number of changes are proposed to the exhibited peer review, which is provided at **Attachment 2**.

### Next Steps

In accordance with Section 23 of the *Planning and Environment Act 1987*, Council as the planning authority must consider whether to change the amendment in response to a submission(s), refer the amendment to an independent Planning Panel, or abandon the amendment in full or part.

It is recommended the amendment be referred to an independent Planning Panel to consider all submissions.

*Four speakers opposing the officers' recommendation addressed the meeting.*

**MOTION****Moved Councillor Thompson****Seconded Councillor Franco****That the Urban Planning Delegated Committee resolve to:**

- 1. Receive and note the submissions to Amendment C394boro (Attachment 1) to the Boroondara Planning Scheme in accordance with Section 22 of the *Planning and Environment Act 1987*.**
- 2. Endorse the officers' response to submissions and recommended changes to Amendment C394boro as shown at Attachment 2.**
- 3. Request that the Minister for Planning appoint a Planning Panel under Section 153 of the *Planning and Environment Act 1987* to consider all submissions to Amendment C394boro.**
- 4. Refer the amendment and all submissions to a Planning Panel in accordance with Section 23(1) of the *Planning and Environment Act 1987*.**
- 5. Authorise the Director Urban Living to undertake minor administrative changes to Amendment C394boro and associated planning controls that do not change the intent of the controls.**

**CARRIED****3.4 18-30 Whitehorse Road Deepdene - Mixed-use Development - PP22/0319**Proposal

The proposal seeks the use and development of the land for a mixed-use building, comprising a health club (restricted recreation facility), retail, residential hotel and dwellings; to vary an easement; to reduce the standard number of car parking spaces required and to create or alter an access to a road in a Transport Zone 2.

Details of the proposal are summarised as follows:

- A proposed building which is partially three and partially four storeys in height, with a maximum overall height of 12 metres. The building contains two levels of basement.
- The front portion of the building fronting Whitehorse Road contains mixed uses including a health club, retail uses and a residential hotel, whilst the centre and rear of the site contain residential dwellings.
- A 769sqm health club (gym) and 25-metre-long lap swimming pool to be located at basement level 2 (lower).
- A total of 25 dwellings are proposed, each with a double car garage within basement level 1.
- A total of 540m<sup>2</sup> of retail space is proposed, across three different areas.
- The residential hotel contains a total of 20 suites, in two different typologies.
- 73 car parking spaces are proposed, with a proposed reduction in the standard car parking requirement of twelve (12) spaces associated with the retail visitor parking.

### Issues

Thirteen (13) objections have been received raising a range of issues including overdevelopment of the site, impacts to the neighbourhood character and the Deepdene Neighbourhood Centre, impact to the public realm, damage to vegetation and the environment, lack of car parking and amenity impacts.

The following key issues are addressed in the Planning Assessment Report (Attachment 1):

- Appropriateness of the building, including the height, bulk and scale of the proposed development;
- Compliance with the Design and Development Overlay (DDO16) due to the neighbourhood character and integration with the public realm;
- Response to relevant planning controls in relation to not promoting sustainability, improving functionality, accessibility, integration with the public realm and addressing scale and identity;
- Limited amenity impacts to neighbouring residential properties to the east, including overshadowing and overlooking.
- Impact to neighbouring trees and vegetation, particularly along the Anniversary Trail.
- Provision of adequate car parking spaces, including for visitors, and impacts to the local traffic network.

### Officer's response

An assessment of the proposal has been undertaken against the Boroondara Planning Scheme as outlined in the Planning Assessment Report (Attachment 1). This report details the proposal, discussion of all objections and assessment against relevant controls and policies.

It is considered that the proposal strengthens the Deepdene Neighbourhood Centre through provision of new land uses which will benefit the local community by enabling additional services that may be provided, facilitating economic development and providing new housing opportunities within an established urban area.

The proposed development allows revitalisation of a large site in a prominent position within the Deepdene Neighbourhood Centre. The development has been designed with an appropriate façade to the Whitehorse Road frontage, varied heights that follows the typography of the land, appropriate setbacks to side boundaries whilst minimising amenity impacts to neighbouring residential properties.

A full assessment of the proposed development against Clause 55 of the Planning Scheme has been completed and is available in Appendix B. This assessment highlights that the development will have acceptable impacts to the neighbouring residential properties within the context of these adjoining a Commercial Zone and Neighbourhood Centre.

Regarding impacts to vegetation and lack of car parking spaces and associated issues, the proposed development is supported by Council's Arborist's and Traffic Engineers.

**MOTION**

**Moved Councillor Sinfield**

**Seconded Councillor Watson**

That the Urban Planning Delegated Committee resolve to issue a Notice of Decision to Grant a Planning Permit PP22/0319 for the use and development of the land for a mixed-use building, comprising a health club (restricted recreation facility), retail, residential hotel and dwellings; to vary an easement; to reduce the number of car parking spaces required and to create or alter an access to a road in a Transport Zone 2, subject to the following conditions:

**Stormwater Drainage Plan Prerequisite Requirements**

1. Prior to the submission of Amended Plans pursuant to Condition 2, Development Stormwater Drainage Plans must be submitted to and approved by Council's Asset and Capital Planning team (Drainage) the Responsible Authority. The plans must be prepared by a Registered Professional Civil Engineer with endorsement as a building engineer including:
  - a. The use of an On-site Stormwater Detention (OSD) system;
  - b. The connection to the Council nominated Legal Point of Discharge;
  - c. The outfall drainage works necessary to connect the subject site to the Council nominated Legal Point of Discharge;
  - d. The integration, details and connections of all Water Sensitive Urban Design (WSUD) features in accordance with the Sustainable Design Assessment (SDA) and STORM report and include drainage details as a result of landscaping;
  - e. A properly prepared design with computations for the internal drainage and method of disposal of stormwater from all roofed areas and sealed areas;
  - f. All drainage plans must show the Trees to be retained and including the Tree Number; The Structural Root Zone (SRZ) radius; and the Tree Protection Zone (TPZ) radius, each as detailed and calculated within in accordance with the arborist report submitted with the application.
  - g. All drainage plans must show proposed trees to be planted in accordance with the landscape plan submitted with the application.

**Amended plans required**

2. Before the development starts, amended plans to the satisfaction of the responsible authority must be submitted to and approved by the Responsible Authority. The plans must be drawn to scale with dimensions and electronic copies provided (unlocked PDF). When the plans are endorsed they will then form part of the permit. The plans must be substantially in accordance with the plans submitted to Council on 7 September 2023 but modified to show:
  - a. Correct the notation on the ground floor plan relating to screening of windows of Dwellings 22-24 (inclusive) so that the part balcony of Dwelling 22, full balconies of Dwellings 23 and 24 are screened in accordance with Standard B22 (Overlooking) of Clause 55.

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- b. All screening required in accordance with Standard B22 (Overlooking) of Clause 55 for Dwellings 22-24 (inclusive) to be shown on elevations.
- c. The east facing first and second floor balconies of the 'Private Residence' to be screened to 1.7 metres above the finished floor level and comply with Standard B22 (Overlooking) of Clause 55. The first floor balcony on floor plan is shown to have 1.7m opaque glass balustrade, but this is not fully noted on elevation.
- d. Overlooking diagrams to demonstrate 'Private Residence' first floor east facing bedroom window to comply with Standard B22 (Overlooking) of Clause 55.
- e. Any fence or wall separating the Secluded Private Open Space of two dwellings, to be screened to at least 1.7 metres height above the Finished Floor Level and have maximum openings of 25%;
- f. An 'Internal Views' Plan that demonstrates how each Dwelling complies with Standard B23 of Clause 55;
- g. Removal of Dwelling 15's South facing dining room windows;
- h. Notation that specifies that any obstructions, including fencing and/or letterboxes, must be no higher than 900mm or 50% permeable within the pedestrian sight triangle area on the departure side;
- i. Correction to Basement Level 1 Floor plan to specify 23 car spaces (16 regular spaces, 2 disabled spaces and 5 visitors) other than the 50 car spaces contained within self-contained garages;
- j. Correction to Basement Level 1 Floor plan label that specifies 10 motorcycles spaces;
- k. Allocation of car parking as 5 for retail, 5 for residential hotel, 6 for Health Club and the disabled car parking spaces shared amongst all land uses;
- l. Notation that specifies 'Relevant approval from the Electricity/Power Provider is required to remove/relocate the electricity pole';
- m. The Tree Protection Zone and Structural Root Zone of Tree Nos. 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 23, 24, 25, 26, 27, 28, 29, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57 and 58 (as identified in the Arborist Report submitted with the application prepared by Baxter Ecology and Associates (dated 07/07/2023) drawn on all site and floor plans;
- n. Notation on all site and floor plans that Tree Nos. 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 23, 24, 25, 26, 27, 28, 29, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57 and 58 are to be retained and protected in accordance with the endorsed Tree Management Plan required by this Permit;
- o. Any modifications to the location or layout of buildings and/or works recommended in the endorsed Tree Management Plan required by this Permit;
- p. The siting of any necessary stormwater detention pit, underground services and pits, and/or rainwater harvesting tank to be located outside any area set aside for deep-soil planting and outside the Tree Protection Zone of any trees to be retained/protected;
- q. Notation on all site and floor plans that all excavations within the Tree Protection Zone of Tree 1, 2, 3 & 5 must be undertaken with hand tools



- or hydro-vacuum and that all excavation works must be supervised, document and certified by the Project Arborist;
- r. Notation on all site and floor plans that all excavations within the Tree Protection Zone of any tree to be retained must be undertaken with hand tools or hydro-vacuum to a minimum depth of 50 cm and that all excavation works must be supervised, document and certified by the Project Arborist (excluding basement);
  - s. All demolition works within the Tree Protection Zone of any tree to be retained must be supervised by the project arborist;
  - t. Existing ground level must be maintained within the Tree Protection Zone of any tree to be retained (excluding basement);
  - u. Permanent fencing within the Tree Protection Zone of any tree to be retained must be constructed on pier foundations with any required plinths constructed above existing grade;
  - v. Notation on all site and floor plans that no strip footing is permitted within the Tree Protection Zone of Tree 1, 2, 3 & 5;
  - w. Retaining wall replacement within the Tree Protection Zone of any tree to be retained must be constructed on pier foundations, utilise non-destructive excavation techniques and be supervised by the Project Arborist;
  - x. Changes to Dwelling 15 and above floors to accommodate the canopy of Tree 45;
  - y. Deletion of retaining wall within the Structural Root Zone of tree 48;
  - z. Changes to the communal open space to facilitate replacement tree planting as required in the Landscape Plan conditions of this permit;
    - aa. Any changes required to the building footprint of Dwelling 15 to accommodate the retention of Tree 45 and its canopy;
    - bb. Initiatives contained within the Sustainable Design Assessment along with the proposed changes, including:
      - a. A minimum 30kW roof mounted solar photovoltaic panels;
    - cc. Physical samples of all materials and finishes to be submitted to Council's satisfaction;
    - dd. Development Stormwater Drainage Plans in accordance with Condition 1 of this permit;
    - ee. A Landscape Plan in accordance with condition 4 of this permit;
    - ff. A Tree Management Report in accordance with condition 7 of this permit;
    - gg. A Sustainability Management Plan in accordance with condition 14 of this permit;
    - hh. A Waste Management Plan in accordance with condition 40 of this permit;
    - ii. A Lighting Strategy Plan in accordance with condition 44 of this permit;
    - jj. A Car Parking Management Plan in accordance with Condition 63 of this permit.

**Layout not to be altered**

- 3. The layout of the site and the size, levels, design and location of buildings and works shown on the endorsed plans must not be modified for any reason without the prior written consent of the Responsible Authority.

**Landscape plan**

4. A landscape plan to the satisfaction of the responsible authority must be submitted to and approved by the Responsible Authority. The plan must be drawn to scale with dimensions and electronic copies provided (unlocked PDF). When endorsed, the plan will form part of the permit.

The landscape plan must be generally in accordance with the landscape concept plan dated *19 December 2022* prepared by *John Patrick Landscape Architects*, except that the plan must show:

The landscape plan must show:

- a. A survey (including botanical names) of all existing trees to be retained and of those to be removed. The intended status of the trees shown on the landscape plan must be consistent with that depicted on the development layout plan;
- b. All hard surfaces proposed within the Tree Protection Zone of Tree Nos. 12, 18, 19, 27, 28, 31, 33, 34, 36, 37, 41, 42, 43, 45, 46, 48 (as identified in the Arborist Report submitted with the application Baxter Ecology and Associates (dated 07/07/2023)) must be constructed of permeable materials; be constructed above current grade; and be constructed on foundations that maintain appropriate permeability for each tree, to the satisfaction of the Responsible Authority;
- c. Detailed construction specifications for all permeable surfaces that include cross-section diagrams;
- d. One (1) canopy tree (minimum 2 metres tall when planted and must achieve a minimum mature height of 10 metres and canopy spread of 7 metres) in the communal open space.
- e. Each canopy tree must be provided a minimum of 49 sqm of deep soil, with the available soil area clearly shown on the landscape plan;
- f. All trees must comply with Australian Standard AS2303:2015 - Tree Stock for Landscape Use;
- g. All canopy trees must be planted by an AQF Level 3 Qualified Arborist, Landscape Gardener or Horticulturist;
- h. All canopy trees must be planted more than 2 metres away from any structures, paving, decking, property boundaries, easements, existing trees or shrubs;
- i. All trees within side and rear setbacks adequately setback from common boundaries to avoid mature canopy overhang of neighboring spaces.
- j. All hard surfaces proposed within the Tree Protection Zone of Tree Nos. 1, 2, 3 & 5 (as identified in the Arborist Report submitted with the application BAXTER ECOLOGY & ASSOCIATES (dated 2023)) must be constructed of permeable materials; be constructed above current grade; and be constructed on foundations that maintain appropriate permeability for each tree, to the satisfaction of the Responsible Authority;
- k. Detailed construction specifications for all permeable surfaces that include cross-section diagrams;

**Completion of landscaping works**

5. Landscaping as shown on the endorsed landscape plan/s must be carried out and completed to the satisfaction of the Responsible Authority prior to the occupation of the development.

**Landscaping maintenance**

6. All landscaping works shown on the endorsed landscape plan/s must be maintained and any dead, diseased or damaged plants replaced, all to the satisfaction of the Responsible Authority.

**Tree Management Plan**

7. Concurrent with the submission of amended plans required by Condition 1 of this Permit and prior to any demolition or site works, a Tree Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The Tree Management Plan must be prepared by a minimum AQF Level 5 qualified and experienced Arborist in relation to the management and maintenance of Tree Nos. 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 23, 24, 25, 26, 27, 28, 29, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57 and 58 (as identified in the Arborist Report submitted with the application prepared by Baxter Ecology and Associates (dated 07/07/2023)). The Tree Management Plan must make specific recommendations in accordance with the Australian Standard AS4970: 2009 - Protection of Trees on Development Sites and detail the following to ensure that all retained trees remain healthy and viable during construction:
  - a. A Tree Protection Plan drawn to scale that shows:
    - i. Tree Protection Zones and Structural Root Zones of all trees to be retained;
    - ii. All tree protection fenced off areas and areas where ground protection systems will be used;
    - iii. The type of foundations (illustration or notation) within each Tree Protection Zone;
    - iv. Any services to be located within the Tree Protection Zone and a notation to state that all services will either be located outside of the Tree Protection Zone, bored under the tree protection zone, or installed using hydro excavation under the supervision of the project arborist; and
    - v. A notation to refer to the Tree Management Plan for specific detail on what actions are required within the Tree Protection Zone.
  - b. Details of how the root system of any tree to be retained will be managed. This must detail any initial non-destructive trenching and pruning of any roots required to be undertaken by the project arborist; and details of how any permeable surfaces within the Tree Protection Zone of retained trees will be constructed;
  - c. Supervision timetable and certification of tree management activities required by the Project Arborist to the satisfaction of the Responsible Authority;
  - d. All remedial pruning works that are required to be performed on trees during demolition and development of the site. The pruning comments must reference Australian Standards 4373:2007, Pruning of Amenity Trees and a detailed photographic diagram specifying what pruning will

**occur. Note: Only Council or Authorised Council Contractors can prune Trees Nos. 1, 2, 3 & 5. Any request for the pruning of trees on public land must be made through Council's Environmental Sustainability and Open Spaces Department.**

- e. All pruning of trees 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55 and 56 must be to the satisfaction of DEECA.
- f. A detailed assessment of title boundary tree canopy overhang is required. Where pruning is required proposed works should be approved by the land owner and/or Responsible Authority in accordance with AS 4373.2007 *Pruning of Amenity Trees*.
- g. The recommendations contained in the approved Tree Management Plan must be implemented to the satisfaction of the Responsible Authority and any changes to the endorsed Tree Management Plan will require written authorisation from the Responsible Authority.

#### **Tree Management Plan and Construction Management Plan**

- 8. If a Construction Management Plan is required as a condition of this permit it must be in accordance with the Tree Management Plan and Tree Protection Plan.

#### **Contractors to be advised of trees to be retained and protected**

- 9. The owner and occupier of the site must ensure that, prior to the commencement of buildings and works, all contractors and tradespersons operating on the site are advised of the status of trees to be retained and protected as detailed in the endorsed Tree Management Plan and are advised of any obligations in relation to the protection of those trees. A written record must be maintained on site of all contractors inducted regarding this condition. At the request of an authorized officer of Council this written record must be provided to council.

#### **Regulation of activities in Tree Protection Area**

- 10. No vehicular or pedestrian access, trenching or soil excavation is to occur within the Tree Protection Area as detailed in the endorsed Tree Management Plan without the prior written consent of the Responsible Authority. No storage or dumping of tools, equipment or waste is to occur within the Tree Protection Zone.

#### **Documentation and Certification by Project Arborist**

- 11. a) Prior to the commencement of any site works, including demolition and excavation, the Responsible Authority must be provided with evidence that a project arborist has been engaged as part of the ongoing consultant team to oversee the design and construction, and to ensure the development does not have a detrimental impact on the ongoing health and stability of the trees to be retained. The project arborist must hold suitable qualifications and experience to the satisfaction of the Responsible Authority. Evidence of the appointment of the project arborist must be submitted to the satisfaction of the Responsible Authority (quoting the Planning Permit number and site address, emailed to [Boroondara@boroondara.vic.gov.au](mailto:Boroondara@boroondara.vic.gov.au)) not less than seven (7) days before the commencement of works on site.

b) Prior to the commencement of any site works, including demolition and excavation, a timetable for the supervision and certification of tree

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management activities which is to the satisfaction of the Responsible Authority must be prepared by the project arborist and submitted to the Responsible Authority for approval. A signed and dated copy of each stage of the supervision timetable certified by the project arborist (quoting the Planning Permit number and site address, emailed to [Boroondara@boroondara.vic.gov.au](mailto:Boroondara@boroondara.vic.gov.au)) must be submitted to the Responsible Authority not more than seven (7) days following the completion of each stage.

#### **Payment of Fees for the Removal and Replacement of Street Trees**

12. Prior to the commencement of the development, a fee of \$9922.57 plus GST must be paid to the Responsible Authority to cover the costs of the removal of the existing street tree (Tree 4 - Assets ID 861350) located on Whitehorse Road and planting of two (2) new street trees adjacent to the new footpath.
13. Removal of the existing street tree and supply and planting of two new street trees must only be undertaken by the Responsible Authority.

#### **Sustainability Management Plan**

14. Prior to the endorsement of plans, a Sustainability Management Plan (SMP) must be submitted to and approved to the satisfaction by the Responsible Authority. The Sustainability Management Plan must demonstrate a best practice standard of environmentally sustainable design and be generally in accordance with the report by GIW Environmental Solutions Revision D dated 19 December 2022, but modified to include the following changes:
  - a. The energy section amended to nominate at least 30kW solar photovoltaics
  - b. BESS credit 'IEQ 3.2 Thermal Comfort - External Shading' no longer claimed.
  - c. No more than 20% vegetated area claimed for BESS credit 'Urban Ecology 2.1 Vegetation'.
  - d. BESS credit 'Urban Ecology 2.4 Private Open Space - Balcony / Courtyard Ecology' no longer claimed unless taps and floor drains are shown for all townhouse balconies

Where alternative ESD initiatives are proposed to those specified in conditions above, the Responsible Authority may vary the requirements of this condition at its discretion, subject to the development achieving equivalent (or greater) ESD outcomes in association with the development.

15. All works must be undertaken in accordance with the endorsed Sustainability Management Plan and stormwater management plan to the satisfaction of the Responsible Authority. No alterations to these plans may occur without the written consent of the Responsible Authority.
16. Prior to the commencement of occupation or issue of a Statement of Compliance, whichever comes first, of any part approved under this permit, a report from the author of the Sustainability Management Plan (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 through supporting evidence that all measures specified in the endorsed SMP have been implemented in accordance with the approved plan.

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**Water Sensitive Urban Design**

17. Prior to the endorsement of plans, a stormwater management plan that addresses Clause 53.18 of the Boroondara Planning Scheme must be submitted and approved to the satisfaction of the Responsible Authority. The plan must be generally in accordance with that included within the Sustainable Management Plan report by GIW Environmental Solutions Revision D dated 19 December 2022.

**Drainage**

18. The site must be drained to the satisfaction of the Responsible Authority.
19. The owner must make an arrangement with Council for the provision of drainage and the acceptance of surface and stormwater from the subject land directly or indirectly into Council's drainage system and a final inspection shall be carried out to determine the completion of drainage in accordance with the approved plans, to the satisfaction of the Responsible Authority.

**Sediment laden run-off**

20. No polluted and/or sediment laden runoff is to be discharged directly or indirectly into Council's drains or watercourses during and after development, to the satisfaction of the Responsible Authority.

**Department of Transport Conditions**

21. Prior to the occupation of the development the crossover driveway and all associated works show on plans (Fender Katsalidis TP009 Rev 4 dated 03/08/2023) must be constructed to the satisfaction of the Head, Transport for Victoria and the Responsible Authority, at no cost to the Head, Transport for Victoria.
22. All vehicles associated with the use and development must be able to conveniently enter and exit the subject land in a forward direction to the satisfaction of the Responsible Authority and the Head, Transport for Victoria.
23. All disused or redundant crossings along Whitehorse Road must be removed and the area reinstated to kerb, channel and footpath to the satisfaction of and at no cost to the Head, Transport for Victoria prior to the occupation of the buildings hereby approved.
24. The permit holder must avoid disruption to tram operation along Whitehorse Road during the construction of the development. Any planned disruptions to tram operation during construction and mitigation measures must be communicated to and approved by the Head, Transport for Victoria and Yarra Trams a minimum of 8 weeks prior.
25. The permit holder must ensure that all track, tram and overhead infrastructure is not altered or damaged. Any alteration or damage to public transport infrastructure must be approved and / or rectified to the satisfaction of the Head, Transport for Victoria at the full cost of the permit holder.
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**Number of car parking spaces**

26. A minimum of 73 car parking spaces must be provided on the land, to the satisfaction of the Responsible Authority.



**Use of car parking spaces and driveways**

27. Car spaces, access lanes and driveways shown on the endorsed plans must not be used for any other purpose, to the satisfaction of the Responsible Authority.

**Carpark control equipment**

28. Before the use starts or any building is occupied, details of any car park control equipment (controlling access to and egress from the internal/basement car park/s) must be submitted to and approved in writing by the Responsible Authority. These details must include a car park control device which can be accessed by visitors to the development including clear instructions on how to operate any security system.

**Convex Mirror**

29. Before the use starts or any building is occupied a convex mirror must be installed at the 90 degrees change in direction of ramp (on the northern wall of Dwelling 16) to the satisfaction of the Responsible Authority.

**Visitor parking spaces**

30. Visitor parking spaces within the development must be:
- a. Clearly identified by appropriate signage having an area no greater than 0.3m<sup>2</sup>;
  - b. Line marked to indicate each car space; and
  - c. Available for visitor usage at all times.

**Vehicle crossovers**

31. Any new vehicle crossover or modification to an existing vehicle crossover must be constructed to the satisfaction of the Responsible Authority.

**Removal of redundant vehicle crossovers**

32. All disused or redundant vehicle crossovers must be removed and the area reinstated with footpath, naturestrip, kerb and channel to the satisfaction of the Responsible Authority.

**Boundary walls**

33. The external faces of walls on or facing boundaries must be cleaned and finished to an acceptable standard to the satisfaction of the Responsible Authority.

**External lighting**

34. All external lighting must be designed, baffled and located so as to prevent light from the site causing any unreasonable impacts on the locality, to the satisfaction of the Responsible Authority.

**Security alarms**

35. All security alarms or similar devices installed on the land must be of a silent type in accordance with any current standards published by Standards Australia Ltd and must be connected to a registered security service, to the satisfaction of the Responsible Authority.

**Concealment of pipes**

36. All pipes (except down-pipes), fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from external view, to the satisfaction of the Responsible Authority.

**Regular waste removal**

37. All waste material not required for further on-site processing must be regularly removed from the site. All vehicles removing waste must have fully secured and contained loads so that no wastes are spilled or dust or odour is created, to satisfaction of the Responsible Authority.

**Maintenance of waste storage area**

38. All bins and receptacles used for the collection and storage of solid waste, recyclables and other wastes must be kept in a designated area, to the satisfaction of the Responsible Authority. This storage area must be:

- a. Properly paved and drained to a legal point of discharge;
- b. Screened from view with a suitably designed enclosure;
- c. Supplied with adequate hot and cold water; and
- d. Maintained in a clean and tidy condition free from offensive odours to the satisfaction of the Responsible Authority.

**Hours for waste collection**

39. Collection of waste must be conducted so as not to cause any unreasonable disturbance to nearby residential properties and may only take place during the following times:

Monday to Friday:	7:00am to 6:00pm
Saturday & Public Holidays:	9:00am to 6:00pm
Sunday:	No collection allowed

to the satisfaction of the Responsible Authority.

**Waste Management Plan**

40. A Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The Waste Management Plan must be substantially in accordance with the Waste Management Plan prepared by Leigh Design dated 19 December 2022 but modified to show:

- a. Section 2.2 (Collection Arrangements and Access to Waste Facilities) amended to add that each waste stream is to be collected by dedicated waste trucks and transported to dedicated waste facilities. Wastes are not to be collected in one waste truck.

to the satisfaction of the Responsible Authority.

**Construction management plan**

41. Prior to the commencement of any site works, including demolition and excavation, a Construction Management Plan must be submitted to and endorsed by the Responsible Authority. No works are permitted to occur until the Plan has been endorsed by the Responsible Authority. Once endorsed, the construction management plan will form part of the permit and must be implemented to the satisfaction of the Responsible Authority. The plan must be prepared in accordance with Council's Construction Management Plan Template and provide details of the following:

- a. Hours for construction activity in accordance with any other condition of this permit;

- b. Measures to control noise, dust, water and sediment laden runoff;**
- c. Measures relating to removal of hazardous or dangerous material from the site, where applicable;**
- d. A plan showing the location of parking areas for construction and sub-contractors' vehicles on and surrounding the site, to ensure that vehicles associated with construction activity cause minimum disruption to surrounding premises. Any basement car park on the land must be made available for use by sub-constructors/tradespersons upon completion of such areas, without delay;**
- e. A Traffic Management Plan showing truck routes to and from the site;**
- f. Swept path analysis demonstrating the ability for trucks to enter and exit the site in a safe manner for the largest anticipated truck associated with the construction;**
- g. A plan showing the location and design of a vehicle wash-down bay for construction vehicles on the site;**
- h. Measures to ensure that sub-contractors/tradespersons operating on the site are aware of the contents of the construction management plan;**
- i. Contact details of key construction site staff;**
- j. A site plan showing the location of any site sheds, on-site amenities, building waste storage and the like, noting that Council does not support site sheds on Council road reserves; and**
- k. Any other relevant matters, including the requirements of VicRoads and Yarra Trams.**

#### **Hours for demolition and construction**

- 42. All works including earthworks, demolition and construction activity associated with the approved development must take place only during the following hours, except with the prior written consent of the Responsible Authority:**

<b>Monday to Thursday:</b>	<b>7:00am to 6:00pm</b>
<b>Friday:</b>	<b>7:00am to 5:00pm</b>
<b>Saturday:</b>	<b>9:00am to 5:00pm</b>
<b>Sunday &amp; Public Holidays:</b>	<b>No construction</b>

#### **Provision of letter boxes**

- 43. Provision must be made on the site for letter boxes and receptacles for papers to the satisfaction of the Responsible Authority.**

#### **Lighting Strategy**

- 44. Prior to the endorsement of plans, a Lighting Strategy Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. Once satisfactory, such plan will be endorsed and must be implemented to the satisfaction of the Responsible Authority. The Lighting Strategy must detail the type, illumination and intensity of all external lighting on the public facades and within the publicly accessible open spaces, such as the central lane and the western walkway facing the Anniversary Outer Circle Trail, should be submitted for Council's assessment. The strategy should demonstrate that:**

- a. **Well-considered, high-quality lighting is provided to illuminate all outdoor spaces based on their hierarchy and use, e.g. semi-public vs. semi-private/private spaces.**
- b. **Include a mix of standard and feature lighting targeting semi-public areas that need augmented lighting to ensure they remain safe, comfortable and engaging after dark.**
- c. **All external lighting should be designed as an integral aspect of the architecture and landscape design, highlighting where appropriate special features of both, such as building entrances, alcoves and other recesses.**
- d. **All external lighting must be designed, baffled and located so as to prevent light from the site causing any unreasonable impacts on the locality.**

#### **Environmental Audit**

**45. Prior to the commencement of the use, either:**

- a. **A preliminary risk screen assessment statement in accordance with the Environment Protection Act 2017 must be issued stating that an environmental audit is not required for the use or the proposed use; or**
- b. **An environmental audit statement under Part 8.3 of the Environment Protection Act 2017 must be issued stating that the land is suitable for the use or proposed use.**
- c. **A certificate of environmental audit must be issued for the land in accordance with Part IXD of the Environment Protection Act 1970; or**
- d. **A statement of environmental audit must be issued for the land in accordance with Part IXD of the Environment Protection Act 1970 stating that the environmental conditions of the land are suitable for the use or proposed use.**

**46. Notwithstanding the provisions of Condition 30, the following buildings and works can be carried out before any necessary Statement of Environmental Audit or a Certificate of Environmental Audit is provided to the Responsible Authority under Condition 45:**

- a. **Buildings and works that necessarily form part of the Environmental Audit process; and**
- b. **Buildings and works that the Environmental Auditor engaged by the owners advises must be carried out before a Statement or Certificate of Environmental Audit can be issued.**

**47. Buildings and works carried out before any necessary Statement of Environmental Audit or a Certificate of Environmental Audit is provided to the Responsible Authority must be carried out in accordance with the Works Plan approved by the Environmental Auditor engaged by the owner. A copy of the Works Plan must be provided to the Responsible Authority before the commencement of the buildings and works for the purposes of this condition.**

**48. Before the construction of the building hereby approved commences (excluding buildings and works carried out in accordance with a Works Plan approved by the Environmental Auditor engaged by the owner), a copy of any necessary certificate of environmental audit and/or statement, and the complete audit report and audit area plan must be submitted to the Responsible Authority.**

49. The development and use allowed by this permit must comply with the directions and conditions of any Statement of Environmental Audit issued for the land.
50. Prior to the occupation of the building, a letter must be submitted to the Responsible Authority by an Environmental Auditor accredited with the EPA, to advise that all construction and remediation works necessary and required by an environmental audit or statement have been carried out.
51. Any handling and disposal of contaminated site soil must be in accordance with the requirements of any statement of environmental audit issued for the land, the requirements of the Environment Protection Authority and the Environment Protection Act 2017.

#### Power pole

52. Approval from the relevant power authority for the relocation or removal of the Power Pole must be obtained prior to commencement of any buildings and works.

#### Gymnasium

53. Unless with the prior written consent of the Responsible Authority the Health Club visitors excluding guest of the residential hotel or residents of the dwellings must not exceed 30.
54. The number of staff, proprietors, and person related to the proprietors working on the site or any other persons working on the site, whether paid or unpaid, must not exceed 2 on the site at any one time.

#### Nosie level limits

55. Noise levels emanating from the premises must not exceed the relevant levels prescribed by the State Environment Protection Policy (Noise limit and assessment protocol for the control of noise from commercial, industrial and trade premises and entertainment venues - Publication 1826.4) or any successive relevant legislation, to the satisfaction of the Responsible Authority.

#### Testing of noise emissions

56. At the request of the Responsible Authority, the owner or occupier must, within 30 days, supply an assessment by a qualified acoustic consultant of noise levels emitted from the site with readings taken at times and locations specified by the Responsible Authority.

The cost of the assessment is to be borne by the owner or occupier. If necessary, additional noise control features must be installed in consultation with an acoustic engineer, or activities and noise sources on the premises regulated at the direction of and to the satisfaction of the Responsible Authority.

The frequency of this request will be at the discretion of the Responsible Authority.



**No external audio equipment**

57. No external sound amplification equipment or loudspeakers are to be used for the purpose of announcements, broadcasts, playing of music or similar purposes, to the satisfaction of the Responsible Authority.

**No amplified live music**

58. No amplified live music or entertainment is permitted on the premises without the prior written consent of the Responsible Authority.

**Background Music**

59. The provision of entertainment on the premises must be limited to background music and be no louder than 5 decibels above the ambient background noise, to the satisfaction of the Responsible Authority.

**Weights**

60. All weights, including dumbbells, kettle bells and similar, must be rubberized and only be utilised on the designated rubber matt areas at the ground floor of the premise.

**Leave quietly sign**

61. A sign must be attached to an internal wall in a prominent position adjacent to the entry/exit point to advise patrons to leave the premises in a quiet and orderly fashion. The sign must be to the satisfaction of the Responsible Authority.

**Amenity of the area**

62. The amenity of the area must not be adversely affected by the use and development as a result of the:
- a) Transport of materials, goods or commodities to or from the land; and/or
  - b) Appearance of any building, works, stored goods or materials; and/or
  - c) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, ash, dust, waste water, waste products, grit or oil; and/or
  - d) The presence of vermin;
- or in any other way, to the satisfaction of the Responsible Authority.

**Car Park Management Plan**

63. Concurrent with the submission of amended plans pursuant to Condition 1, a Car Park Management Plan must be submitted to and approved by the Responsible Authority.

**The plan must include:**

- a) Details of how car parking and circulation will be managed.



**b) Allocation of car parking as 5 for retail, 5 for residential hotel, 6 for Health Club and the disabled car parking spaces shared amongst all land uses;**

**Any recommended changes to the layout of the basement must be incorporated into the plans required by Condition 1. Once approved, the plan must be implemented to the satisfaction of the Responsible Authority.**

**Permit to expire:**

**64. This Permit will expire if:**

- a. The development does not start within two (2) years of the issue date of this Permit; or**
- b. The development is not completed within four (4) years of the issue date of this Permit; or**
- c. The use does not commence within two (2) years of the completion of the development.**

**The Responsible Authority may extend the times referred to if a request is made in writing before the permit expires or:**

- (i) within six (6) months afterwards if the use or the development has not commenced; or**
- (ii) within twelve (12) months afterwards if the development has not been completed.**

**Council and the Victorian Civil and Administrative Tribunal are unable to approve requests outside of the relevant time frame.**

**Expiry of Easement Variation**

**65. The variation of easement component of this permit will expire if:**

- a. The plan of variation delete as appropriate of easement is not certified within two (2) years of the issue date of this permit.**
- b. The plan of variation delete as appropriate of easement is not registered within five (5) years of the date of certification.**

**The Responsible Authority may extend the certification period referred to if a request is made in writing before the permit expires or within six (6) months afterwards.**

**Council and the Victorian Civil and Administrative Tribunal are unable to approve requests outside of the relevant time frame.**

**Notes:**

***Headings are for ease of reference only and do not affect the interpretation of permit conditions.***

***This is not a Building Permit. A Building Permit may be required prior to the commencement of any works associated with the proposed development.***

NS

***Pursuant to Council's Residential Parking Permit Policy (2011), the owners and occupiers of dwellings approved in this development will not be eligible to obtain resident or visitor parking permits.***

***The proposed development requires the construction of a crossover. Separate approval under the Road Management Act 2004 for this activity may be required from the Head, Transport for Victoria. Please contact the Department of Transport & Planning prior to commencing any works.***

***Prior to the commencement of any works on the site, the owner/developer must submit drainage plans for assessment and approval by the Responsible Authority (Asset Management).***

***Stormwater drains are to be connected to a legal point of discharge approved by Council. Drainage Connections within a road reserve, right-of-way, parkland, within an easement or to a Health Act drain must be to Council's standards.***

***Discharge to the approved point of discharge will be allowed subject to the flow being limited to a rate equivalent to 0.35 coefficient of runoff for 1 in 5 year rainfall event. Any additional discharge is to be temporary detained on site with a minimum storage volume for 1 in 10 year rainfall event, via an approved stormwater detention system designed to Council specifications.***

***Stormwater drainage plans must include the location of any existing or proposed trees within the vicinity of drainage works and document how any potential conflicts between trees and drains will be addressed during and after construction.***

***Stormwater drainage runoff shall be collected in a complete and effective system of drains and connected to the Approved Point of Stormwater Discharge.***

***Prior consent from Council and any and all public authorities is required to be obtained for alteration or reinstatement of assets or services affected as a result of the development.***

***No groundwater or anything other than Stormwater is to be discharged into an open discharge system. (Kerb & channel, made surface of a right of way or similar surface drainage system)***

***A Control pit is to be located in an appropriate location and a suitable path is to be designed for stormwater which surcharges from the pit once the design storm has been exceeded.***

***The proposed development is to provide adequate clearance for overland flow through the property.***

***An Asset Protection Permit is required prior to the commencement of site works in accordance with Council's Local Law 1E.***

***Prior consent from Council and any and all public authorities is required to be obtained for alteration or reinstatement of assets or services affected as a result of the development.***

***The full cost of reinstatement of any Council assets damaged as a result of demolition, building or construction works, must be met by the permit***

**applicant or any other person responsible for such damage, to the satisfaction of the Responsible Authority.**

**The Tree Protection Local Law requires that a Local Law Tree Permit be sought from Council for the removal and/or lopping of a 'Significant Tree' and/or excavation within the critical root zone of a Significant Tree. A list of Significant Trees is available at <http://www.boroondara.vic.gov.au/our-city/trees/significant-trees>. A Local Law Tree Permit is also required to remove, damage kill or destroy any identified 'Canopy Tree' which may include any excavation within the tree protection zone of a 'canopy tree'. The Tree Protection Local Law identifies a 'Canopy tree' as any tree with a single trunk circumference of 110cm or a combined circumference of a multi stemmed tree of 110cm or greater measured at 1.5m above ground level. A Planning Permit does not constitute a Local Law Tree Permit or permission to remove, damage kill or destroy a significant or canopy tree. The Tree Protection Local Law is available to download at <http://www.boroondara.vic.gov.au/our-city/trees/tree-works-permits> alternatively please contact Council's Arborist - Statutory Planning (telephone 9278 4888) should a Local Law Tree Permit be required.**

**Works over easement**

**Prior to the issue of a building permit, the owner must obtain the consents of all relevant authorities for any buildings or works, including any paving, fences and landscaping, over any easement or underground services under the control of a public authority including sewers, drains, pipes, wires or cables.**

**The owner must accept all reinstatement costs in carrying out repairs to any buildings, works or landscaping over the easements should such buildings, works or landscaping be disturbed by any works undertaken by Council in the future.**

**CARRIED**

**4. General business**

Nil.

**5. Urgent business**

Nil

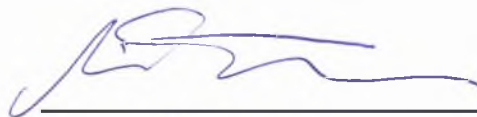
**6. Confidential business**

Nil

**The meeting concluded at 8:57pm**

**Confirmed**

**Chairperson**



**Date**

18/12/23