

**Priority Projects Standing Advisory Committee Report
Darebin Planning Scheme
Referral 29: Assemble Preston**

Planning and Environment Act 1987

11 August 2023

Planning Panels Victoria acknowledges the Wurundjeri Woi Wurrung People as the traditional custodians of the land on which our office is located. We pay our respects to their Elders past and present.

Priority Projects Standing Advisory Committee Report pursuant to section 151 of the *Planning and Environment Act 1987*

Referral 29: Assemble Preston

Members of the Priority Projects Standing Advisory Committee who considered this referral:



Sarah Carlisle, Chair



Kate Partenio, Member

11 August 2023

Contents

	Page
1 Overview	6
2 Introduction.....	11
2.1 Terms of Reference and letter of referral.....	11
2.2 The site and surrounds.....	11
2.3 The proposal.....	14
2.4 Current planning controls	15
2.5 Planning history	16
2.6 Consultation	17
2.7 Procedural issues and limitations	17
3 Strategic issues	20
3.1 Rezoning of 47 and 49 Showers Street	20
3.2 Responsible Authority status	23
3.3 Findings and recommendations	24
4 Traffic and parking.....	25
4.1 Relevant material	25
4.2 Oakover Road traffic and cyclists.....	25
4.3 Showers Street cyclist safety	28
4.4 North-south street design	29
4.5 Parking supply	32
4.6 Other minor matters	34
5 Built height and design	37
5.1 Context.....	37
5.2 Building heights and setbacks	38
5.3 Mass, visual bulk and permeability	42
5.4 Materiality and articulation.....	46
6 Overshadowing	51
6.1 The issues	51
6.2 Evidence and submissions	51
6.3 Discussion	54
6.4 Findings	55
7 Social housing contribution.....	56
7.1 The issues	56
7.2 What is proposed?	56
7.3 Submissions.....	56
7.4 Discussion	58
7.5 Findings.....	58
8 Public infrastructure contribution.....	59
8.1 The issue	59
8.2 Background	59
8.3 Submissions and discussion.....	59

8.4	Findings.....	59
9	Consultation	61
9.1	The issues	61
9.2	What was the consultation?	61
9.3	Submissions.....	62
9.4	Discussion	63
9.5	Findings.....	65
Appendix A	Terms of Reference	66
Appendix B	Submitters	69
Appendix C	Parties to the Hearing.....	69
Appendix D	Document list.....	71
Appendix E	Recommended permit conditions.....	71

List of Tables

	Page
Table 1	Current planning controls..... 16
Table 2	Summary of shadow impacts..... 51

List of Figures

	Page
Figure 1	Site..... 12
Figure 2	Public Housing Renewal Projects..... 13
Figure 3	Proposed site layout..... 14
Figure 4	Proposed building footprints..... 15
Figure 5	Façade treatments recommended by Mr Czarny..... 43
Figure 6	St Georges Road frontage (with Showers Street frontage to the left) 44
Figure 7	Oakover Road frontage..... 45
Figure 8	Showers Street frontage 47
Figure 9	Updated flood data - additional winter shadow on Newman Reserve..... 53
Figure 10	Updated flood data – additional equinox shadow on Oakover Road residential properties 54
Figure 11	Updated flood data – additional equinox shadow on 45 Showers Street 54
Figure 12	Extent of DFP consultation 61

Glossary and abbreviations

Amendment	draft Amendment C211dare
Council	Darebin City Council
DCP	Development Contributions Plan
DCPO1	Development Contributions Plan Overlay Schedule 1
DDO	Design and Development Overlay
DFP	Development Facilitation Program
DPO11	Development Plan Overlay Schedule 11
DTP	Department of Transport and Planning
MUZ	Mixed Use Zone
PE Act	<i>Planning and Environment Act 1987</i>
Permit	draft Planning Permit PA2201860
PPF	Planning Policy Framework
RGZ	Residential Growth Zone
Showers Street laneway	the laneway running behind 19 to 45 Showers Street
UDF	<i>St Georges Road and Plenty Road Corridors Urban Design Framework, 2015</i>
VCAT	Victorian Civil and Administrative Tribunal

1 Overview

(i) Summary

Amendment summary	
Referral	Referral 29: Assemble Preston
The draft Amendment	Draft Darebin Planning Scheme Amendment C211 dare
The draft Permit	PA2201860
Brief description	<p>Amendment:</p> <ul style="list-style-type: none"> - Rezone part of the site from Residential Growth Zone to Mixed Use Zone - Make the Minister for Planning Responsible Authority for the Permit <p>Permit:</p> <ul style="list-style-type: none"> - Use and develop the land for a mixed-use development across 4 buildings comprising around 480 dwellings, shop (supermarket), retail premises, offices, food and drink premises, reduction in car parking, alteration to access to a road in Transport Zone 2
Site	30 St Georges Road, 32-36 Oakover Road and 47-49 Showers Street Preston
Municipality	City of Darebin
Proponent	SHP X HCA HA Ltd (referred to as Assemble)
Planning Authority	Minister for Planning
Public consultation	See Chapter 2.6
Submissions	<p>Number of submissions: 25 including 9 late submissions</p> <p>Opposed: 23</p>

Committee process	
The Committee	Sarah Carlisle (Chair) and Kate Partenio (Member)
Supported by	Georgia Thomas and Gabrielle Trowse, Project Officers
Directions Hearing	Online video conference, 30 May 2023
Committee Hearing	Planning Panels Victoria, 17 to 19 July 2023
Site inspections	Unaccompanied, 11 July 2023
Date of this report	11 August 2023
Citation	Priority Projects Standing Advisory Committee Referral 29 [2023] PPV

(ii) Findings

Traffic and parking

Traffic and parking impacts can be managed through planning permit conditions. While the proposed parking supply represents a substantial reduction from the statutory parking rate, the area is well served by public transport, services within walking distance, and generous on-site bicycle parking. The proposed access points, connected basement carpark and access arrangements within the site are suitable and will not result in unacceptable traffic impacts in Showers Street or Oakover Road.

Further work is required to determine the infrastructure works required on Oakover Road and at its intersection with St Georges Road. Further consultation is needed with Council, the Head, Transport for Victoria and Assemble's traffic engineers before the permit is issued. Permit conditions will need to be included to reflect the agreed works.

In addition, the Committee recommends a range of further conditions to better manage traffic, parking and access impacts:

- modification of the laneway entry to Showers Street to allow a medium rigid truck to exit the laneway at the same time as a car turning in to the laneway
- a requirement to minimise demand for on-street parking by:
 - balancing the uptake of parking with the reduced car parking supply
 - controlling the provision of car share vehicles
- allowing residential visitors to use the supermarket parking after trading hours
- providing parking for essential care providers and other residential support services
- provision of direct access to the Building C lifts from the supermarket (as intended but not reflected in the application plans)
- provision of direct access to the Building C lobby from the bicycle parking area in Building C, if practicable.

Built height and design

The proposed design presents substantial and robust built form to all street frontages (as well as internally, to the green heart). It will be significantly taller and bulkier than other development in the surrounding area, including the Preston Crossing development (which does not exceed 9 storeys).

The heights and setbacks are generally appropriate, and largely consistent with the Development Plan Overlay Schedule 11 (DPO11) requirements. While the heights in the southwest corner exceed the 12 storey limit specified in the DPO11, this is a preferred height limit, not a mandatory maximum. The southwest corner of the site is the least sensitive interface, and it is appropriate to concentrate the height in this part of the site. Heights on all other parts of the site are within the preferred 12 storey height limit.

The bulk of the proposed development troubles the Committee. The substantial widths of continuous built form present a strong mass to all frontages, and the arrangement of the built form around the perimeter of the site, with limited upper level setbacks, is not consistent with some of the DPO11 requirements.

However, on balance, and with some reservations, the Committee finds that the massing and visual bulk of the proposed development is acceptable. The site is large, and the lack of sensitive interfaces (with the exception of Showers Street) lends itself to massing the built form around the

perimeter of the site. This creates a highly functional central area with a high level of amenity for both the future residents of the proposed development and the surrounding community. The Committee does not consider shifting the built form into the centre of the site would significantly reduce the visual bulk of the built form.

The Committee supports Mr Czarny's recommended changes to various facades of the proposed development, and considers they will assist in breaking up the built form and providing some visual relief. The visual dominance of the buildings could potentially be further reduced by:

- greater differentiation in colour between the podium levels and the upper levels
- balconies on the northeast corner of Building A1 to be open on two sides
- vertical landscaping techniques to be applied to the balconies of Building A4 presenting to Showers Street
- the choice of colour and material for the balconies on Building A4 presenting to Showers Street.

These design details can be resolved through the Landscape Plan and Façade Strategy required under the Permit.

Overshadowing

The shadow impacts of the proposed development are largely confined to:

- before 10am at the equinox (11am at the winter solstice) for properties to the west, including Newman Reserve
- after 2pm at the equinox for properties to the east.

In the context of the level of development anticipated under the policy settings and planning controls applicable to the site, the Committee considers these impacts to be acceptable. It does not support submissions that building heights and setbacks should be reduced to eliminate any overshadowing of surrounding areas. Neither the local policy nor the applicable planning controls call for no additional overshadowing.

Rezoning of land

There is significant policy support for more intensive development in this location, primarily residential development but also commercial and retail activity to support local needs. The Mixed Use Zone is the appropriate zone to ensure the policy settings and the use and development expectations set under the DPO11 are realised.

Social housing contribution

The proposed 20 percent social housing contribution (plus an additional 20 percent affordable housing contribution and a 3 percent Specialist Disability Accommodation contribution) is well in excess of typical contributions of around 5 or 6 percent combined social and affordable housing, and is sufficient.

Assemble's intent is to provide the social housing contribution for the life of the project, but is unable to commit to a period beyond 13 years due to financing restrictions. The 13 year limit proposed in the draft Permit is appropriate.

Public infrastructure contribution

Some public infrastructure contributions for road works will be required in addition to the levies payable under the Development Contributions Plan. The Committee supports the Public Works

Plan condition in the draft Permit, and considers that the public infrastructure upgrades proposed under that condition are appropriate and reasonable.

As noted above, further work is required to determine the infrastructure works required on Oakover Road and at its intersection with St Georges Road. These will be provided as developer works, and appropriate conditions will need to be added to the Permit.

Consultation

The Committee is satisfied that the community was aware of the proposed development through a combination of the direct notification undertaken by the DFP, the informal consultation undertaken by Assemble, and 'word of mouth'. It does not recommend any further consultation before the Minister considers the Amendment and determines the planning permit application.

(iii) Recommendations

The Committee recommends:

- 1. The Minister for Planning adopt and approve draft Amendment C211dare, and grant Planning Permit PA2201860, subject to the specific recommendations in this Report.**
- 2. Prior to the issue of a permit:**
 - a) undertake further consultation with Council, the Head, Transport for Victoria and Assemble's traffic engineer to determine the transport infrastructure works required on Oakover Road and at its intersection with St Georges Road**
 - b) include any additional permit conditions required in relation to the agreed works, including increased setbacks for Buildings C and D if required.**
- 3. Amend condition 2 (Approved and Endorsed Plans) of the permit to include further sub-conditions as shown in Appendix E:**
 - Balconies on the northeast corner of Building A1 above Level 6 are to be open on two sides.**
 - Modification of the laneway entry to Showers Street to allow a medium rigid truck to exit the laneway from the left side of the laneway at the same time as a car turning in to the laneway.**
 - Provision of direct access to the Building C lifts from the supermarket.**
 - Provision of direct access to the Building C lobby from the bicycle parking area in Building C, if practicable.**
- 4. Amend condition 3 (Landscape Plan) of the permit to include a further sub-condition as shown in Appendix E:**
 - Vertical landscaping techniques to be applied to the balconies of Building A4 presenting to Showers Street.**
- 5. Amend condition 38 (Carparking Management Plan) of the permit to include further sub-conditions as shown in Appendix E:**
 - The use of supermarket parking by residential visitors after trading hours.**
 - The provision of parking for essential care providers and other residential support services for residents of the development.**

6. Amend Condition 47 (Green Travel Plan) of the permit to include a further sub-condition as shown in Appendix E:

A requirement to minimise demand for on-street parking by:

- balancing the uptake of parking with the reduced car parking supply
- controlling the provision of car share vehicles.

7. When considering the Façade Strategy under condition 17 of the permit, consider whether the visual bulk of the development could be further reduced by:

- a) differentiation in colour between the podium and the upper levels of Buildings A1, A3, D1, D2, D3 and D4
- b) colour or choice of material for balconies in Building A4 presenting to Showers Street.

2 Introduction

2.1 Terms of Reference and letter of referral

The Priority Projects Standing Advisory Committee (the Committee) was appointed by the former Minister for Planning on 14 June 2020. The purpose of the Committee is set out in its Terms of Reference:¹

... provide timely advice to the Minister for Planning on projects referred by the Building Victoria's Recovery Taskforce (BVRT), projects affected by Covid-19 and/or where the Minister has agreed to, or is considering, intervention to determine if these projects will deliver acceptable planning outcomes.

This is Priority Project Referral 29. The letter of referral for Referral 29 was dated 8 May 2023, and asked the Committee for advice and recommendations on whether to:

- approve draft Darebin Planning Scheme Amendment C211dare (the Amendment)
- grant draft Planning Permit PA2201860 (the Permit).

The Minister requested the Committee to constrain its specific advice to the following themes:

- traffic and car parking
- building height and design
- overshadowing
- rezoning of land
- social housing contribution
- public infrastructure contribution
- consultation timeframes.

2.2 The site and surrounds

(i) The site

The site is shown in Figure 1. It is:

- around 1.34 hectares
- bounded by:
 - to the north, Showers Street and a laneway running behind the dwellings at 19 to 45 Showers Street (the Showers Street laneway)
 - to the west, St Georges Road
 - to the south, Oakover Road
 - to the east, the Preston Crossing development (see below)
- around 7 kilometres from the Melbourne CBD
- gently sloping from the north and east to the southwest corner
- currently developed with:
 - warehouse buildings, carparking and paved areas at 30 St Georges Road and 32-36 Oakover Road
 - two single storey dwellings at 47 and 49 Showers Street
- subject to a 3.7 metre wide electricity easement extending the full length of the St Georges Road (western) boundary.

¹ Appendix A

The Proponent does not own the site, and does not propose to acquire it. It has entered into a 75 year ground lease to facilitate the proposed development.

The Oakover Road properties included in the site are described as:

- 32-42 Oakover Road in the application material and the Permit
- 32-36 Oakover Road in the Explanatory Report for the Amendment
- 32-34, 36 and 38 Oakover Road in Google Maps.

The Committee has adopted the description in the Explanatory Report, but this should be checked before any permit is issued. Title particulars may be a more accurate way of describing the land in the permit.

Figure 1 **Site**



Source: Ms Jordan's evidence (Document 52)

(ii) Oakover Village Precinct

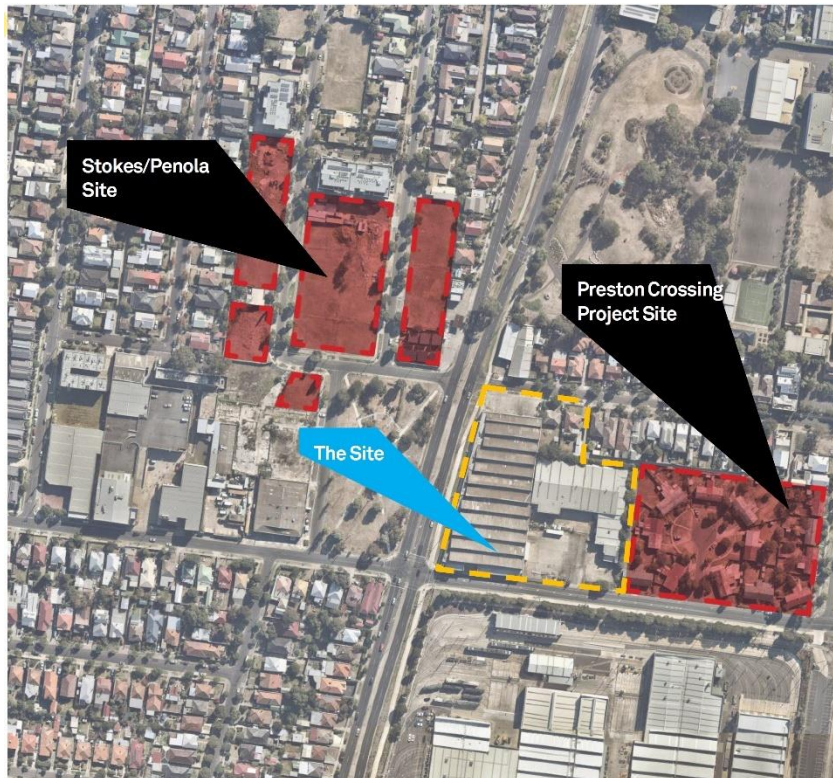
The site is in the Oakover Village Precinct, which is envisaged to be a highly mixed precinct supporting a diverse and growing population, and expected to accommodate a diverse range of residential dwellings interspersed among retail and commercial offerings. The Precinct is recognised in the *St Georges Road and Plenty Road Corridors Urban Design Framework, 2015* (UDF) as an emerging Neighbourhood Activity Centre.

The Precinct includes two Public Housing Renewal Projects that will provide a mix of social housing, affordable housing and private dwellings (see Figure 2). These are subject to the approved 'Village Bell Preston Development Plan':

- Preston Crossing is to the immediate east of the site. A planning permit has been approved and construction has commenced. The approved development consists of buildings between 3 and 9 storeys (3 storey townhouses along the Showers Street laneway, and 9 storeys along Oakover Road).

- Stokes/Penola is to the northwest of the site, on the other side of St Georges Road. The development plan envisages building heights between 3 and 10 storeys. A planning permit has not yet issued.

Figure 2 Public Housing Renewal Projects



Source: Ms Jordan's evidence (Document 52)

(iii) The surrounding area

The newly constructed Bell Station is around 600 metres to the northeast of the site. The station was part of the Preston level crossing removal project, which included the removal of level crossings at Oakover Road, Bell Street, Cramer Street and Murray Road. Extensive areas of public open space have been delivered under the new elevated rail line, along with a shared walking and cycling path from Oakover Road through to Murray Road.

Other high frequency public transport services include Thornbury Station around 600 metres to the southeast of the site, and two tram routes – the route 11 along Millers Road and St Georges Road (around 350 metres from the site) and the route 86 along Plenty Road (around 600 metres from the site).

Nearby services include:

- the High Street Major Activity Centre around 400 metres to the east
- extensive public open space including Newman Reserve on the western side of St Georges Road, Ray Bramham Gardens around 50 metres to the north, the Sir Douglas Nichols Sporting Complex around 250 metres to the south and the new open space under the elevated railway line
- a number of schools including St Johns College around 150 metres to the northeast, Bell Primary School around 500 metres to the west and Thornbury Primary School around 550 metres to the southeast.

2.3 The proposal

(i) The Amendment

The Amendment proposes to:

- rezone 47 and 49 Showers Street from Residential Growth Zone (RGZ) to the Mixed Use Zone (MUZ)
- make the Minister for Planning the Responsible Authority for the Permit (the Committee understand the intent is that the Minister will be Responsible Authority for the grant of the Permit and for approving documents and plans under the Permit, after which Responsible Authority status will revert to Council to administer and enforce the permit).

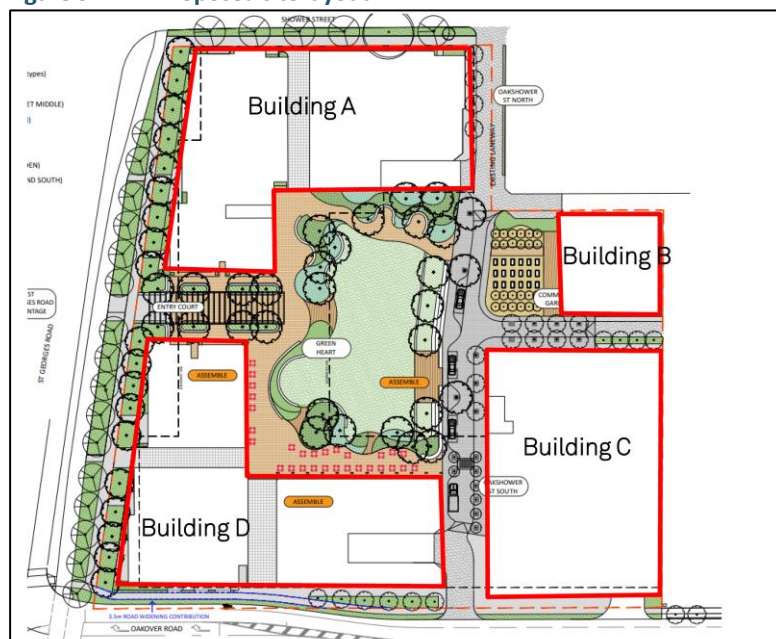
The Minister is considering preparing, adopting and approving the Amendment under section 20(4) of the *Planning and Environment Act 1987* (PE Act).

(ii) The Planning Permit

The draft Permit proposes the use and development of the land for a mixed-use development across four buildings, including construction of 480 dwellings, a supermarket, retail space, office space, and food and drink premises, alteration to access to a road in Transport Zone 2, and reduction to the onsite car parking requirement.

The development consists of four buildings (Buildings A, B, C and D) around the perimeter of the site, with a large central open space referred to as the 'green heart'. The general layout of the site is shown in Figure 3.

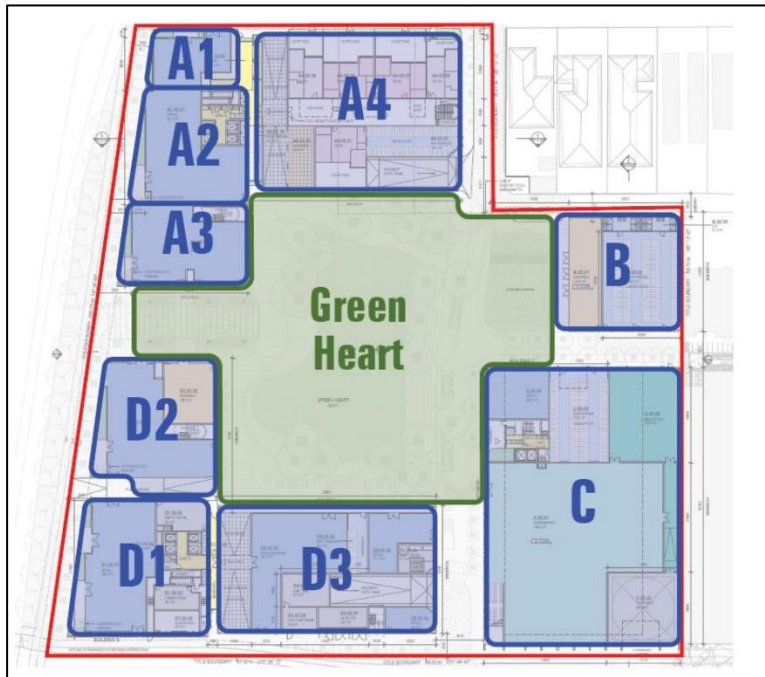
Figure 3 Proposed site layout



Source: Ms Jordan's evidence (Document 52)

Each of the four main buildings is made up of linked components (Buildings A, A2 etc). These are shown in Figure 4.

Figure 4 Proposed building footprints



Source: Mr Czarny's evidence (Document 51)

The Committee directed Assemble to provide a:

- 'Day 1' version of the permit conditions before the Hearing (Document 45)
- final version with its closing submissions (Document 76).

It directed Council to provide any changes to the Day 1 version Council considered appropriate (Document 59(a)).

The Committee has had regard to all these versions, and has based its recommended conditions on Document 76.

2.4 Current planning controls

The site is currently in the:

- MUZ for 30 St Georges Road and 32-36 Oakover Road
- RGZ for 47 and 49 Showers Street
- DPO11, which applies to Oakover Village
- Development Contributions Plan Overlay Schedule 1 (DCPO1), which implements the municipal-wide Darebin Development Contributions Plan (DCP)
- Environmental Audit Overlay (except for 47 and 49 Showers Street).

52 and 54 Showers Street (on the north side of Showers Street opposite the site) are in the MUZ and the DPO11. The remaining properties in Showers Street (including 46, 48 and 50 Showers Street, which are also opposite the side) are in the RGZ and the Design and Development Overlay Schedule 22 (DDO22 – Residential Growth Area).

Table 1 Current planning controls

	Subject Site			
	30 St Georges Road and 32-36 Oakover Road	47 and 49 Showers Street	52 and 54 Showers Street	Other Showers Street properties
MUZ	✓		✓	
RGZ		✓		✓
DPO11	✓	✓	✓	
EAO	✓			
DCPO1	✓	✓	✓	✓
DDO22				✓

2.5 Planning history

(i) Amendment C10 Part 3 – 2006

Amendment C10 Part 3 was gazetted in May 2006 and rezoned former industrial land between Oakover Road and Showers Street from Industrial 3 Zone to the MUZ and Residential 1 Zone. 30 St Georges Road and 32-36 Oakover Road were rezoned MUZ at this time.

(ii) Amendment C136 – 2016

Amendment C136 was gazetted in September 2016 and implemented the built form directions in the UDF. It:

- applied the DPO11 to 30 St Georges Road and 32-36 Oakover Road
- rezoned 47 and 49 Showers Street from Residential 1 Zone to RGZ, and applied the Design and Development Overlay Schedule 16 to these properties.

(iii) Amendment C194 – 2020

Amendment C194 was gazetted in October 2020 and made the Minister for Planning the Responsible Authority for the Public Housing Renewal Project sites, and for approving any development plan within the Oakover Village Precinct.

(iv) Amendment C167 – 2020

Amendment C167 was gazetted in November 2020 and implemented the *Showers Street Design Guidelines Background Report*, 2018. It:

- applied the DPO11 to 47 and 49 Showers Street, and inserted specific built form objectives for those properties into the DPO11
- applied the DDO22 to the remaining properties in Showers Street.

(v) Draft development plan

The Committee understands OakVillage JV entered into a heads of agreement with the owner of the site some time prior to Assemble entering into the ground lease. OakVillage JV prepared a

draft development plan and submitted it to Darebin City Council (Council) in December 2019.² Council requested further information in January 2020, which was never responded to. The draft development plan is no longer being pursued, but provided for a supermarket (larger than that proposed by Assemble) and residential apartments.

2.6 Consultation

The Development Facilitation Program (DFP) of the Department of Transport and Planning (DTP) undertook consultation in relation to the Amendment and Permit on behalf of the Minister for Planning under section 20(5) of the PE Act. It consulted with the community and government agencies for a five week period in October and November 2022. It received 25 submissions, including nine late submissions. 23 submissions objected to the Amendment and Permit. All submissions were referred to the Committee, including the late submissions.

Assemble also conducted consultation with the community about the proposed development, from March 2022 (ongoing). Consultation is discussed in more detail in Chapter 9.

2.7 Procedural issues and limitations

(i) The Committee's process

The Minister's referral letter asked that the Committee consider an 'on the papers' process, without a Hearing. The Committee advised the parties in advance that this would be discussed at the Directions Hearing.

Assemble indicated at the Directions Hearing it strongly supported an on the papers process, as it was more efficient, there are relatively few parties, and the issues were readily identifiable and could be dealt with by way of further written submissions. It submitted that the process could be designed to ensure fairness to all parties, including allowing the other parties to respond in writing to its evidence, and setting aside a reserve day in the event that any matters needed to be ventilated orally. Assemble provided draft orders to facilitate such a process.

Several of the residents opposed an on the papers process, submitting that they wanted to be heard, and that an on the papers process might unfairly advantage Assemble who is better resourced than the residents to prepare further written material.

Council expressed no opposition to an on the papers process.

DFP referred to the Minister's referral letter and expressed no further view.

The Committee determined that the matter should proceed partly on the papers, and partly by way of a Hearing. It issued directions facilitating that process on 5 June 2023.³

The Committee is satisfied that the process was robust, efficient, fair and allowed a full and proper exploration of the key issues.

(ii) Scope of the Committee's remit in relation to consultation

Many submitters raised concerns in relation to the nature, extent and timeframes of the consultation undertaken in relation to the Amendment, Permit and proposed development.

² Application reference POD/2/2019

³ Document 46.

The Minister's referral letter stated that the Committee should constrain its advice to "*consultation timeframes*". The Committee expressed a preliminary view at the Directions Hearing that consultation issues other than timeframes were beyond the Committee's remit, and invited submissions from the parties on this issue.

Assemble supported this position, submitting that the Committee's remit was firmly defined by the Minister's referral letter. Many submitters indicated that the Committee should consider consultation issues more broadly, as it is a key concern of the community and there is no other forum in which they felt they could raise their concerns about the consultation process.

The Committee asked the DFP whether, in light of the submissions made by the residents, the Committee should confine its consideration to consultation timeframes, or whether it should consider consultation issues more broadly. The DFP indicated that it would be happy to receive advice from the Committee more broadly.

Given the extent of concerns raised in submissions in relation to the consultation process, and having regard to the DFP's response to the Committee's question, the Committee determined that it would accept submissions on consultation more broadly.

(iii) Issues outside the Committee's remit

At the Directions Hearing, the Committee identified a number of issues raised in submissions which were, in the Committee's preliminary view, beyond the Committee's remit, including:

- concerns over the planning process for the proposal, including:
 - whether the proposal is appropriate to be fast tracked through the DFP
 - whether it is appropriate for the Minister to approve the project using powers of intervention
- concerns about the development destroying the sense of community in Showers Street
- whether the Acoustic Report submitted with the application material downplayed the noise impacts
- concerns relating to the planning processes for the application of the DPO11 to the land (through Amendments C36 and C167).

The Committee invited submissions from the parties on whether these issues are beyond the Committee's remit. No submitter challenged the Committee's preliminary view. Accordingly, the Committee has not considered these issues.

(iv) Updated flood data

Council indicated at the Directions Hearing that it has recently obtained updated flood data from its engineering department which may require floor levels in the development to be raised.

Assemble indicated that it had consulted Melbourne Water in the course of preparing the application, and noted that Melbourne Water expressed no concerns in relation to potential flooding.

The Committee instructed Council and Assemble to discuss this issue offline, and to advise the Committee if they considered any specific directions are required. None were sought.

At the Hearing, Council and Assemble advised they had reached agreement in relation to the updated flood data. An updated shadow analysis was prepared to demonstrate the impact of the

increased floor levels (and consequent increase in overall building height) on overshadowing. This is discussed in Chapter 6.

(v) legal status of the Showers Street laneway

The Committee requested Council to clarify the legal status of the Showers Street laneway. Council provided confirmation that the laneway is included in Council's Register of Public Roads.⁴ This means that the laneway is an existing public highway.

(vi) Extension for evidence

The Committee's preliminary directions dated 17 May 2023 required the parties to advise whether they intend to call evidence by 26 May 2023. Some resident submitters sought a two week extension, given the timeframe between the Committee's letter of 17 May 2023 and the Directions Hearing on 30 May 2023. The Committee allowed parties an additional two weeks to confirm whether they intended to call evidence.⁵

⁴ Document 49.

⁵ Direction 8 in the Committee's Directions dated 5 June 2023 (Document 43).

3 Strategic issues

3.1 Rezoning of 47 and 49 Showers Street

(i) The issue

The issue is whether the rezoning of 47 and 49 Showers Street from RGZ to MUZ is strategically justified.

(ii) Evidence and submissions

Assemble submitted the rezoning:⁶

... ensures the orderly planning of the site through consistent application of the MUZ1 across all land parcels within the site to facilitate integration of this mixed-use development, and to facilitate the use of the two parcels currently zoned RGZ for access to the Site and its various uses.

It explained that retail and office uses are prohibited under the RGZ, and while 47 and 49 Showers Street will be used for residential purposes only, access to the retail and office uses through the RGZ parcels would be prohibited.

Assemble submitted that the findings of the Amendment C167 Panel need to be understood in context. Amendment C167 did not include a proposal to rezone any land. Rather, the owner of the site sought a rezoning as part of the panel process, without having provided a strategic justification for the rezoning (other than that those parcels were now in the same ownership as 30 St Georges Road).

Assemble put forward several further reasons why the rezoning was strategically justified:

- The prohibition on access to the non-residential uses in other parts of the site would prevent the achievement of the land use objectives of the DPO11, and Oakover Village becoming a Neighbourhood Activity Centre.
- The rezoning would facilitate a mixed use development that will provide *“a significant contribution to social and affordable housing as a result of Assemble’s management of the non-residential tenancies”*, consistent with the policy objectives of the Planning Scheme.
- Although the MUZ does not contain a height control, the four storey element of Building A4 (adjacent to the Showers Street laneway) is consistent with the current discretionary RGZ height control of 13.5 metres.
- The Amendment and Permit provide certainty as to the land use and built form outcomes on 47 and 49 Showers Street. The development proposes:
 - a residential use of this part of the site, which is an appropriate land use in the context of the surrounding RGZ
 - a 4 to 6 storey built form response, which is appropriate within the Showers Street streetscape and consistent with its residential character (whereas without a specific development proposal, a rezoning could see a 12 storey built form further east into the Showers Street streetscape).
- The residential character of Showers Street will be protected, given:

⁶ Document 53.

- the built form objective in the DPO11 *“To ensure that built form on 47 and 49 Showers Street, Preston, provide frontage and overall massing that respects the residential streetscape”*
- the identification in the DPO11 of a ‘transitional buffer’ on 47 Showers Street from the higher built form at the St Georges Road end, to the residential character east of the Showers Street laneway
- the requirements in the MUZ to consider key amenity standards of Clause 55 (ResCode) on lots that abut another residential zone.

Ms Jordan’s town planning evidence for Assemble was:⁷

In essence, it needs to be demonstrated that the Amendment will manage the physical changes proposed to the subject land, achieve sustainability objectives, deliver positive economic outcomes (where this may be relevant), and manage amenity impacts to the surrounding community. This balance must effectively demonstrate a net community benefit as a result of the Amendment.

She referred to a number of factors that provided strategic justification for the rezoning (and the development more broadly), including:

- the support in Plan Melbourne and State for accommodating population growth in intensified residential development in inner suburban locations with good access to transport, services and employment opportunities
- Oakover Village having been identified in local policy for some years now as an area for intensified development and substantial change
- the site meeting the criteria for a Strategic Opportunity Site
- the clear opportunity for economic activity including a range of businesses that are complementary to residential activity within Oakover Village, consistent with Clause 21.04 of the Planning Scheme
- the potential for intensive residential and commercial development to make efficient use of public transport services, and extensive walking and cycling opportunities for daily activities, consistent with key policy directions in Plan Melbourne and Clauses 15, 18 and 21.05.

Her evidence was:

The land at 47 and 49 Showers Street is physically separated from other residential land within Showers Street as a result of the laneway along the eastern boundary, providing a logical and defensible boundary for the purposes of zone changes.

Council explained that its initial concern with the rezoning had been addressed with confirmation that the land use in this part of the development will be residential. Its main concern was to ensure an appropriate interface with the rest of Showers Street, including no commercial uses in this part of the development. It did not oppose the MUZ.

Several submitters opposed the rezoning of 47 and 49 Showers Street, submitting they had fought hard over many years to secure appropriate planning controls for Showers Street, including the RGZ (with a four storey height limit and a limit on non-residential uses) and the DDO22. They submitted the Amendment C167 Panel had found (in 2019) that there was no strategic justification for rezoning 47 and 49 Showers Street, and nothing had changed since then.

⁷ Document 52.

Ms Oakley submitted the MUZ was inappropriate given Showers Street is a predominantly residential street with largely single storey houses, with no major corridor frontage. She submitted the primary driver for removing the DDO22 was to allow a north-south cycle/pedestrian link through the site (not a vehicle link as now proposed). She submitted:

Removing 47 and 49 Showers Street from RGZ1 would yet again leave us in a position where these sites have NO planning controls under the current framework within the DPO11.

She submitted there is no need to rezone the land, as the proposed land use in this part of the development is residential, and Assemble's motivation *"is purely one to ignore building height restrictions (under current zones to land) and over develop these sites"*. She submitted the rezoning provides the opportunity to *"ignore set-backs, amenity impact and design controls now well established for Showers Street"*.

Ms Stewart submitted that the continual uncertainty about the planning controls that apply in Showers Street has caused considerable anxiety and stress for the residents, and this would be further exacerbated by the rezoning:⁸

... we all advocated so strongly for so many years for this street in order for us to be able to have confidence in the development principles that would guide us all. We spent time in meetings, discussing as a community, attending various VCAT hearings and mediations and advocating with council for this to occur. It has been time away from work and from our families which we did because we wanted to be sure of an outcome that was fair. We needed this certainty to allow us to plan for the future: to renovate to accommodate our growing families, enrol our children in local school and to make connections on our street with longevity in mind. Rezoning these two properties would undermine it all. It will have such a profound impact on the street and the character of the street that it is hard to see how it can be justified.

She submitted the impact to Assemble in having to comply with current planning controls for such a small part of the site is *"very small compared to the significant impact it will have on our amenity and the amenity of the street as a whole should the rezoning occur"*.

Ms Quan did not support the rezoning, as Showers Street is a quiet, narrow, residential street with predominantly 1 or 2 storey dwellings with generous setbacks to the street and attractive gardens. She submitted *"rezoning to mixed use for these two homes is inconsistent with, and does not respect the neighbourhood character of the street"*.

(iii) Discussion

There is significant policy support for more intensive development in this location, primarily residential development but also commercial and retail activity to support local needs. This was not disputed by objecting submissions. Rather, they were concerned with the scale of the proposed development.

The MUZ is in the suite of residential zones. *Planning Practice Note 91: Using the Residential Zones* (2019) provides that the MUZ should be applied:

... to areas suitable for a mixed-use function, including a range of residential, commercial, industrial and other uses. Suitable for areas identified for residential development at higher densities including urban renewal and strategic redevelopment sites.

The Committee is satisfied that 47 and 49 Showers Street are within such areas.

⁸ Document 71.

In addition to the Practice Note, the policy framework provides specific support for the application of the MUZ. Clause 21.03-3 of the Planning Scheme includes a strategy to apply the MUZ to residential zoned land within Substantial Housing Change Areas (of which Oakover Village is one), close to commercial areas, activity centres and strategic corridors, and precincts that are suited to a mix of residential development and compatible with commercial and retail activity.

The policy framework supports a mixed use outcome on the site, albeit one that (as Ms Jordan pointed out), manages the physical changes proposed, achieves sustainability objectives, delivers positive economic outcomes, and manages amenity impacts to the surrounding community.

Key to this is ensuring that future development on the site respects and integrates with the surrounding residential area, having regard to (among other things) the change envisaged in Showers Street under the existing policies and planning controls. The Committee is satisfied that the MUZ, in combination with the DPO11, will ensure that proper regard is given to these considerations.

Marble Swirl Holdings Pty Ltd v Kingston CC [2008] VCAT 973 establishes that land in a residential zone used to access a development on adjoining land in a commercial or mixed use zone is not a separate use. Rather, it is considered part of the use in the commercial or mixed use zone. This means that use of 47 and 49 Showers Street for basement access, car parking and bicycle access in association with the office use on other parts of the site would be prohibited if they were to remain in the RGZ. This could prevent a true mixed use outcome on the site being achieved.

Further, the Committee accepts Assemble's submission that the proposal's significant contribution to social and affordable housing is, in part, dependant on the non-residential uses proposed on the site.

For these reasons, the Committee finds that the rezoning is strategically justified, and the Amendment will deliver a net community benefit.

(iv) Findings

The Committee finds:

- The rezoning of 47 and 49 Showers Street from RGZ to MUZ is strategically justified.

3.2 Responsible Authority status

(i) The issue

The issue is whether it is appropriate to make the Minister for Planning the Responsible Authority.

(ii) Evidence and discussion

This aspect of the Amendment was not the subject of objecting submissions other than from Council, and is not one of the themes on which the Minister has sought the specific advice of the Committee. Accordingly, the Committee has not addressed this issue in detail, other than to note that it accepts Ms Jordan's evidence that making the Minister Responsible Authority:

- is not a 'new concept' for projects that delivers an important component of social housing
- reflects the regional significance of the project, in particular its significant social housing contribution

- could contribute to a streamlined approval process to ensure the efficient and timely delivery of the project
- would be consistent with the Minister's existing Responsible Authority status for:
 - approving development plan(s) for the Oakover Village Precinct under the DPO11
 - issuing permits for the two Public Housing Renewal Projects in the Oakover Village Precinct
- could provide synergies with the approval and administration of the adjacent Preston Crossing development
- would reduce the burden on Council in having to assess and administer a permit for such a substantial project.

(iii) Findings

The Committee finds:

- The proposal to make the Minister Responsible Authority is strategically justified.

3.3 Findings and recommendations

The Committee finds the Amendment:

- is supported by, and implements, the relevant sections of the Planning Policy Framework
- is well founded and strategically justified
- applies the appropriate tools in the Victoria Planning Provisions
- should proceed, subject to addressing the more specific issues discussed in the following chapters.

The Committee recommends:

The Minister for Planning adopt and approve draft Amendment C211dare, and grant Planning Permit PA2201860, subject to the specific recommendations in this Report.

4 Traffic and parking

4.1 Relevant material

The application material included the following documents by Traffix Group:

- *Traffic Engineering Assessment*, August 2022⁹
- *Addendum to Traffic Report & Response to Council's RFI Memorandum*, 26 August 2022¹⁰
- *Supplementary Traffic Information (SIDRA results)*, 16 March 2023.¹¹

Charmaine Dunstan of Traffix Group gave traffic evidence at the Hearing for Assemble.¹² She did not author the application material.

4.2 Oakover Road traffic and cyclists

(i) The issues

The issues are:

- upgrade works at the intersection of St Georges Road and Oakover Road
- pedestrian and cyclist facilities along Oakover Road.

(ii) Background

Intersection upgrades

To provide sufficient capacity to accommodate the traffic from both the proposed development and the Public Housing Renewal Program developments under construction in the area, the application material concluded that the intersection of St Georges Road and Oakover Road required upgrading to:

- extend the southern right turn lane to provide a 100 metre long lane
- widen the eastern leg of Oakover Road (along the site frontage) to provide for a new separate left turn lane.

DTP provided a referral response dated 9 June 2023 that advised:¹³

- The traffic generation rate used in the application material of 3 movements per day for each dwelling *"appears a little light"*.
- It had concerns with the geometry of the intersection and requires swept path diagrams to confirm if vehicles up to 12.5 metres in length can turn into St Georges Road from Oakover Road, both under the existing and the proposed new geometry.
- If the physical changes to the intersection are not viable, *"the Department could still accept NO CHANGES to the intersection"*, as the primary impact will be on the side road (Oakover Road) traffic rather than the St Georges Road traffic.
- The Head, Transport for Victoria does not object to the grant of a permit subject to conditions being included requiring the upgrade of the intersection generally in

⁹ Document 17.

¹⁰ Document 18.

¹¹ Document 13.

¹² Document 50.

¹³ Document 44.

accordance with the concept plan G28560-01-01 date stamped 02/03/2022 and approved swept paths.

(iii) Evidence and submissions

Ms Dunstan did not consider that the upgrades to the St Georges Road/Oakover Road intersection were required. She advised that the assessment in the application material had adopted a similar approach to traffic generation rates and road upgrades to that taken in a previous permit application that proposed a much larger supermarket. She reviewed the traffic generation rates for the supermarket use, and adopted a much lower peak hour traffic generation rate of 7.5 movements per 100 square metres (reduced from 12.5 movements per 100 square metres), based on data collected at seven supermarkets in August 2022. She supported a daily residential rate of 3 movements per dwelling, with 10 percent in the peak hour.

Ms Dunstan noted that the traffic volumes along Oakover Road have reduced since 2019, primarily due to the removal of level crossings in the area freeing up capacity on the nearby east-west arterial roads.

Based on the revised data, Ms Dunstan concluded there is sufficient capacity at the intersection to accommodate both the new Public Housing Renewal Program traffic and traffic from the Assemble development without mitigating works.

Council did not support the provision of an additional traffic lane on Oakover Road. Its preference was to improve bicycle safety at the intersection of St Georges Road and Oakover Road and along Oakover Road, rather than increase the capacity of the intersection for other vehicles. It called for:

- an east-bound on-road protected bike lane (with a painted separator) installed along Oakover Road between St Georges Road and Railway Place West
- cyclist lanterns and head starts (east and west bound) at the Oakover/St Georges Road intersection
- all new public footpaths, including the one on the north side of Oakover Road, having a minimum width of 1.8 metres.

Ms Dunstan responded by recommending the Building D setback be used to improve the cyclist connection from the St Georges Road cycleway to the on-road cycle path in Oakover Road, rather than road widening to accommodate additional traffic lanes. However, she queried whether there would be sufficient road space to accommodate a protected cycle lane along Oakover Road beyond the site to the east.

Ms Dunstan advised that Council's proposal to install head start priority at the St Georges Road signals for cyclists on Oakover Road would impact on the capacity of the intersection, which had not been assessed. She confirmed she had not assessed the volume or direction of cycle trips likely to be generated by the development.

Assemble's final conditions omitted:

- the conditions from the Head, Transport for Victoria calling for the widening and extension of turn lanes at the St Georges Road and Oakover Road intersection
- Council's conditions regarding cyclist lanterns and a protected cycle lane on Oakover Road.

Instead, it proposed the following condition in its final version, as recommended by Ms Dunstan:¹⁴

Surface works within the footpath at the St Georges Road / Oakover Road corner to improve the cyclist connection from the St Georges Road shared path to the Oakover Road on-road (eastbound) bicycle path.

(iv) Discussion

The Head, Transport for Victoria is a determining referral authority for the application under clause 66.02-11 of the Planning Scheme. Section 62 of the PE Act requires that conditions from a determining authority must be included on a permit. It was therefore disappointing that DTP did not coordinate a response to Ms Dunstan's evidence.

Assemble is appropriately seeking to encourage cycling as a significant mode of transport to and from the site, consistent with government policy. It is disappointing then that the impact of the development on cyclists has not been fully assessed by either Assemble's traffic engineer or the road authorities (Council for Oakover Road and DTP for St Georges Road).

The development includes an east-west pedestrian and cyclist route through the site, as required in DPO11, that will link the St Georges Road cycle way to the rail path, through the adjacent Preston Crossing development. This will allow cyclists from the development and from Preston Crossing to avoid Oakover Road.

However, the link is unlikely to be used as a through route for commuting cyclists, as it meanders around the internal green heart. There will also be additional demand for cyclists traversing the St Georges Road and Oakover Road intersection in all directions, noting the retail and office uses proposed on the site will attract cyclists, and some cyclists will cross St Georges Road to reach areas to west, including Bell Primary School. Cyclists will need to compete with other traffic generated by the proposed development on Oakover Road.

The Committee accepts that Oakover Road is a key cycling route, and that cyclist safety and priority would be improved by the works proposed by Council. The development will add a significant volume of vehicle and cycle traffic and turning movements onto Oakover Road, and providing an upgrade to the on-road cycle lane will assist in mitigating cyclist safety impacts.

However, Council has not assessed the impact of its proposal on other road users, nor clearly demonstrated how the protected bicycle lane can be incorporated into the road geometry.

The Committee finds merit in Ms Dunstan's recommendation to provide a shared path link between the St Georges Road cycle way and the Oakover Road on-road cycle lane. There may be other ways to enhance the on-road cycle lane that should be considered if a protected lane cannot be provided within the width of the road.

Overall, further work needs to be done by the road authorities to determine the suite of works that would best meet the competing needs of road users in response to sustainability objectives. This work should be done prior to the issue of a permit, to ensure the proposed setback of Buildings D and C are adequate to accommodate any mitigating works at the intersection and appropriate and equitable conditions can be placed on the Permit.

The Committee also considers that the footpath on Oakover Road should be a minimum of 1.8 metres in width, noting that this footpath provides access to the commercial uses and supermarket. This was accepted by Assemble.

¹⁴ Document 76, Condition 22(l). This is condition 20(b)(ix) in Appendix E.

(v) Findings and recommendations

The Committee finds:

- Cyclist safety would be improved by an improved connection between the St Georges Road cycle way and the rail path via the Oakover Road east bound cycle lane. The mitigating works proposed by Council therefore have some merit.
- However, the works not been fully assessed, and are at odds with the conditions of the Head, Transport for Victoria, which is a determining referral authority.
- The Head, Transport for Victoria should be requested to review its conditions in light of Ms Dunstan's evidence and Council's preferred suite of works on Oakover Road and at the St Georges Road intersection, including the cyclist lanterns and head starts.
- Provided the Head, Transport for Victoria approves Council's alternative suite of works, permit conditions should be included requiring them to be delivered, including any necessary adjustments to the setback of Buildings D and C needed to accommodate the works.

The Committee recommends:

Prior to the issue of a permit:

- a) undertake further consultation with Council, the Head, Transport for Victoria and Assemble's traffic engineer to determine the transport infrastructure works required on Oakover Road and at its intersection with St Georges Road**
- b) include any additional permit conditions required in relation to the agreed works, including increased setbacks for Buildings C and D if required.**

4.3 Showers Street cyclist safety

(i) The issue

The issue is whether the development will have an unacceptable impact on the safety of cyclists on Showers Street.

(ii) Evidence and submissions

Several submitters raised concern over the impact on cyclists crossing Showers Street at St Georges Road, and travelling along the length of Showers Street between St Georges Road and Railway Place. They advised the St Georges Road cycle way has priority over traffic turning into and out of Showers Street from and to St Georges Road, with Give Way signs on Showers Street, but motorists regularly fail to give way, particularly when turning left into Showers Street from St Georges Road at speed.

The submitters advised that Showers Street was used by families and children to travel to schools in the area, as it provided a local link to the rail path and St Joseph's College at Railway Place. They were concerned that additional traffic from the development will conflict with cyclists, noting that on-street parking on Showers Street limits the traffic to a single lane.

Some objectors questioned why a vehicle access to the development was not being provided directly onto St Georges Road.

Ms Dunstan advised there is already a 'No Left Turn' sign on St Georges Road to prohibit cars entering Shower Street during the school peak periods. However, she noted that the traffic

surveys show that a small number of motorists ignore the ban. Her assessment assumed a similar proportion of the development traffic may also ignore the ban.

Ms Dunstan advised that parking will be prohibited along the site frontage in Showers Street (south side), allowing two way traffic between St Georges Road and the site entry. She did not expect development traffic to travel along Showers Street to the east, as it only leads into Railway Place. Traffic heading to or coming from the east would need to use Oakover Road to cross the railway line, and it would be shorter for drivers to enter and exit the site from Oakover Road.

(iii) Discussion

The St Georges Road cycle way is a well utilised path and the Head, Transport or Victoria is responsible for ensuring its design meets current safety standards. Victoria Police is responsible for enforcement of turn bans.

While the development will generate some additional traffic on Showers Street that will conflict with the cycle path, the change in volume is not expected to be at a level that cannot be managed, noting the development will not reduce sight lines at the intersection.

Relocating the site entry from Showers Street to St Georges Road as some submitters suggested would simply shift the conflict and add a new conflict point onto the cycle way. Further, DTP generally discourages new access points onto arterial roads and the Head, Transport for Victoria is unlikely to approve a new access point in St Georges Road.

The Panel accepts the opinion of Ms Dunstan that development traffic will be more likely to use the Oakover Road entry than travel along Showers Street to the east of the site. However, some may find it convenient to use Showers Street. Should this create issues in the future, Council can introduce turn bans at the Showers Street laneway to reduce turns to and from the east (noting it is a public road), or other treatments as it deems necessary to improve safety.

(iv) Finding

The Committee finds:

- The development is not expected to have an unacceptable impact on cyclists using Showers Street that could not be managed by the road authority.

4.4 North-south street design

(i) The issue

The issue is whether the design of the north-south street through the site is acceptable.

(ii) Background

A proposed north-south street through the site utilises and widens the western end of the existing Showers Street laneway and extends south to Oakover Road. It is identified as 'Oakshower Street' in the Landscape Concept plan.

The existing Showers Street laneway has a single lane and provides rear access to some Showers Street dwellings. The Preston Crossing development will also utilise the laneway, with some 33 new car spaces being accessed from the laneway.

The western end of the Showers Street laneway, adjacent to 45 Showers Street, will be widened to allow for two way traffic, and a passing bay will be created behind 45 Showers Street to allow for traffic to pass.

Each end of 'Oakshower Street' will accommodate two-way traffic to and from the northern and southern basement car park entries directly to Showers Street and Oakover Road, respectively. Between the car park entries the laneway will be limited to a single northbound lane and has been designed with a raised pavement. The basement car park provides an underground connection between the two entries, allowing tenants to enter and exit either via Showers Street or Oakover Road.

'Oakshower Street' allows for waste vehicles, delivery vehicles and pick up and drop off vehicles to flow through the site. Four indented parking spaces for these uses are incorporated into the street design.

The concept plan incorporated in the DPO11 includes a midblock north-south pedestrian and cycle link between Oakover Road and Showers Street, but does not envisage a midblock vehicle access.

(iii) Evidence and submissions

Council requested (and Assemble accepted) that the north-south street be signed to allow two-way use by cyclists along its length. Council also raised concern that the new street may be used by through traffic trying to avoid the St Georges Road and Oakover Road intersection, and recommended that retractable bollards be installed between the car park entries to prevent through traffic.

Ms Dunstan's evidence was that 'Oakshower Street' at each end will be of sufficient width to accommodate passing cars, and the design will improve access to the garage of 45 Showers Street, allowing a wider turning circle where the existing Showers Street laneway changes direction.

Ms Dunstan did not support retractable bollards, advising that the street would be used by a range of vehicles throughout the day, and the risk of the street becoming a 'rat run' for through traffic was low as it would not provide a convenient route (noting that northbound vehicles can only turn left into St Georges Road from Showers Street). She expected security within the car park would only allow resident parking access from the northern car park entry, and customer parking for the supermarket and commercial uses would have to access the carpark from the Oakover Road entry.

Ms Dunstan agreed waste trucks, and any medium rigid trucks, would need to swing wide in the laneway before turning into Showers Street and require both traffic lanes on Showers Street to turn clear of the cars parked on the north side of the road. She recommended that the Waste Management Plan consider the use of smaller waste trucks, that can collect waste from the basement, to minimise the impact. She provided a swept path diagram showing a smaller (6.4 metre) vehicle turning into Showers Street.¹⁵ This demonstrated that a small truck can turn left into Showers Street from the left side of the laneway without intruding into the eastbound lane on Showers Street.

The owner of 45 Showers Street advised they have a pedestrian gate along the side of their property and a garage at the rear that is accessed from the laneway. She noted that it is currently difficult to enter and exit the garage in a car due to the narrow laneway width and right angled bend, requiring multiple correcting manoeuvres. She was concerned that the traffic entering and

¹⁵ Document 69.

exiting the basement and traveling north along the new widened section of lane will make it more difficult and less safe to use the garage.

Other parties questioned why 'Oakshower Street' needed to be a through road, and why delivery and waste vehicles couldn't enter and exit from Oakover Road. Ms Dustan advised that providing for trucks to do a U-turn on the site to exit directly to Oakover Road would take space from the green heart.

(iv) Discussion

The existing Showers Street laneway will change as a result of both the development and Preston Crossing. Widening the western leg to allow for two way traffic will be important to provide reasonable access to the basement car park of the development, and will also provide a benefit for the users of the existing laneway, including 45 Showers Street, and those from Preston Crossing.

The Showers Street entry is expected to attract less traffic than the Oakover Road entry. Further, the northern section of 'Oakshower Street' (the western leg of the existing laneway) forms part of the existing public road network.

The Waste Collection Plan indicates some 14 trucks per week will use the 'Oakshower Street' waste collection point. Supermarket deliveries will not use 'Oakshower Street', as the supermarket has a dedicated loading bay accessed directly from Oakover Road.

Ms Dunstan was unable to advise how many other trucks will use 'Oakshower Street', generated by deliveries to the retail and commercial users, residential deliveries and removal vehicles. The Committee anticipates these trucks will be a mixture of small and medium rigid vehicles. The number of large trucks is likely to be low, due to the narrow width of Showers Street with cars parked on the north side of the road at most times of the day.

It is important that the design of the laneway entry into Showers Street allows for medium ridged trucks to turn from the left side of the lane. This will avoid the need for cars to reverse back in Showers Street towards St Georges Road to provide clearance for a truck to exit should their arrival at the laneway entry coincide.

The Committee expects that the widened laneway and turning bay will make it easier and safer for the owners of 45 Showers Street to enter and exit their garage. It may make the pedestrian gate into the laneway less safe to use, but there are two other pedestrian options available – through the front gate or through the garage.

In respect to the potential for 'Oakshower Street' to be used by through traffic, the Committee accepts the evidence of Ms Dunstan that this is unlikely given the design of the roads and turning restrictions at surrounding intersections. The Committee therefore does not support retractable bollards to prevent through-traffic using 'Oakshower Street'.

(v) Findings and recommendation

The Committee finds:

- The Showers Street entry to the laneway should be designed to allow for a medium rigid truck to exit from the left side of the lane.
- The internal road is unlikely to be attractive to through traffic, noting the central section is restricted to northbound traffic and there are turning restrictions at the intersection of

Showers Street and St Georges Road. A retractable bollard or other control is not considered necessary to restrict through traffic.

- The widening of the existing laneway will provide a benefit to other users of the laneway (including the owners of 45 Showers Street), mitigating traffic impacts.

The Committee recommends:

Amend condition 2 (Approved and endorsed plans) of the permit to include a further sub-condition as shown in Appendix E:

Modification of the laneway entry to Showers Street to allow a medium rigid truck to exit the laneway from the left side of the laneway at the same time as a car turning in to the laneway.

4.5 Parking supply

The statutory parking requirement for the development is 669 spaces and the development is providing 365 spaces, a shortfall of 304 spaces.

(i) The issue

The issue is whether adequate parking is being provided on site.

(ii) Evidence and submissions

Ms Dunstan supported a reduction in the parking requirement due to:

- The site's location with walking distance of public transport and Preston Central Activity Centre
- The uses on the site providing for local convenience shopping
- A high supply of bicycle parking
- State and local government policy to reduce private car use
- The provision of four car share spaces
- The build to rent and affordable housing model unbundling parking from ownership/rental making it attractive for residents that elect not to own a car.

Ms Dunstan's written evidence noted that the statutory requirement does not include parking for residential visitors and advised that based on her parking surveys, on-street parking was available in the area. She agreed under cross-examination that the available spaces were mainly to the west of St Georges Road which would not be convenient to the site. She advised that residential visitors should be able to park within the supermarket parking spaces after retail hours, noting residential visitor parking peaks at night.

Many submitters expressed concern over the proposed car parking reduction, submitting this would lead to excessive demand for existing on-street parking. The Showers Street residents expressed concern that Showers Street was already heavily utilised for on-street parking, with a number of the existing dwellings having no off-street parking and therefore any overspill parking from the site would compete for parking with existing residents. They were also concerned that the future residents of the development would park in the local streets rather than paying an additional rental fee for on-site parking.

Ms Oakley submitted that visitor parking was required on site for visitors and carer parking, including for essential health care workers for the Specialist Disability Accommodation and social

housing tenants with limited mobility. She noted that without on-site parking it would be difficult to provide a home visit service.

The Committee asked submitters whether they had considered resident permit parking as a potential solution if parking became scarce, noting that only existing residents would be able to obtain a permit (not residents of the new development). They responded that this would impose an annual cost on the Showers Street residents, which was not fair.

(iii) Discussion

While the Committee acknowledges the concerns of submitters in relation to the reduction in the statutory car parking requirement, it considers the proposed parking arrangements to be acceptable. It accepts the evidence of Ms Dunstan that the site is well located and designed to be attractive to tenants who do not wish to own a car. The high provision of cycle parking and the availability of public transport gives future residents of the development alternatives to private vehicle transport.

Unbundling of car parking is a relatively new approach and should help to maximise the availability and efficient use of parking. Given the reduction in the parking supply proposed, it will be important to ensure the pricing of the on-site parking is not set to reduce the uptake significantly below the supply. This should be a matter that is reviewed as part of the Green Travel Plan.

The provision of car share vehicles on-site will also allow for the occasional private vehicle needs. The Committee notes Ms Dunstan's advice that the provision of car share vehicles, while indicated in the application material as four vehicles, will be demand driven. As discussed in the Hearing, incorporating a car share vehicle provision into the Green Travel Plan condition will allow its supply to be reviewed over time.

The Committee notes the concern about competing with the demands of existing residents for limited on-street parking. However, on-street parking is a public asset, not a private facility that residents can claim ownership of. Showers Street is in the RGZ and will be subject to change as existing residents sell or redevelop their land. Showers Street also exhibits the same characteristics as the site in relation to proximity to public transport and nearby services and activity centre. Further, the Showers Street residents will be able to use the retail facilities and supermarket in the proposed development for their local shopping needs, as well as the car share arrangements.

The Carparking Management Plan should allow for the use of the supermarket parking spaces by residential visitors after retail hours, as recommended by Ms Dunstan. It should also allow visitor parking for essential care providers and other residential support services.

Should Council elect to provide a resident parking permit scheme in Showers Street, permits will not be available to the new development, and the small cost of a permit would be only a fraction of the total costs of owning and maintaining a vehicle.

(iv) Findings and recommendations

The Committee finds:

- The provision of car parking is acceptable.
- The Committee supports Assemble's proposal for the Carparking Management Plan to allow for residential visitor use of the supermarket parking spaces after retail trading hours.

- The Carparking Management Plan should also make provision for parking for essential care providers and other residential support services.
- The Green Travel plan should seek to minimise demand for on-street parking by:
 - balancing the uptake of parking with the reduced car parking supply
 - controlling the provision of car share vehicles.

The Committee recommends:

Amend condition 38 (Carparking Management Plan) of the permit to include further sub-conditions as shown in Appendix E:

The use of supermarket parking by residential visitors after trading hours.

The provision of parking for essential care providers and other residential support services for residents of the development.

Amend Condition 47 (Green Travel Plan) of the permit to include a further sub-condition as shown in Appendix E:

A requirement to minimise demand for on-street parking by:

- **balancing the uptake of parking with the reduced car parking supply**
- **controlling the provision of car share vehicles.**

4.6 Other minor matters

(i) Supermarket access and trolley bays

Mr Wilson of Jackson Clements Burrows Architects provided an overview of the project's architectural intent on Day 1 of the Hearing.

In response to questions from the Committee, Mr Wilson advised that the lifts shown in the residential lobby of Building C would be double sided at ground level to provide access directly into the supermarket from the basement car park, and this needed to be corrected on the plans.

He did not consider trolley bays would be necessary in the car park. He considered given the size of the supermarket, the requirement for trolleys would be low with most people purchasing less than 12 items.

Ms Dunstan advised the basement car park will have a security system to separate the commercial and residential parking areas. The supermarket customer parking will be located at the south eastern end of car park Level B1 near the lift core to Building C. She advised that if there are to be supermarket trolleys a parking space may be lost to accommodate a trolley bay, but this would be an acceptable outcome.

Council submitted that direct access should be provided from the bicycle parking area in Building C to the supermarket. Ms Dunstan responded that she has recommended the shopper bicycle parking be provided within the green heart opposite the supermarket entry. She considered the convenience of providing a direct staff entry would have an impact on the supermarket design and was not considered necessary.

The Committee agrees with Ms Dunstan, but considers that the opportunity to provide a connection from the lobby area of Building C into the bicycle parking in Building C is a potential improvement that should be explored during detailed design.

(ii) Waste storage and collection arrangements

The basement carpark includes a main waste storage area in car park Level B1, next to the Oakover Road car park ramp. This waste room includes a waste lift on the north side of the ramp that provides access to the waste collection area at street level, and further bin storage on the south side of the ramp.

The Waste Management Plan assumes all waste collection bins (excluding the supermarket) will be brought to the main waste storage area by building management. The bins will then be transported by the waste lift to the street level collection area by the waste collection vehicle operator.¹³

The Committee identified that part of the main waste storage area appeared to be located on the entry to the ramp down to Level B2. Ms Dunstan agreed that part of the waste room would need to be relocated to clear the entry to the car park ramp.

As noted in Chapter 4.3, Ms Dunstan recommended that the Waste Management Plan include the use of small trucks that could collect waste from within the car park. The Committee supports this change. The use of a basement collection service would reduce the need to move bins to the main waste storage room, reducing conflict with vehicles within the carpark, noting the main waste storage room is in a high traffic area within the supermarket car park area and adjacent to the Level B2 access ramp.

(iii) Final version of conditions

In response to these issues, Assemble provided draft conditions in its final version of the permit to:

- amend the plans to show the car park security infrastructure, correct the waste room conflict and provide a trolley bay if needed
- amend the Waste Management Plan to include consideration of waste collection from the basement
- include a Carparking Management Plan showing parking allocation and control.

The Committee supports these additional conditions. A condition should also be included to correctly show the lift access into the supermarket.

(iv) Findings and recommendation

The Committee finds:

- The Committee supports the additional conditions in Assemble's final day version of the permit to:
 - address minor matters in relation to the carpark basement design
 - require consideration of waste collection by smaller vehicles directly from the basement carpark
 - require a Carparking Management Plan.
- Further, the ground level plan should be corrected to show direct access to the car park lifts from the supermarket.
- A direct entry from the bicycle parking to the supermarket in Building C is not necessary, although a connection between the bicycle parking area and the residential lobby should be considered.

The Committee recommends:

Amend condition 2 (Approved and endorsed plans) of the permit to include further sub-conditions as shown in Appendix E:

Provision of direct access to the Building C lifts from the supermarket.

Provision of direct access to the Building C lobby from the bicycle parking area in Building C, if practicable.

5 Built height and design

5.1 Context

(i) What is proposed?

The proposal is for varied heights across the site, ranging from 1 storey (Building B) behind the properties at 41, 43 and 45 Showers Street, up to 15 storeys (Building D) on the corner of St Georges Road and Oakover Road.

Proposed ground level setbacks are:

- along St Georges Road, 3.7 metres (reflecting the electricity easement), plus additional landscaped areas in front of the staggered frontages of Buildings A and D
- along Oakover Road, 4.7 metres to Building D (less to Building C)¹⁶
- along Showers Street, generally between 1.3 and 1.5 metres (the lobby of Building A1 has a zero setback).

Most upper level setbacks are not dimensioned on the application plans. They are generally not substantial.

(ii) What does the Development Plan Overlay say?

The DPO11 sets out specific built form objectives for sub-precinct 3: St Georges Road Landmark (in which the site is located), as well as general built form requirements for the whole of the Oakover Village Precinct.

The objectives for sub-Precinct 3 are:

- To create a landmark built form on 30 St Georges Road, Preston that demonstrates exemplary architecture utilising a podium and tower form with high legibility 'in the round' and a built form that transitions towards the Ray Bramham Gardens and residential areas to the east.
- To ensure that built form on 47 and 49 Showers Street, Preston, provide frontage and overall massing that respects

The general requirements include:

- a preferred maximum building height of 12 storeys
- a preferred street wall height of 3 storeys along street frontages other than St Georges Road, with higher storeys set back to create a separation between the lower and upper parts of a building
- on large sites, additional storeys should be located toward the centre of the site
- rear setbacks that minimise unreasonable amenity impacts on adjoining residential land outside the DPO11, with a formula provided. (The only part of the proposed development with a rear setback condition is Building B, which appears to meet the formula).

¹⁶ The setback to Building C is not dimensioned on the application plans.

5.2 Building heights and setbacks

(i) The issue

The issue is whether the proposed building heights and setbacks are appropriate.

(ii) Evidence and submissions

General issues

Several submitters felt the proposed development is an over development for the site and for the area. Some submitted the heights should be reduced to meet the 12 storey preferred maximum in the DPO11. Others submitted they should be reduced even further, to 6 storeys. Submitters said the proposed heights were unprecedented in Preston, and the proposed development is considerably taller and bulkier than any other development in the area, including the neighbouring Preston Crossing development.

Ms Oakley submitted *“the proposed design, height and massing without articulation, building separation or setback will inappropriately dominate the streetscapes of St Georges Road, Oakover Road and Shower Street.”* She submitted the proposed development does not meet the height or setback requirements of the DPO11, or the objective that seeks to ensure development provides a transition in height and massing to surrounding lower scale form.

Ms Rose submitted she was *“extremely concerned”* that the *“disregard”* for the DPO11 *“will result in a precedent for the rest of the building heights and will result in development inconsistency across the overlay”*.

The group of residents represented by Town Planning Group submitted the opportunity for social or affordable housing should not be seen as an opportunity to provide less optimal design, or increase heights beyond that envisaged by the Planning Scheme and the community.

Assemble responded that the preferred heights in the DPO11 are discretionary, enabling flexibility in design and use of space within a site to achieve intended built form outcomes. It noted that exceedances of the preferred heights in the DPO11 have already been contemplated or approved for the two Public Housing Renewal Projects:

- Preston Crossing is approved at up to 9 storeys where the DPO11 specifies a preferred 6 storey height limit
- on the Stokes/Penola site, the approved Village Bell Development Plan envisages heights of up to 10 storeys where the DPO11 specifies a preferred height of up to 8 storeys.

Assemble submitted that varying heights across a number of individual buildings, rather than the ‘standard’ form of a large, built form in the centre of a site with setbacks to boundaries, was a preferable outcome.

Mr Czarny gave urban design evidence for Assemble. His evidence was:¹⁷

It is entirely appropriate for the profile of development on this parcel to ‘grow’ as it moves towards St Georges Road, serving as a ‘landmark’ as sought in DPO11. The progressive rise of form framing the Green Heart and fronting streets leads from 4 and 7 storeys to the east and up to 11 and 15 storeys to the west, demonstrating [sic] a clear understanding of city morphology and the role of the St Georges Road block between Oakover Road and Showers Street within the wider panorama.

¹⁷ Document 51.

His evidence was:

- The proposed design response and layout is a good example of DPO11 interpretation, and offers a “*more generous*” response than a uniform 12 storey envelope.
- The St Georges Road profile of five forms ranging between 10 and 15 storeys, with openings and variance in the colour of the different buildings, will be less imposing (volumetrically) than an unbroken 12 storey parapet.
- Along Oakover Road, the stepping of varied forms from 15 storeys at the corner, down to 10 and then 7 storeys, is complementary to the Preston Crossing development, and results in a diverse arrangement of street-based forms leading east to High Street.

Mr Czarny indicated in his oral evidence that he assessed the proposed development purely in terms of its urban design merits. He did not consider that the additional height above the preferred 12 storeys needed to be justified by the social and affordable housing contribution.

Ms Jordan’s evidence was, when considering whether to support height above the preferred 12 storeys, a relevant consideration is whether that additional height would cause any unreasonable off-site amenity impacts. She was of the view that it would not.

Showers Street

Showers Street is the most sensitive of the site’s interfaces.

Assemble submitted the proposed heights along Showers Street represent an appropriate transition, especially when considering the future character of Showers Street. It noted the DDO22 envisages heights of “*four storeys or more*” in Showers Street subject to lot consolidation, and the RGZ has a discretionary (not mandatory) height limit of 13.5 metres (4 storeys).

Mr Czarny’s evidence was that buildings along Showers Street respond to both the existing and anticipated conditions for Showers Street. He considered the Showers Street built form meets the DPO11 objective to “*ensure that built form on 47 and 49 Showers Street, Preston, provides frontage and overall massing that respects the residential streetscape*”. Key responses include the stepping down in height from the corner with St Georges Road, and the separation distance across the (widened) Showers Street laneway to neighbouring residential development. Further, he considered the single storey Building B with a raking roof form angling towards the laneway is a successful transition to the rear yards of the Showers Street properties from the higher (7 storey) built form of Building C.

Town Planning Group submitted that the heights proposed along Showers Street are excessive. The submitted while the RGZ and DDO22 (which apply to most of Showers Street east of the site) allow for higher development than the existing largely single storey dwellings, Showers Street “*does not appear to be a street that is going to turn over to three-level development*”.

In relation to setbacks, it submitted:

The lack of an appropriate podium of either building on Showers Street is a significant concern, as it provides no visual relief for residents of the street, pedestrians in the street, or drivers. The design will appear as a significant wall of built form.

Ms Oakley submitted the proposed heights along Showers Street will dominate the streetscape, particularly given the limited ground floor setback of only 1.3 metres. She submitted this is not consistent with the scale of development in the rest of Showers Street, pointing out that the DDO22 contemplates:

- a maximum front facade height of 7 metres (2 storeys)

- a minimum 4 metre ground level setbacks from the street
- upper level setbacks of a further 6 metres with each level above 2 storeys.

She pointed to other recently constructed “*reasonable design responses*” in Showers Street that presented as two or three storeys to the street, with more generous landscaped setbacks at ground level and more generous upper level setbacks. She also pointed to the “*respectful*” 3 storey townhouses in Preston Crossing along the south side of the Showers Street laneway, submitting this was a more appropriate response to the sensitive residential interface.

Ms Stewart submitted:¹⁸

We accept that there will be some form of a multi-storey building ... however we think what is currently proposed is well beyond anything contemplated by the 2019 amendments. When the 2019 amendments were made, we understood these were final. We strongly object to the developer now seeking to circumvent current planning controls.

She submitted a reduction in height and the additional setbacks that would apply should the rezoning not be approved would be a “*huge improvement*”.

Ms Quan noted the proposed heights in Showers Street exceed the 4 storey maximum in the RGZ, and submitted the size, height, scale and density of Building A4 “*is excessive and not appropriate for a small residential street such as Showers Street and is better suited to a main road*”. She submitted it does not allow sufficient transition in height or setback, and would have a detrimental impact on the amenity of residents, particularly those immediately adjacent and opposite the building.

(iii) Discussion

General issues

The Committee appreciates the concerns of the residents in relation to the substantial heights and limited setbacks of the proposed development. There is no doubt that the proposed development represents a substantial departure from existing conditions. The development is larger in scale than any other development in the immediate vicinity, including the adjacent Preston Crossing development which has a maximum of 9 storeys along Oakover Road, with 3 storeys along the Showers Street laneway.

The Committee agrees with Mr Czarny that the variation of heights across the site, the different materials and colour palettes of the different buildings, and the visual breaks between buildings along St Georges Road and Oakover Road will assist in visually moderating the heights of the buildings, particularly when viewed from the west side of St Georges Road. However, the buildings along Oakover and St Georges Roads will be clearly visible in more oblique views to the site, particularly from the residential parts of Oakover Road to the west of St Georges Road, Newman Reserve and the future Stokes/Penola development.

While the heights in the southwest corner exceed those specified in the DPO11, the Committee does not regard them as inconsistent with the DPO11. The DPO11 has a preferred height limit of 12 storeys. This is not a mandatory maximum. The 13 and 15 storey elements of the proposed development are contained to Building D1 and D2, on St Georges Road and the corner of Oakover Road. These are not sensitive interfaces, given the tram depot to the south and the generous

¹⁸ Document 71.

separation to neighbouring residences to the west afforded by St Georges Road and Newman Reserve. Heights on all other parts of the site are within the preferred 12 storey height limit.

For pedestrians walking along Oakover and St Georges Roads adjacent to the site, the street wall heights will be the most dominant element. In response to a question from the Committee, Mr Czarny indicated that the taller elements along St Georges and Oakover Roads will not be perceived from the adjacent street level. Street wall heights are generally consistent with the requirements of the DPO11, although the minimal upper level setbacks do not create a substantial separation between the lower and upper parts of a building, as referenced in the DPO11. This is further discussed in the following chapter in the context of building mass and podium and tower typology.

Showers Street

The DPO11 calls for a more sensitive treatment along Showers Street, including identifying 47 Showers Street as a ‘transitional buffer’, and specifying objectives that seek to ensure:

- development provides a transition in height and massing to surrounding lower scale form
- built form transitions towards the Ray Bramham Gardens and residential areas to the east
- built form on 47 and 49 Showers Street provides frontage and massing that respects the residential streetscape.

Building A4 occupies most of the Showers Street frontage. It is proposed to be 6 storeys, stepping down to 4 storeys approaching the Showers Street laneway (which will be widened in this section). It has a two storey street wall, but with limited upper level setbacks. It will appear, particularly from oblique views, as a significantly taller element in the existing Showers Street streetscape.

That said, the Committee agrees with Assemble that the development must be assessed not just in the context of the existing Showers Street streetscape, but the emerging streetscape, and what is envisaged under the current planning controls for Showers Street. The RGZ does not contain a mandatory height limit. While the RGZ purposes reference buildings “*up to and including four storeys*”, the DDO22 envisages four or more storeys. In this context, the Committee considers that the 4 to 6 storeys proposed in Building A4 is a reasonable and respectful response to both the existing and future character of Showers Street.

The Committee acknowledges that the ground and upper level setbacks proposed in Showers Street are limited, and less than those prevailing in existing development and those encouraged under the DDO22. It also recognises that there is no significant podium form proposed along Showers Street due to the limited upper level setbacks. While the ground level setback to Building A4 is to courtyards, these will be framed by substantial ‘hard edges’ of built form, and overhung by the Level 1 balconies (Level 1 has the same 1.3 metre setback as ground level). This, combined with the materiality and colour palette of the building (discussed in more detail in Chapter 5.4) has the potential to increase the visual bulk of Building A4.

That said, it is important to recognise that the site is not in the DDO22. The DPO11 is not prescriptive in relation to setbacks. It simply requires development to “*respect the residential streetscape*”. This does not require a mirroring of the existing conditions, or the setbacks set out in the DDO22 for surrounding new development.

(iv) Finding

The Committee finds:

- The proposed heights and ground level setbacks are an appropriate response to the DPO11, including the requirement that built form on 47 and 49 Showers Street provides frontage and massing that respects the residential streetscape.

For clarity, the Committee has reached this finding on the basis of the design of the proposed development. Its finding is not influenced by the social and affordable housing contribution proposed.

5.3 Mass, visual bulk and permeability

(i) The issue

The issue is whether the mass and visual bulk of the proposed development is acceptable.

(ii) Evidence and submissions

Assemble submitted the site's size and limited sensitive interfaces have enabled a design which can extend the built form to the boundaries. It submitted this not only 'holds the corners' with a robust built form to produce the landmark sought by the DPO11, but also keeps the most intensive built form away from the sensitive interface along Showers Street and the Showers Street laneway.

Mr Czarny's evidence was the arrangement of built form across the site in four 'modules' (Buildings A, B, C and D) comprising 9 component parts (Buildings A1, A2 etc), with the large green heart in the centre, is a "*broken down*" approach that permits permeable access to and through the site. He considered the design represents a "*city and place making approach*" that delivers a landmark form and exemplary architecture, as sought by the DPO11. His evidence was:

This design diversity is where I see craft in the St Georges Road streetscape composition, with a family of forms which sit comfortably side by side at close quarters. I support this approach, but also see merit in strengthening vertical division between Buildings A1 and A2 (as found between A2-A3 or D1-D2) with further articulation (through windows or balcony wraps) of flank walling of D2 north and A3 south.

Mr Czarny specifically addressed the DPO11 requirement for 'podium and tower' form, and gave evidence that there has been:

... a conscious decision to establish a distinguishable base (both spatially and materially) as an urban form narrative around the entire street edge, varied due to the angled alignment of St Georges Road and orthogonal building footprints.

He considered the upper-level setbacks, which are greater to the side streets than along St Georges Road, "*purposefully promote a sculptural street wall arrangement of 5 unified but distinguishable architectural elements as a strong frontage ensemble*". He considered corners have been addressed 'in the round' and parapets aligned to avoid overshadowing. His evidence was:

Typologically speaking, I favour the proposed unified language of these strong corner buildings and the manner in which the infill (in-between) forms stagger and step along St Georges Road. This configuration is in my view far more favourable when compared to the more conventional (i.e. Docklands style) podium and tower approach.

Mr Czarny supported the public links though the site ('Oakshowers Street' and the pedestrian and cycle link from St Georges Road to the Preston Crossing development through the green heart). He supported the 3 further pedestrian arcades, and considered they integrate the site with its surrounds by providing physical and visual connections into the green heart.

Mr Czarny recommended some minor adjustments to the facades of various parts of the development, to provide further articulation to visually break up the built form. These are summarised in Figure 5.

Figure 5 Façade treatments recommended by Mr Czarny



Source: Mr Czarny's expert witness report (Document 51)

Town Planning Group submitted that by wrapping itself around the 'green heart', the proposal pushes all the dense development to the edges, making the development overly bulky and dominant to Showers Street, Oakover Road and St Georges Road:

Across the whole site the development has sought to place the buildings to the edge of the site, externalising all the amenity concerns, and providing near sheer walls to the streetscape, with podiums of little to no effect.

With such a large site, one would have thought the ability to break up the development, with sizable podiums, setting back the upper storeys, separations of upper storeys, and areas for significant open space would be achievable.

Town Planning Group submitted the dominant architectural form will be a significant visual intrusion into the streetscape and dominate the surrounding buildings and landscape, detracting from the general amenity of the area. It submitted the St Georges and Oakover Road frontages provide little visual relief to the houses on the south side of Oakover Street and from Newman Reserve, and the "*distinct lack of significant podiums*" results in considerable bulk and an excessively dominant presentation, particularly to Oakover Road.

Dr Alksnis submitted the proposed design creates a wall against the west (St Georges Road) frontage. He submitted a stricter adherence to the DPO11, in particular the requirement that the design be highly legible 'in the round', would prevent this. He also submitted that the development "*trades public amenity for private use*". Pushing the built form to the edges of the site, to allow the very generous 'green heart', resulted in increased overshadowing, excessive bulk and reduced amenity in the surrounding area.

(iii) Discussion

The bulk of the proposed development troubles the Committee. The substantial widths of continuous built form present a strong mass to all frontages, notwithstanding the variation in heights and colour palette. While Mr Czarny's recommended changes provide some additional visual relief, they do not alter the mass of the buildings, or substantially reduce their visual bulk, as can be seen in the following Figures 6 and 7 (the red arrows and notes reflect the changes recommended by Mr Czarny).

Figure 6 St Georges Road frontage (with Showers Street frontage to the left)



Source: Mr Czarny's expert witness report (Document 51)

Figure 7 Oakover Road frontage



Source: Mr Czarny's expert witness report (Document 51)

The arrangement of the built form around the perimeter of the site is not consistent with the DPO11's directive that on larger sites, additional storeys should be located toward the centre of the site. That said, while shifting the built form into the centre of the site would provide additional setbacks from the street frontages, the Committee does not consider this would significantly reduce the visual bulk of the built form. It would also likely result in a substantial reduction in the number of apartments that could be delivered, as well as the internal open space, as towers would need to be adequately separated to meet internal daylight access requirements in the apartments.

The proposed design does not read strongly as podium and tower, which is commonly understood to involve upper levels set back from the podium and with separation between built form elements above the podium. While there is a discernible 3 level podium along St Georges and Oakover Roads, upper levels are not, in the Committee's view, set back sufficiently to create a clear separation between the lower and upper parts of the building, as sought by the DPO11. Nor is there substantial visual separation between the upper forms, except for the generous 16 metre wide entry to the pedestrian and cycle link on St Georges Road which provides a substantial separation between Buildings A and D (this is not obvious in Figure 6, given the angle of the perspective).

The Committee raised its concerns about visual bulk, and the design's interpretation of the podium tower typology, with Mr Czarny. He responded that the DPO11 is now a relatively old control, and the reference to 'podium and tower' should be given a more contemporary interpretation, particularly given the applicable control is a DPO rather than a DDO (which are generally more prescriptive in relation to built form outcomes).

Mr Czarny did not consider that a more traditional form of podium tower development, with more substantial upper level setbacks and greater separation between upper level forms, would deliver

a better urban design outcome. He considered shifting the upper built form in toward the centre of the site would significantly compromise the amenity and design integrity of the green heart, and would compromise the way in which the development ‘holds the corners’ and the design of the buildings to be viewed ‘in the round’.

On balance, and with some reservations, the Committee accepts that the massing of the proposed development is appropriate. The site is large, and the lack of sensitive interfaces (with the exception of Showers Street) lends itself to massing the built form around the perimeter of the site. This creates a highly functional central area with a high level of amenity for both the future residents of the proposed development and the surrounding community.

The UDF contemplates a more traditional form of podium and tower development, indicated by the sketches in the UDF which some submitters included in their presentations to the Committee. However, the UDF is only a background document in the Planning Scheme (not a reference document), and is not specifically referenced in the DPO11. The Committee has therefore given it limited weight in interpreting the DPO11’s references to podium and tower forms.

While increasing the upper level setbacks and separation between upper level forms may reduce the visual bulk of the development, no material was put before the Committee demonstrating the benefits that would be achieved. The Committee:

- doubts that increased upper level setbacks on Showers Street would provide substantial benefits in terms of reducing the visual bulk of Building A4, given this would reveal more of the taller built form of Building A1 on the corner of St Georges Road
- considers there is less need to reduce the visual bulk of the proposed development along the St Georges Road and Oakover Road frontages, as they are less sensitive.

Substantial upper level setbacks and separation between upper level forms could have significant impacts on the number of apartments to be delivered, as well as the amenity and functionality of the internal (but publicly accessible) open space in the development.

The Committee is satisfied that the links through the site create appropriate permeability, consistent with the outcomes sought in the DPO11. When viewed from the streets adjacent to the site, the visual breaks created by the links and the arcades leading to the green heart will contribute to breaking up the visual mass of the buildings. Again, this is not particularly obvious from the oblique views shown in Figure 6 and Figure 7.

(iv) Findings

The Committee finds:

- On balance, and with some reservations, the Committee finds that the massing and visual bulk of the proposed development is acceptable.
- The permeability through the site is appropriate and consistent with the requirements of the DPO11.

5.4 Materiality and articulation

(i) The issue

The issue is whether the materiality and articulation of the proposed development is appropriate.

(ii) Evidence and submissions

Several submitters expressed the view that the design does not create a landmark built form, does not demonstrate exemplary architectural design, and does not have high legibility (all requirements of the DPO11). Some likened the design to the public housing tower blocks of the 1960s, noting similarities in built form, scale and colour palettes.

Mr Czarny's evidence was that the materiality and articulation of the built form along St Georges Road will soften its appearance. The asymmetrical window placement and staggered balcony openings provide visual interest. The variance in the colour palette and the breaking up of the buildings with vertical rebates will make it less imposing volumetrically. He noted the ground level setbacks from St Georges Road allow a "*landscape fringe*" of varied width, from 3.7 to 6.45 metres which will soften the appearance of the built form. He approved of the brick podiums with varied warm palette concrete panelling above.

Showers Street

There were particular concerns in relation to the materiality and articulation of Buildings A1 and A4, fronting Showers Street (see Figure 8).

Figure 8 Showers Street frontage



Source: Mr Czarny's witness statement (Document 51)

Mr Czarny's evidence was Showers Street has a more confined viewshed within a local streetscape than other frontages. He noted the relationship between Buildings A1 and A4 is not uniform, with the corner encompassing a 3 storey podium with a 1.6 metre setbacks to upper levels, while Building A4 presents a 2 storey podium with greater setbacks at both ground and upper levels. His evidence was:

The make-up of the elevation is diverse (albeit comprising connected buildings), with both tonal and stylistic differentiation between the 2 forms and noticeable spatial separation (vertical rebates 2.8m wide x 9m deep) and spacious arcade links that are noticeable in the street view. I believe that this presentation meets the DPO11 Sub-precinct 3 ambition to 'ensure that built form on 47 and 49 Showers Street, Preston, provide frontage and overall massing that respects the residential streetscape'.

He recommended further articulation (through placement of additional windows) to the exposed side wall of Building A1.

Town Planning Group submitted Building A1, with both a frontage and a side presenting to Showers Street, is 11 storeys high and the terracotta brick, mesh and precast concrete panels

would be visually intrusive. It submitted *“this façade lacks any relief to Showers Street and will dominate the St. Georges Road entrance to Showers Street, and then the vistas down the street, from the eastern end”*. It submitted:

The strong colours of both buildings, being in either white, or terracotta is a problematic and visually dominant choice, as it provides block of colour to each building, with [sic] lessens the distinction between materials on each facade. One would have thought that to help lessen the visual bulk of each of the buildings, material colour choice would be more considered, with more variation in colour on each building.

The Town Planning Group submitted the colour palette of pale mesh and surrounding brick and precast concrete in Building A4 gives the building a commercial appearance, and does not break the building up visually. It submitted the *“stark white colourings will dominate the streetscape, providing a significant reflective element”*, with little room for landscaping in the ground floor courtyards to soften the appearance of the building. It submitted the materiality and colour palette, combined with the limited ground and upper level setbacks, will *“provide a substantial amount of bulk and scale to the streetscape, particularly given the height and massing of the building”*.

(iii) Discussion

As noted in previous chapters, the proposed design presents substantial and robust built form to all street frontages (as well as internally, to the green heart). While the Committee has found the heights and setbacks to be generally appropriate, the built form will have substantial mass and visual bulk.

As discussed in Chapter 5.3, the Committee supports Mr Czarny’s recommended changes to various facades of the proposed development shown in Figure 5. Although they do not alter the mass of the buildings, or substantially reduce their visual bulk, they will assist in providing some visual relief through (in particular):

- more varied vertical materiality, to break up the visual bulk of the facades
- the placement of additional windows, to provide greater articulation of blank walls
- balconies that open to the sides of the buildings, to reduce the visual mass of the corners of buildings.

In the Committee’s view, the visual dominance of the buildings could potentially be further reduced if there were greater differentiation in colour between the podium levels (which are proposed to be brick), and the upper levels (which are proposed to be precast concrete similar in colour to the podium beneath). This should be considered when the façade strategy is prepared and approved (condition 17 in Appendix E).

Showers Street

As previously stated, Showers Street is the most sensitive of the proposed development’s interfaces. Opportunities to further reduce the visual bulk of the development’s presentation to Showers Street should be explored.

The Committee recommends that the balconies of the apartments on the northeast corner of Building A1 above Level 6 be open to two sides, as Mr Czarny has recommended for the balconies on the south east corner of Building D1 and the south west corner of Building A3. This will allow views through the corner of the building at upper levels, and will provide further articulation of the side wall of Building A1 visible from Showers Street.

The choice of balcony finish for Building A4 may further break up the visual bulk of its Showers Street frontage. For example, a more transparent material, or more visually permeable mesh, or a balcony finish with a different colour to the surrounding masonry or concrete may reduce the visual bulk of the façade. This would need to be balanced with considerations of privacy and overlooking both into and from the Building A4 apartments.

Landscaping will be an important element in reducing the visual bulk of the proposed development. The layout of the buildings and the landscaping plan provide relatively generous opportunities for landscaping along the St Georges Road frontage, which is the most robust of the street frontages in terms of presentation of built form. The 4.78 metre setback along Oakover Road (Buildings D1, D3 and D4) also present opportunities for landscaping, although this will need to be balanced with traffic and access considerations including maintaining appropriate sightlines to the vehicle entrance off Oakover Road.

Landscaping along the Showers Street frontage will be particularly important in ensuring Building A4 successfully and respectfully 'knits' into the Showers Street streetscape. Although the Landscape Plan shows additional street planting in Showers Street (which the Committee supports), the limited (1.3 metre) ground level setback to Building A4 does not present much opportunity for landscaping. The Committee shares the concern of Town Planning Group that opportunities for landscaping in the ground level courtyards will be limited, due to the overhang of the upper levels.

Vertical landscaping is a technique often used to soften the visual appearance of built form. The Committee considers that this would be a suitable treatment for Building A4.

(iv) Findings and recommendations

The Committee finds:

- Mr Czarny's recommendations (shown in Figure 5) for changes to the materiality and articulation of various facades to break up the built form and reduce the visual bulk of the development are supported.
- Further techniques should be employed or considered to further reduce the proposed development's visual bulk, including:
 - balconies on the northeast corner of Building A1 to be open on two sides
 - vertical landscaping techniques to be applied to the balconies of Building A4 presenting to Showers Street
 - differentiation in the colour palette for the podium and upper levels of Buildings A1, A3, D1, D2, D3 and D4
 - the choice of colour and material for the balconies of Building A4 presenting to Showers Street.

The Committee recommends:

Amend condition 2 (Approved and Endorsed Plans) of the permit to include a further sub-condition as shown in Appendix E:

Balconies on the northeast corner of Building A1 above Level 6 are to be open on two sides.

Amend condition 3 (Landscape Plan) of the permit to include a further sub-condition as shown in Appendix E:

Vertical landscaping techniques to be applied to the balconies of Building A4 presenting to Showers Street.

When considering the façade strategy under condition 17 of the permit, consider whether the visual bulk of the development could be further reduced by:

- a) differentiation in colour between the podium and the upper levels of Buildings A1, A3, D1, D2, D3 and D4**
- b) colour or choice of material for balconies in Building A4 presenting to Showers Street.**

6 Overshadowing

6.1 The issues

The issues are overshadowing of:

- Newman Reserve
- residential properties on Oakover Road and St Georges Road to the southwest of the site
- residential properties on Showers Street to the east of the site.

6.2 Evidence and submissions

The Application Plans include shadow diagrams. The results are summarised in Table 2.¹⁹

Table 2 Summary of shadow impacts

Time of year	Time of day	Areas impacted
Winter solstice	9am	<ul style="list-style-type: none"> - A substantial portion of the southeast part of Newman Reserve - Oakover Road – 4 residential properties in (front and rear private open space for 3 properties, front private open space only for 1 property) - St Georges Road – 5 residential properties in (front and rear private open space) - Davies Street – 7 residential properties in (front and rear private open space for 2 properties, rear private open space only for 5 properties)
	10am	<ul style="list-style-type: none"> - A small sliver of Newman Reserve - Oakover Road – 1 residential property in (a small portion of rear private open space only) - St Georges Road – 4 residential properties in (front private open space only)
	11am	<ul style="list-style-type: none"> - None
September equinox	9am	<ul style="list-style-type: none"> - Portions of Newman Reserve along the eastern edge (substantially less than at the winter solstice) - Oakover Road – 3 residential properties (front private open space only)
	10am to 1pm	<ul style="list-style-type: none"> - None
	2pm	<ul style="list-style-type: none"> - A small portion of the rear private open space at 45 Showers Street (68.5 metres in sun) - A number (unspecified) of the balconies of west facing apartments in Preston Crossing

¹⁹ Document 7

Time of year	Time of day	Areas impacted
	3pm	<ul style="list-style-type: none"> - More of the rear private open space at 45 Showers Street (approximately two thirds in shadow) - A number (unspecified) of the balconies of the west facing apartments in Preston Crossing

Ms Rizzo provided tables in her submission to the Committee which calculated shadows on Newman Reserve, residential properties in Oakover Road and Showers Street, and the cyclist and pedestrian path along Oakover Road South, based on the building heights and the angle of the sun at the winter solstice, the equinox and the summer solstice. She submitted:

- dwellings on St Georges Road, Oakover Road and Newman Reserve will have a *“significant impact commencing from the night before until 12:00pm daily from March through to December and until 10:00am from December onwards”*
- dwellings on Showers Street will be affected daily from 2pm onwards between March through to December
- the cyclist and pedestrian path along Oakover Road South will be affected in conjunction with the Preston Tram Depot.

To address this, she submitted:

- the height of all buildings facing St Georges Road should be halved (to 7 storeys)
- Buildings A1 and A2 should be reduced to 7 storeys
- Buildings D1 and D3 should be reduced to 24.2 metres (around 7 storeys)
- Building A4 should be reduced to 2 to 3 storeys
- the setback to the Showers Street laneway should be increased

Town Planning Group submitted that while the proposal will meet the shadow requirements of the Planning Scheme, there will be “excessive” shadow in the morning affecting properties in Oakover Road, St Georges Road and Davies Street. It submitted the September (equinox) shadows are a concern for two properties in Oakover Road. They submitted:

At least it is our position that the shadows should not go to our clients’ dwellings at the equinox.

It also submitted that internal shadow should be considered, with much of the green heart in shadow through the day:

There are many ways this could have been better designed and setting back the development further into the site, providing more northerly aspect common space, and separation of towers would assist, along with decreasing height.

The owners of 9 Oakover Road submitted their mother (who is aged and has limited mobility) enjoys sitting in the sun on her front porch or in her front room in the mornings, and would no longer be able to do so because of the morning shadow cast by the proposed development over their front open space.

Ms Stewart submitted the development will overshadow the intersection of Oakover and St Georges Road in the mornings, making crossing more dangerous, particularly for school children accessing Bell Primary School. She was also concerned about the safety impacts of shadows cast on the St Georges Road bike path.

Assemble responded that the proposed development will overshadow a maximum of 30 percent of Newman Reserve at the winter solstice, at 9am. By 10am the shadow is almost entirely gone. There is no protection for overshadowing of Newman Reserve in the Planning Scheme, and some

overshadowing of Newman Reserve is to be anticipated given the preferred heights in the DPO11. It submitted:

... the extent of overshadowing is minimal in terms of both the extent of the Reserve area overshadowed and the duration of the shadow.

In relation to the residential properties, Assemble submitted ResCode (Clause 55 of the Planning Scheme) is not applicable, but provides a measure as to whether the extent of shadowing of private open space is reasonable. It submitted that some overshadowing of the residential properties in Oakover Road and Showers Street is to be anticipated, given the preferred heights under the DPO11, and:

- the duration of shadowing of the Oakover Road properties (no overshadowing beyond 10am) is reasonable
- the Clause 55 standard is achieved for shadow impacts to the residential property at 45 Showers Street (as the secluded private open space at the rear of 45 Showers Street remains unaffected by shadow for at least 5 hours between 9am and 3pm at the equinox).

Ms Jordan's evidence about the shadow impacts on 45 Showers Street was:²⁰

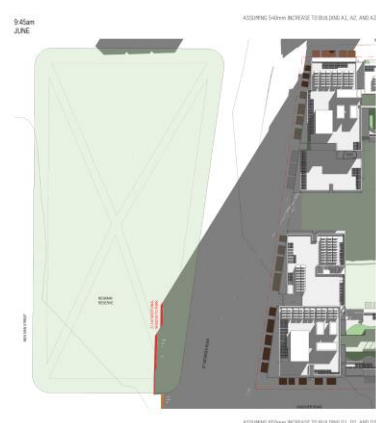
The location of this dwelling is within the boundaries of Substantial Housing Change Area and Strategic Development Precinct in accordance with the Housing Framework Plan at Clause 21.03 [of the Planning Scheme]. Given it is also subject to the Residential Growth Zone where a more intensive development is to be expected, I do not consider this extent of additional overshadowing is unreasonable.

Council's updated flood data would require floor levels in some buildings to be raised, resulting in an overall increase in the height of some buildings. Assemble prepared updated plans and shadow diagrams demonstrating the impacts of the increased floor levels, which were presented through Ms Jordan.

The diagrams demonstrate minor impacts from the additional height:

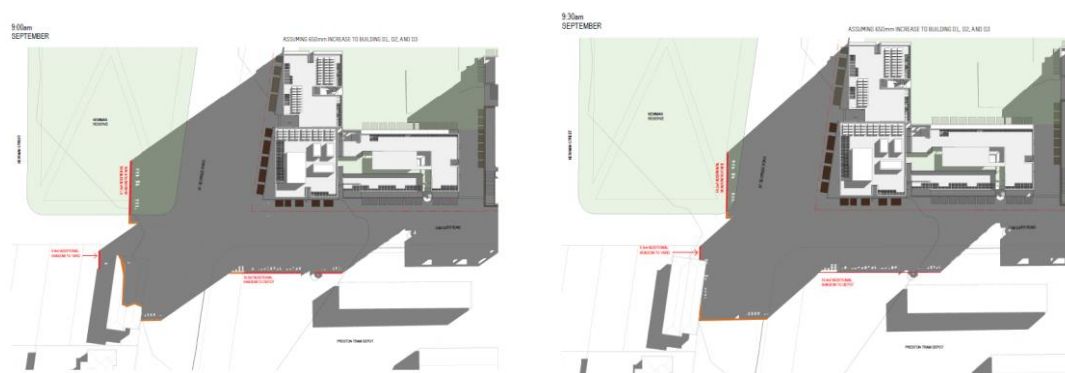
- The greatest impact on Newman Reserve (at the winter solstice) is at 9.45am (see Figure 9). The shadow is gone by just after 10am.
- The greatest impact on the residential properties in Oakover Road (at the equinox) is between 9am and 9.30am (see Figure 10). The shadow is gone by 10am.
- The greatest impact on 45 Showers Street is between 2.15pm and 3pm (see Figure 11).

Figure 9 Updated flood data - additional winter shadow on Newman Reserve



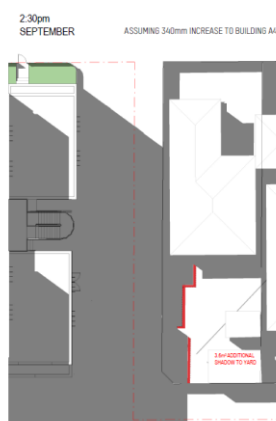
Source: Document 75

Figure 10 Updated flood data – additional equinox shadow on Oakover Road residential properties



Source: Document 75

Figure 11 Updated flood data – additional equinox shadow on 45 Showers Street



Source: Document 75

Council and Assemble agreed on permit conditions to address this (see conditions 29 and 30 in Appendix E), which require no additional overshadowing to:

- residential properties on the south-western corner of the St Georges and Oakover Roads intersection beyond 10am at the equinox (22 September)
- 45 Showers Street beyond 3pm at the equinox (22 September).

6.3 Discussion

Local policy in Clause 22.06-3.8 seeks to ensure multi-level development minimises unreasonable overshadowing and overlooking of residential development. Clause 21.03-2 seeks to ensure development at interfaces between Substantial Change and Incremental or Minimal Change Areas provides a sensitive transition, with particular consideration given to overshadowing, loss of privacy and unreasonable visual intrusion.

These policy objectives need to be understood in the context of the applicable planning controls. Residential properties within or adjacent to substantial change areas cannot expect the same level of amenity protection as those in minimal or incremental change areas, given the objectives for increased development and changing character in these areas. Further, the DPO11 provides for preferred heights on the site of 12 storeys, which would cast some shadow on Newman Reserve and surrounding residential properties.

The Committee considers the shadow impacts of the proposed development to be acceptable. It does not agree with submissions that building heights and setbacks should be reduced to eliminate any overshadowing of surrounding areas. Neither the local policy nor the applicable planning controls call for this. Some level of overshadowing is to be expected.

The Committee supports the conditions agreed between Assemble and Council in relation to the shadow impacts of the additional height to buildings in response to Council's updated flood data, and considers that they strike a reasonable balance between the need to plan for potential flooding, and the reasonable amenity expectations of surrounding residents.

6.4 Findings

The Committee finds:

- The shadow impacts of the proposed development are acceptable.
- The Committee supports the conditions agreed between Assemble and Council in relation to the shadow impacts of the additional height to buildings in response to Council's updated flood data.

7 Social housing contribution

7.1 The issues

The issues are:

- the quantum of the social housing contribution
- the duration of the social housing contribution.

The Committee has constrained its advice to the social housing contribution in accordance with the Referral Letter. Some submissions raised issues in relation to the social housing contribution in the context of the affordable housing contribution and the Specialist Disability Accommodation contribution, which is reflected below, but these are not the key focus of the Committee's advice.

7.2 What is proposed?

Assemble proposes to deliver:

- 20 per cent of the dwellings as social housing, to be managed by registered housing agency Housing Choices Australia and offered to persons on the Victorian Housing Register waitlist
- 20 percent of the dwellings as affordable housing (affordable to low to moderate income households, and/or key workers)
- 3 percent as Specialist Disability Accommodation.

The social housing contribution is proposed to be secured by way of a permit condition. The condition requires the housing to be maintained as social housing for a period of 13 years.

Assemble's final version of the social and affordable housing permit condition included a further condition requiring yearly review of rents for the affordable housing component, to ensure they remain affordable. Assemble agreed in the Hearing to an annual reporting obligation in relation to the affordable housing component, to provide some accountability in relation to whether rents were being maintained at an affordable level.

7.3 Submissions

Assemble submitted it is a leading private developer and provider of social and affordable housing, with its projects comprising the largest privately funded social and affordable housing portfolio in Australia. It has long-term investment and partnership arrangements in place which require social and affordable housing being provided in all of its developments. It does not receive any government grant funding. It submitted:

Assemble Build to Rent (BTR) projects (by virtue of their investor partners) are the only form of wholly privately funded social housing within Victoria. They are leaders in using this emerging housing model in a way which contributes to addressing the large undersupply of housing available to very low and low income households, which has historically been seen as an issue for government to address.

The Assemble build to rent model is proposed to be developed across five sites within Melbourne, comprising over 1,950 dwellings.

Assemble explained it is able to offer significant proportions of dwellings in its projects as social and affordable housing due to their integration with a market component:

The market component must be sustained at a viable scale in order for the social and affordable housing to be delivered.

In relation to the quantum of the social housing contribution, Assemble submitted:

- other private developments typically offer 5 to 10 percent affordable housing contributions
- projects that secure social housing for 30-year periods are able to do so because they are largely funded by government grants
- the 20 percent contribution equates to 96 social housing units, which is comparable with the adjoining Preston Crossing development, which is providing 99 social housing units.

In relation to the duration of the social housing contribution, Assemble submitted:

- the social housing component is intended to be provided for the full 75 years of the term of the ground lease
- this assumption formed part of the base case and feasibility assessment for Assemble's institutional investors
- however, it is only able to commit to 13 year timeframes at a time because that is the time period for which concessional finance is offered
- Big Housing Build projects developed in partnership with private developers are undertaken with a 40-year ground lease and a funding agreement requiring the public housing units to be maintained for 20 years.

Assemble provided examples of other social and affordable housing permit conditions in Annexure 2 to its submission, some of which were for Assemble developments and some were not.

Several submitters were very supportive of the proposal to deliver social and affordable housing and Specialist Disability Accommodation, but considered these contributions, while worthy, did not justify the amenity impacts of the proposed development. For example, Ms Rizzo submitted:

The proposal is willing to provide 20 percent of social housing, but at what expense?

Town Planning Group submitted:

Furthermore, the opportunity for social or affordable housing should not be seen as an opportunity to provide less optimal design, or increase heights beyond that envisaged by the scheme and the community.

Ms Oakley submitted that the social housing and disability accommodation contributions should be higher, and longer in duration than 13 years. She submitted the allocation is small given the scale of development, and no guarantee is being provided that the 20 percent affordable housing contribution and the 3 percent Specialist Disability Accommodation will be maintained.

Council was not opposed to the model of social and affordable housing contributions, but disputed the quantum and duration of the contribution. Council sought:

- 20 percent social housing for 30 years
- 35 percent affordable housing.

It submitted these were based on "*evidence of need for social and affordable housing in the Darebin Municipality*". It submitted Council's Housing Demand and Supply Analysis showed that between 33 and 48 percent of new housing supply would need to be social and affordable housing, to meet the projected shortfall in the municipality. It submitted that the private sector "*has a role in responding to this need*".

7.4 Discussion

Assemble developments are unique in terms of the quantum of social and affordable housing contributions offered. The Committee is not aware of any other private development (without government grant funding) that offers anything like a 20 percent social housing contribution. In the Committee's experience, contributions are typically in the order of 6 percent or lower. These are often social and affordable housing combined, or limited to affordable housing (with no social housing component).

The Committee accepts that the projected need for social and affordable housing in Darebin may be significantly higher than 20 percent of all new housing. While it agrees with Council that the private sector has a role in meeting this need, this is a shared responsibility with government (local, State and Federal). Asking for contributions of more than 20 percent of social and affordable housing respectively on a particular development would be significantly in excess of what is typically expected.

Further, a contribution in excess of what Assemble has offered would likely threaten the financial viability of the project. The Committee accepts Assemble's position that it is only in a position to offer a 20 percent social housing contribution (and a 20 percent affordable housing contribution) because of its unique funding partnerships, and because it is able to offset the costs by including a portion of market rental dwellings in its developments. While Assemble did not present economic evidence to this effect, it is commonly understood that social and affordable housing contributions above around 6 percent start to threaten the economic viability of conventional private development projects.

The Committee accepts Assemble's submissions that its intent is to provide the social housing contribution for the life of the project, but is unable to commit to a period beyond 13 years due to financing restrictions. A 13 year contribution from a wholly private developer is commensurate with the 20 year contributions developers commit to in Big Build projects.

7.5 Findings

The Committee finds:

- The proposed social housing contribution of 20 percent of dwellings for a 13 year period is adequate, particularly given Assemble's intent is to extend the 13 year period provided finance is available.
- Both the quantum and duration of the contribution are significantly in excess of that typically offered in a private development.
- In relation to affordable housing, the Committee supports Assemble's condition in its final version of permit conditions relating to yearly review of rents, and notes Assemble's agreement to an annual reporting requirement to the Responsible Authority in relation to the affordable housing component. The Committee has included this change in Appendix E.

8 Public infrastructure contribution

8.1 The issue

The issue is the amount of contribution to upgrade works at the intersection of St Georges Road and Oakover Road.

8.2 Background

DCPO1 applies to the site and is levied across the municipality to help fund selected development and community infrastructure projects. There are no DCP infrastructure projects adjacent to the site, with the closest projects being a series of pedestrian crossings along Oakover Road to the west of St Georges Road to improve school safety.

The draft permit includes a condition requiring a Public Works Plan that includes various works on public (Council) land adjoining the site.

8.3 Submissions and discussion

Council submitted the public footpaths including along Oakover Road and cyclist facilities along Oakover Road and at the intersection of Oakover Road and St Georges Road should be provided as developer works in addition to the DCP levy, as these contributions are to mitigate significant demands likely to be placed on existing infrastructure. Assemble did not dispute this, as reflected in the final version of the Public Works Plan condition.

DTP required a condition:²¹

Prior to the occupation of the development, the alterations to the traffic signals at St Georges Road/ Oakover Road must be completed at no cost to and to the satisfaction of the Head, Transport for Victoria.

As discussed in Chapter 4.2, further work is required to establish what (if any) signal changes are needed, and what works are required in Oakover Road and the intersection to improve cyclist safety. The Committee is not able to advise on the funding of these works based on the information before it, beyond noting that works required as a result of the development should be expected to be funded by the developer.

The Public Works Plan condition was essentially agreed between Assemble and Council, including further agreement reached through discussion at the Hearing that:

- there should be some flexibility in relation to the width of the footpath along the north side of Oakover Street, as the upgrades to the Oakover Road / St Georges Road intersection have not yet been finalised (see Chapter 4.2)
- the insertion (by Assemble) of a further sub-condition in relation to works in Showers Street was not required (see Chapter 4.3).

These agreed changes are supported by the Committee, and are reflected in Appendix E.

8.4 Findings

The Committee finds:

²¹ Document 44.

- Some public infrastructure contributions for road works will be required in addition to the DCP levies. This should be determined through the recommended further consultation with Council, the Head, Transport for Victoria and Assemble's traffic engineers (see Chapter 4.2(v)).
- The Committee supports the Public Works Plan condition in the draft permit.

9 Consultation

9.1 The issues

The issues are:

- time period of the consultation
- geographic extent of the consultation.

The Referral Letter sought advice in relation to the timeframes for consultation. For the reasons set out in Chapter 2.7(ii), the Committee has considered both the timeframe and extent of consultation.

9.2 What was the consultation?

Consultation was undertaken by:

- the DFP, pursuant to section 20(5) of the Act, in relation to the draft Amendment and permit
- Assemble, in relation to the project more broadly.

Consultation by the DFP included direct notification (by hard copy letter) to adjoining property owners and occupiers (see Figure 12), and displaying the application material and a summary of the project on the DFP website. The consultation period was initially 3 weeks, but was extended at Council's request to 5 weeks. The materials remained on the DFP website until the matter was referred to the Committee. The materials were then made available to the parties by Planning Panels Victoria.

Figure 12 **Extent of DFP consultation**



Source: Assemble's background submission (Document 47(b))

Assemble's consultation included:

- letters to the owners of around 80 properties, including all of Showers Street, and properties on Oakover Road, Davies Street and St Georges Road
- an online community survey
- a community information session (over multiple times during the day) in June 2022
- a one-on-one meeting with the owners of 45 Showers Street
- correspondence with individual landowners in relation to specific queries raised at the community information session
- correspondence with the 80 landowners about the outcomes of the community information session and next steps
- a 'Meet the Architects' session in November 2022 with direct invitations sent to the same 80 landowner properties and a recording distributed to those who had registered interest but were not able to attend
- ongoing consultation and meetings with the local MP and other individuals.

9.3 Submissions

Assemble submitted:

The DFP process alone is acceptable and effective consultation. Having regard to Assemble's additional consultation process, there ought be no doubt that the timeframes, nature and extent of consultation is acceptable.

Assemble noted that the notice provisions of the PE Act do not apply to this process, and consultation by the DFP was undertaken pursuant to section 20(5), which provides the Minister with a broad discretion in relation to the nature and extent of consultation.

Despite this, the DFP's process "*mirrored the Part 4 requirements of the PE Act*". Assemble submitted the 5 week consultation period was "*well in excess*" of the statutory 14 day period for a permit application to be advertised under the standard pathway.

In relation to the geographic extent of DFP's notification, Assemble submitted that residents became aware of the proposal regardless of whether they were directly notified.

Assemble submitted the process had not been unfair and did not deprive the community of an opportunity to be heard. The themes on which the Minister requested the Committee's advice were specifically informed by the submissions received from the local community, and the Committee:

... ought to be satisfied that all relevant matters for consideration have been identified through the consultation process and that any further consultation would not likely generate any new planning issues for consideration.

It went on:

While there may be complaint that the Proposal did not follow the 'standard' pathway, the DFP is nonetheless a legitimate and lawful pathway. The Proposal has been accepted into this pathway as it will provide substantial State and local benefits. By its nature and objectives, the DFP involves a more limited and targeted consultation process.

Town Planning Group submitted that the consultation "*is not reflective of the broad impact of such a development would have on the wider area and is not the usual advertising experience one would get for such an amendment and application*". They submitted this had resulted in many community members only becoming aware of the proposal through word of mouth. They also raised concerns about the Council's consultation with the community (indicating that many of

their group had not had phone calls to Council about the proposal returned), and the Committee's consultation (noting that submitters were only given six days to get their submission together).²² They submitted:

Our clients are troubled that many members of the public were unfairly disadvantaged by the lack of consultation for such major project, and that a longer and much wider advertisement period should have been undertaken to truly understand the broader community's concerns.

Ms Oakley described the consultation with Assemble as information delivery, rather than a genuine two-way engagement in which residents felt listened to. Assemble countered this, submitting that consultation with the local community had begun early in the life of the project, and had resulted in many changes to the original design, including a reduction in the number of apartments.

Ms Stewart expressed many of the concerns raised by submitters in relation to consultation. She submitted that the community meeting conducted by Assemble in June 2022, while a 'town hall' style discussion:²³

... was the first experience I had where I felt as though we might have the chance to be heard by the developer and where it felt like potential compromises could be made to find a solution for everyone.

She went on:

Unfortunately, whilst the meeting provided residents with a few answers, it was made clear that no changes would be made to the current plans prior to this process concluding and there would be no opportunity for compromise.

She did not believe that residents have been given genuine opportunities to engage with Assemble. She submitted:

This has led to us feeling deeply concerned and confused about where we can go to have our voices heard but also, where we can go to have stakeholders such as council engage with us and provide us with their expertise, given that this process bypasses usual planning processes.

She pointed out that residents (not professionals in planning) were being asked to decipher and interpret "*an incredibly large amount of complicated and technical documentation*", much of which was provided only a week before the Hearing (such as the expert witness reports). She submitted this has been "*difficult, time consuming and tremendously stressful*".

Council provided the DFP with an alternative (more extensive) map identifying the extent of notification it considered was appropriate.²⁴ It noted that the DFP chose not to notify to this extent.

9.4 Discussion

The assessment pathway is a critical consideration when considering the adequacy of the DFP consultation undertaken on behalf of the Minister. In this case, the consultation was undertaken pursuant to section 20(5) of the PE Act, for which there are no specific statutory requirements. The Minister has a broad discretion in relation to what, if any, consultation is undertaken. It was open to the Minister under section 20(5) to decide not to consult at all, provided the Minister was

²² The Committee notes that the letter notifying submitters that the matter had been referred to the Committee was circulated by email on 17 May 2023. It asked parties to provide a Statement of Grounds indicating their key concerns by 23 May 2023. Parties were provided until 17 July 2023 to prepare their submissions.

²³ Document 71.

²⁴ Documents 65 to 67 (the map is in three parts).

able to reasonably conclude that the tests in section 20(4) of the PE Act – that consultation was ‘not warranted’ or it was ‘in the interests of Victoria’ not to consult – were satisfied. Given this broad discretion, it is difficult to conclude that the consultation undertaken by the DFP was inadequate.

It appears that the local community was unclear as to why the extent of consultation undertaken by DFP was so limited. Submissions suggested the community expected a full scale notification and consultation, as if the proposal were being assessed under the standard permit assessment pathway. Perhaps more explanation of why the Minister had agreed to assess the project through the alternative assessment pathway, and what that meant in terms of notice and consultation, would have reduced some of the confusion.

If this were a permit application going through the ‘standard’ assessment pathway, section 52 of the PE Act requires the Responsible Authority to notify “*any ... persons ... if the Responsible Authority considers the grant of the permit may cause material detriment to them*”. If that were the relevant test (which it is not), the Committee considers the extent of notification undertaken by DFP would not have been adequate. The development proposal is substantial, and will have amenity impacts that extend some distance beyond the adjoining properties. Without reaching a finding, the Committee considers that the extent of potential ‘material detriment’ would probably be more akin to Council’s suggested notification map, rather than DFP’s. However, as already noted, material detriment is not the test in this case.

The Committee is broadly satisfied that the surrounding community was aware of the proposed development through a combination of the direct notification undertaken by the DFP, the consultation undertaken by Assemble, and ‘word of mouth’. A number of residents made submissions to the DFP and chose to participate in the Committee’s process, including some who lived some (albeit not significant) distance from the site.

The timeframes for the DFP consultation (at 5 weeks) were more generous than the standard statutory requirements for permits (minimum 14 days).

Based on the information before it, the Committee considers that criticisms of Assemble’s consultation are unfair. Assemble, as an applicant, has no statutory obligation to notify or consult beyond what is directed by the Responsible Authority (or in this case, the Minister). Despite this, Assemble consulted over a relatively broad geographic area (directly notifying 80 properties), and over a period of years. It appears Assemble made significant modifications to the initial design concept in response to feedback received from the local community, including a reduction in the number of apartments (and presumably in the scale of the development). While the Committee was not presented with specific details of the changes that were made, Council confirmed in its submissions that the changes were substantial, and resulted in Council (at officer level) changing its position from one of opposition to the development (based on merit) to one of support.

The fact that Assemble did not make all of the changes requested by the community does not mean the consultation was ineffective or not genuine. Some members of the community requested very significant changes, including halving the heights of the proposed development and doubling the number of car spaces. Assemble explained at the Hearing that this would have made the project unviable as a mixed tenure housing development, with substantial social, affordable and Specialist Disability Accommodation contributions.

9.5 Findings

The Committee finds:

- The timeframe of the DFP's consultation (at 5 weeks) was adequate, and more generous than would have applied had the proposal been assessed through the standard permit pathway (14 days).
- The geographic extent of the DFP's consultation was limited, and was not as extensive as what would have been required had the application been assessed through the standard permit pathway.
- That said, the application was not going through the standard pathway. The Minister has broad discretion under section 20(5) of the PE Act to determine the extent of consultation that should be undertaken, including not to consult at all.
- Given this discretion, it is difficult to conclude that the extent of the DFP consultation was inadequate.
- Assemble's consultation was broad, over a significant period of time, and responsive to community concerns.
- The Committee is broadly satisfied that the community was aware of the proposed development through a combination of the direct notification undertaken by the DFP, the informal consultation undertaken by Assemble, and 'word of mouth'.
- The Committee does not recommend any further consultation before the Minister considers the Amendment and determines the permit application.

Appendix A Terms of Reference

Terms of Reference

Priority Projects Standing Advisory Committee

Standing Advisory Committee appointed pursuant to Part 7, section 151 of the *Planning and Environment Act 1987* to advise the Minister for Planning on referred priority planning proposals.

Name

1. The Standing Advisory Committee is to be known as the 'Priority Projects Priority Projects Standing Advisory Committee' (the Committee).
2. The Committee is to have members with the following skills:
 - a. statutory and strategic land use planning
 - b. land development and property economics
 - c. urban design and architecture
 - d. heritage
 - e. civil engineering and transport planning
 - f. social impacts
 - g. environmental planning
 - h. planning law.
3. The Committee will include a lead Chair, Chairs, Deputy Chairs and not less than ten other appropriately qualified members.

Purpose

4. The purpose of the Committee is to provide timely advice to the Minister for Planning on projects referred by the Building Victoria's Recovery Taskforce (BVRT), projects affected by Covid-19 and or where the Minister has agreed to, or is considering, intervention to determine if these projects will deliver acceptable planning outcomes.

Background

5. The Victorian Government has identified Victoria's building and construction sector as a key mechanism to revitalise Victoria's economy during the coronavirus (COVID-19) pandemic.
6. The Government has committed to a fast-track assessment process for priority projects of state and regional significance that are shovel-ready and that will provide immediate benefits to Victoria's economy, keeping Victorians in work and priority infrastructure on track for completion.
7. The BVRT was formally announced on 26 April 2020. The Taskforce was established by the Minister for Planning and Treasurer to help keep Victoria's building and development industry running during the coronavirus crisis. The Taskforce will investigate planning and investment opportunities to boost Victoria's building and development industry over the short, medium and long term.

Method

8. The Minister for Planning or delegate will refer projects by letter to the Committee for advice on whether the project achieves acceptable planning outcomes.
9. The referral letter must specify:
 - a. the specific issues the Minister for Planning seeks advice about
 - b. the mechanism of intervention being considered
 - c. whether, or which previously collected, submissions are to be considered by the Committee
 - d. how the costs of the Committee will be met.

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10. The letter of referral will be a public document.
11. In making a referral, the Minister for Planning or delegate must, either:
 - a. be satisfied that any proposed planning controls for the land make proper use of the Victoria Planning Provisions and are prepared and presented in accordance with the Ministerial Direction on The Form and Content of Planning Schemes, or
 - b. seek advice from the Committee on the drafting of the planning controls or permit conditions.
12. The Committee may inform itself in anyway it sees fit, but must consider:
 - a. The referral letter from the Minister for Planning,
 - b. referred submissions,
 - c. the comments of any referral authority,
 - d. the views of the project proponent,
 - e. the views of the relevant Council,
 - f. The relevant planning scheme.
13. The Committee is not expected to carry out additional public notification or referral but may seek the views of any relevant referral authority, responsible authority or government agency.
14. The Department of Environment, Land, Water and Planning (DELWP) will be responsible for any further notification required. New submissions will be collected by DELWP.
15. The Committee may seek advice from other experts, including legal counsel where it considers this is necessary.
16. The Committee is not expected to carry out a public hearing but may do so if it is deemed necessary and meets its quorum.
17. The Committee may:
 - a. assess any matter 'on the papers'.
 - b. conduct discussions, forums, or video conferences when there is a quorum of:
 - i. a Chair or Deputy Chair, and
 - ii. at least one other member.
18. The Committee may apply to vary these Terms of Reference in any way it sees fit.

Submissions are public documents

19. The Committee must retain a library of any written submissions or other supporting documentation provided to it directly to it in respect of a referred project until a decision has been made on its report or five years has passed from the time of the referral.
20. Any written submissions or other supporting documentation provided to the Committee must be available for public inspection until the submission of its report, unless the Committee specifically directs that the material is to remain confidential. A document may be made available for public inspection electronically.

Outcomes

21. The Committee must produce a concise written report to the Minister for Planning providing the following:
 - a. A short description of the project.
 - b. A short summary and assessment of issues raised in submissions.
 - c. A draft planning permit including relevant conditions from Section 55 referral authorities, or draft planning scheme control depending on the nature of the referral.
 - d. Any other relevant matters raised in the course of the Committee process.
 - e. Its recommendations and reasons for its recommendations.
 - f. A list of persons or authorities/agencies who made submissions considered by the Committee.
 - g. A list of persons consulted or heard, including via video conference.

22. Following the completion of a report, the Committee may deliver an oral briefing to the Minister for Planning and/or DELWP. The briefing may be by video conference or telephone.

Timing

23. The Committee is required to submit its reports in writing as soon as practicable, depending upon the complexity of the referred project between 10 and 20 business days from either:
- a. the date of receipt of referral, if no further submissions or information are to be sought, or
 - b. receipt of the final submission of material or final day of any public process in respect of a referral.

Fee

24. The fee for the Committee will be set at the current rate for a Panel appointed under Part 8 of the *Planning and Environment Act 1987*.

The costs of the Advisory Committee will be met by each relevant proponent.



Richard Wynne MP
Minister for Planning

Date: 14 / 06 / 2020

Appendix B Submitters

No	Submitter
1	Kat Theophanous MP (State Member for Northcote)
2	Jan Fiedler
3	Lisa Oakley and Sally Bieleny
4	Jayne Morrison
5	Jenna Stewart
6	Peter Lambropoulos and Dean Simpson
7	Deborah Platanas and Gerard Doyle
8	Jenna Stewart and Lachlan Richardson
9	Karen Quan and Lena Quan
10	Andrew Williamson
11	Juliette Keam and Tim Symonds
12	Darebin City Council
13	Jenna Stewart
14	Nikolai Alksnis (petition)
15	Environment Protection Authority Victoria
16	Transport for Victoria
17	Thomas Dundas
18	Kay King
19	Chris King
20	Jen Chung
21	Neerja Choahan
22	Paul and Amberleigh Sparks
23	Carmen Rizzo
24	Nicole Rose
25	Carly Donaghey and Rohan Abeyewardene

Appendix C Parties to the Hearing

Submitter	Represented by
Assemble Communities Pty Ltd and Housing Choices Australia Limited (Applicant)	Susan Brennan SC and Nicola Collingwood of Counsel, instructed by Ellen Tarasenko of Polis Legal, who called the following expert evidence: <ul style="list-style-type: none"> - traffic and carparking from Charmaine Dunstan of Traffix Group - urban design from Craig Czarny of Hansen Partnership - town planning from Sophie Jordan of Contour Consultants
Darebin City Council	Alex McKenna-Cocks and Jolyon Boyle
Jenna Stewart and Lachlan Richardson	Adam Parker of Town Planning Group*
Lisa Oakley and Sally Bieleny	Adam Parker of Town Planning Group*
Deborah Platanas and Gerard Doyle	Adam Parker of Town Planning Group*
Jan Fiedler	Adam Parker of Town Planning Group
Paul and Amberleigh Sparks	Adam Parker of Town Planning Group
Thomas Dundas	Adam Parker of Town Planning Group
Jen Chung	Adam Parker of Town Planning Group
Andrew Williamson	Adam Parker of Town Planning Group*
Nikolai Alksnis	Adam Parker of Town Planning Group*
Neerja Choahan	Adam Parker of Town Planning Group and Neelima Choahan*
Nicole Rose	Adam Parker of Town Planning Group
Carmen Rizzo	

* Also made a personal submission at the Hearing

Appendix D Document list

No.	Date	Description	Presented by
001	14 June 2020	Priority Projects Standing Advisory Committee Terms of Reference	Minister for Planning
002	11 May 2023	Letter of Referral	"
003	"	Acoustic Report	"
004	"	Affordable Housing Report	"
005	"	Apartments Schedule	"
006	"	Arborist Report	"
007	"	Architectural Plans	"
008	"	Cover Letter & RFI Response	"
009	"	Landscape Plans	"
010	"	Landscape Written Response	"
011	"	MPL Certificate	"
012	"	Planning Report	"
013	"	SIDRA Results	"
014	"	Statement of Environmental Audit	"
015	"	Sustainability Management Plan Supporting Letter	"
016	"	Sustainability Management Plan	"
017	"	Traffic Engineer Assessment	"
018	"	Traffic Memo	"
019	"	Urban Context Report	"
020	"	Waste Management Plan	"
021	"	Wind Impact Assessment	"
022	17 May 2023	Directions Hearing Letter	Planning Panels Victoria (PPV)
023	23 May 2023	Statement of Grounds	Jenna Stewart and Lachlan Richardson
024	23 May 2023	Email advising position on "on the papers" process and procedural matters	Jenna Stewart and Lachlan Richardson
025	23 May 2023	Statement of Grounds	Assemble Communities Pty Ltd and Housing Choices Australia Limited (Applicant)
026	23 May 2023	Statement of Grounds	Kay King
027	23 May 2023	Statement of Grounds	Deborah Platanas
028	23 May 2023	Statement of Grounds	Darebin City Council (Council)

No.	Date	Description	Presented by
029	23 May 2023	Procedural matters	Council
030	23 May 2023	Statement of Grounds	Amberleigh Sparks
031	23 May 2023	Statement of Grounds	Nicole Rose
032	23 May 2023	Statement of Grounds	Tom Dundas
033	24 May 2023	Statement of Grounds and procedural matters	Lisa Oakley
034	25 May 2023	Statement of Grounds	Karen Quan
035	25 May 2023	Procedural matters	Jen Chung
036	25 May 2023	Statement of Grounds	Jen Chung
037	25 May 2023	Statement of Grounds	Nikolai Alksnis
038	26 May 2023	Statement of Grounds	Carmen Rizzo
039	26 May 2023	Confirmation of representation and availability	Applicant
040	30 May 2023	Statement of Grounds	Andrew Williamson
041	30 May 2023	Statement of Grounds	Neerja Choahan
042	5 June 2023	Site context map	Applicant
043	5 June 2023	Directions and Timetable	PPV
044	9 June 2023	Referral comments	Transport for Victoria
045	16 June 2023	Applicant's Day 1 permit conditions	Applicant
046	21 June 2023	Version 2 Timetable and Distribution List	PPV
047	3 July 2023	Background submission, enclosing attachments: <ul style="list-style-type: none"> a) Attachment 1 – Letter from Department of Transport (now DTP) dated 24 February 2022 b) Attachment 2 – Map showing extent of DTP letters sent c) Attachment 3a – Letter to residents – March 2022 d) Attachment 3b – Map showing extent of Assemble letters sent (blue outlines) e) Attachment 3c – Letter to residents – June 2022 f) Attachment 3d – Drop-in session registration sheet – 21 June 2022 g) Attachment 3e – Example letter to resident post-information session – 8 August 2022 h) Attachment 3f – Letter to residents – 9 August 2022 i) Attachment 3g – Letter to residents – November 2022 	Applicant

No.	Date	Description	Presented by
		j) Attachment 3h – Stakeholder Engagement Summary – Current to 19 June 2023	
		k) Attachment 4 – Immediate Site Context Plan sent 5 June 2023	
		l) Attachment 5 – Village Bell Preston – Approved Development Plan	
		m) Attachment 6 – Preston Crossing Endorsed Plans Buildings OR2 OR4	
		n) Attachment 7 – Preston Crossing Endorsed Plans Buildings OR3 OR6a	
		o) Attachment 8 – Preston Crossing Endorsed Plans Buildings OR6b	
		p) Attachment 9 – Preston Crossing Endorsed Plans Buildings OR1 OR5	
		q) Attachment 10 – Preston Crossing Artist Impressions	
048	4 July 2023	Late submission of Carly Donaghey and Rohan Abeyewardene	Minister for Planning
049	5 July 2023	Email clarifying status of laneway off Showers Street	Council
050	10 July 2023	Expert witness statement of Charmaine Dunstan on traffic and parking	Applicant
051	10 July 2023	Expert witness statement of Craig Czarny on urban design	Applicant
052	10 July 2023	Expert witness statement of Sophie Jordan on planning	Applicant
053	13 July 2023	Submission, enclosing attachments:	Applicant
		a) St Georges Road Urban Design Framework 2015 (Addendum dated 4 September 2017)	
		b) Amendment C167 Panel report	
		c) Planning Practice Note 23 (Applying the Incorporated Plan and Development Plan Overlays)	
		d) Council report dated 13 February 2023	
		e) Council meeting report dated 14 March 2023	
		f) Council meeting report dated 23 May 2022	
		g) Plan of Subdivision LP1988	
		h) Relevant extracts of City of Darebin Register of Public Roads dated 2022	
		i) Ministerial reasons for decision to exercise power of intervention, Amendment C216more, dated 14 April 2022	
		j) Day 1 Permit filed 16 June 2023	

No.	Date	Description	Presented by
		<ul style="list-style-type: none"> k) Letter from HCA dated 12 July 2023 l) Northcote Devco Pty Ltd v Darebin CC [2022] VCAT 515 m) 402-444 Macaulay Road, Kensington Planning Permit n) Panorama Investment (Box Hill) Pty Ltd v Whitehorse CC [2018] VCAT 1490 	
054	13 July 2023	Statement of Kris Daff	Applicant
055	14 July 2023	Version 3 Timetable and Distribution List	PPV
056	17 July 2023	Submission	Carmen Rizzo
057	17 July 2023	Submission, enclosing attachments: <ul style="list-style-type: none"> a) Schedule 22 to Clause 43.02 Design and Development Overlay b) Darebin Council Minutes (4 September 2017) c) Darebin Council Minutes (7 September 2015) d) Darebin C136 Development Plan Overlay Schedule 11 at Clause 43.04s11 e) Item 802 Appendix C - Council Meeting 7 September 2015 - Amendment C136 for Adoption f) Item 802 Appendix F - Council Meeting 7 September 2015 - Amendment C136 for Adoption g) VCAT P756 2016 Dominic Gonsalves v Darebin CC 	Lisa Oakley and Sally Bieleny
058	17 July 2023	Submission, enclosing attachments: <ul style="list-style-type: none"> a) Council correspondence b) Council minutes regarding laneway 	Deborah Platanas and Gerard Doyle
059	17 July 2023	Submission, enclosing attachments: <ul style="list-style-type: none"> a) Council marked-up 'Day 1' Permit Conditions b) Council Internal Departmental Referral Comments c) Planning Committee Meeting Report d) Schedule 11 to the Development Plan Overlay Assessment e) Statement of Grounds 	Council
060	17 July 2023	Submission	Andrew Williamson
061	17 July 2023	Submission, enclosing attachments:	Town Planning Group group of submitters

No.	Date	Description	Presented by
a) Presentation slideshow			
062	17 July 2023	Submission	Nikolai Alksnis
063	17 July 2023	Presentation slideshow of Luke Wilson	Applicant
064	17 July 2023	Submission	Jenna Stewart
065	19 July 2023	Alternative consultation map – Southern scope of notice for 30 St Georges Road	Council
066	19 July 2023	Alternative consultation map – Northern scope of notice for 30 St Georges Road	Council
067	19 July 2023	Alternative consultation map – Eastern scope of notice for 30 St Georges Road	Council
068	19 July 2023	Corrected plan G33529-01B-04	Applicant
069	19 July 2023	Plan G33529-01B-07	Applicant
070	19 July 2023	Presentation slideshow	Neerja Choahan
071	20 July 2023	Speaking notes	Jenna Stewart
072	20 July 2023	Plan showing Finished Floor Levels and heights	Applicant
073	20 July 2023	Proposal plans overlaid with Preston Crossing plans	Applicant
074	20 July 2023	Building D3 internal layout plan	Applicant
075	20 July 2023	Additional shadowing plans	Applicant
076	20 July 2023	Assemble Preston Draft Permit Conditions (final Proponent version)	Applicant
077	20 July 2023	Council preferred intersection layout	Council

Appendix E Recommended planning permit conditions

Tracked against the Proponent's final version (Document 76).

[Tracked Added](#)

~~Tracked Deleted~~

Committee note: The Committee has redrafted the final day version of the permit conditions to meet the guidance in *Writing Planning Permits*, DTP, May 2023. Formatting, drafting and ordering changes have not been tracked. Substantive changes to the requirements of the conditions have been tracked.

Committee note: The Committee understands the intent is that the Minister is Responsible Authority for issuing the permit and approving documents under the permit, after which Responsible Authority status will revert to Council for the purposes of administering and enforcing the permit. The Committee has highlighted in yellow where this intent is not reflected, or where responsibility is unclear. Before the permit is finalised, consideration should be given to whether these conditions should specify Darebin City Council.

PLANNING PERMIT

Permit No.:	PA2201860
Planning Scheme:	Darebin Planning Scheme
Responsible authority:	Minister for Planning
ADDRESS OF THE LAND:	Land in Plan of Consolidation 375318M; Lots 1 and 2 on Plan of Subdivision 017706

Committee note: The Committee suggests describing the land by way of title particulars rather than street address due to anomalies in the description of the street address (refer to Chapter 2.2(i)). Title particulars should be checked before issuing permit

THE PERMIT ALLOWS:

Planning Scheme Clause No.	Description of what is allowed
32.04-2	Use and develop the land for a food and drink premises with a leasable floor area exceeding 150 sqm Use and develop the land for an office with a leasable floor area exceeding 250 sqm Use and develop the land for a shop with a leasable floor area exceeding 150 sqm

	Use and develop the land for retail premises
32.04-6	Construct or extend two or more dwellings on a lot
32.07-5	Construct or extend two or more dwellings on a lot
36.04-2	Carry out works in a Transport Zone
52.06-3	Reduce the number of car parking spaces

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

Compliance with documents approved under this permit

1. At all times what the permit allows must be carried out in accordance with the requirements of any document approved under this permit to the satisfaction of the **Responsible Authority**, except with the written consent of the **Responsible Authority**.

Approved and endorsed plans – changes required

2. Before the development commences, excluding bulk excavation, site preparation, soil removal, site remediation and retention works, plans must be approved and endorsed by the Responsible Authority.

The plans must be:

- a) prepared to the satisfaction of the Responsible Authority in consultation with Darebin City Council
- b) drawn to scale with dimensions
- c) submitted in electronic form.

The plans must be generally in accordance with the consultation plans prepared by Jackson Clements Burrows Architects, dated 26 August 2022 but amended to show the following details:

- d) relocated and/or additional windows, balcony wraps or other form of further articulation or fenestration in the following areas, as shown in Appendix C of the evidence statement of Craig Czarny dated July 2023:
 - i. the exposed northern wall of Building D2;
 - ii. the exposed southern wall of Building A3;
 - iii. the exposed eastern wall of Building D1;
 - iv. the exposed eastern wall of Building A1; and
 - v. the exposed eastern wall of Building D3.
- e) increased recesses or vertical division and articulation in the following areas, as shown in Appendix C of the evidence statement of Craig Czarny dated July 2023:
 - i. between Buildings A1 and A2;
 - ii. between Buildings D2 and D3 (northern and southern facades of Building D3); and
 - iii. within the northern façade of Building D3

- f) [balconies on the northeast corner of Building A1 above Level 6 are to be open on two sides](#)

Committee note: (f) reflects Committee Recommendation 3

- g) the location of all plant and equipment (including air-conditioners, condenser units, rainwater tanks, solar panels, hot water units and the like). These are to be:
- co-located where possible;
 - located or screened to be minimally visible from the public realm;
 - air conditioners located as far as practicable from neighbouring bedroom windows or acoustically screened; and
 - integrated into the design of the building

- h) [finished floor levels and ceiling levels](#)

Committee note: (h) is taken from Condition 17(d)

- i) circulation zones in the bathroom for Apartment Type 2B1Be to demonstrate compliance with Standard D18 of Clause 58.05-1
- j) layouts of Apartment Type 2B1Bb (1-202), Apartment Type 2B1Be (1-203) and Apartment Type 3B2B (1-206) to demonstrate compliance with Standard D26 of Clause 58.07-1
- k) a schedule to demonstrate compliance with Standard D21 of Clause 58.05-4 of the Darebin Planning Scheme
- l) a plan showing the location of all proposed areas that would allow for unrestricted public access
- m) [modification of the laneway entry to Showers Street to allow a medium rigid truck to exit the laneway from the left side of the laneway at the same time as a car turning in to the laneway](#)

Committee note: (m) reflects Committee Recommendation 3

- n) deletion of the footpath on the west side of the laneway at the intersection with Oakover Road
- o) the height of the garage door to the loading bay for the supermarket increased to a minimum of 4.5m to accommodate the relevant design vehicle
- p) dimensions, levels and proposed grades shown for:
- the north-south laneway
 - the supermarket back of house and loading (turntable) areas.
- q) vehicle access ramps to the basement levels and between basement levels to demonstrate compliance with the relevant requirements of Clause 52.06-9 (Design Standard 3)
- r) columns throughout the basement located to demonstrate compliance with Clause 52.06-9 (Design Standard 2, Diagram 1)
- s) identification of the publicly accessible areas within the basement and details of security or other access arrangements within the basement to restrict public access to non-public areas

- t) corrections to relocate waste facilities (as required) to ensure basement ramps are free from obstruction
- u) DDA car spaces provided with adjacent shared areas in accordance with AS2890.6-2022
- v) identification of the car parking spaces associated with the commercial uses (office / retail / food and drink / supermarket)
- w) supermarket car parking allocated directly beneath the supermarket and/or in close proximity to the Building C core, to ensure easy pedestrian access between the car spaces and the supermarket
- x) the location for supermarket trolley parking (if required) within the basement in proximity to the Building C lift core
- y) provision of direct access to the Building C lifts from the supermarket

Committee note: (y) reflects Committee Recommendation 3
- z) provision of direct access to the Building C lobby from the bicycle parking area in Building C, if practicable

Committee note: (z) reflects Committee Recommendation 3
- aa) at least 53 bicycle spaces for visitors and customers relocated from within the buildings (ground floor) to accessible locations within the Green Heart open space area (ground floor)
- bb) greater than 20% of the bike parking spaces being horizontal rails at ground level, some with access to charging points, and spaced appropriately to allow for larger cargo bikes
- cc) all visitor and employee bicycle spaces complying with the clearance and accessway requirements of AS2890.3
- dd) a 'Bicycles Excepted' sign included at the north of the internal laneway, allowing North-South bike movements so people on bikes can access the supermarket and associated bike parking from Showers Street and further north
- ee) layout details of the fifteen (15) Motorcycle parking arrangements, demonstrating compliance with the requirements of AS2890.1:2004
- ff) all vehicles being able to enter and exit the site in a forward motion
- gg) a Site Management Plan (~~SMP~~) in accordance with Standard W3 of Clause 53.18-6 of the Darebin Planning Scheme
- hh) any modifications required as a result of:
 - i. the approved Landscape Plan required by Condition 3 of this Permit
 - ii. the approved Sustainability Management Plan (~~SMP~~) required by Condition 8 of this Permit
 - iii. the approved Wind Impact Assessment or statement required by Condition 12 of this Permit
 - iv. responding to flood mitigation requirements at Conditions 29 to 33 of this Permit
- ii) annotations detailing Tree Protection Zone(s), associated tree protection fencing and tree protection measures in accordance with the requirements of Condition 6 of this Permit.

Landscape Plan – changes required

3. Before the development starts, excluding bulk excavation, site preparation, soil removal, site remediation and retention works, a landscape plan must be approved and endorsed by the Responsible Authority.

The landscape plan must:

- a) be prepared to the satisfaction of the Responsible Authority in consultation with Darebin City Council
- b) be prepared by a suitably qualified person
- c) have plans drawn to scale with dimensions
- d) be submitted to the Responsible Authority in electronic form

The landscape plan must be generally in accordance with the plan prepared by GLAS Landscape Architecture and Urban Design, dated August 2022, but amended to show the following details:

- e) any changes required to align with the plans ~~for endorsement~~ [approved under Condition 2 of this Permit](#)
- f) any existing tree(s) and vegetation on site and adjoining land proposed to be removed and retained, including the tree protection zone(s) of trees to be retained and protected
- g) a schedule of all proposed trees, shrubs and ground covers, incorporating a diversity of plant species, including numbers, size at planting, size at maturity, botanical names and common names
- h) notes and diagrams detailing the establishment and maintenance of all proposed trees, shrubs and ground covers
- i) details of the location and type of all paved and sealed areas. Porous/permeable paving, rain gardens and other water sensitive urban design features must be in accordance with the ~~Sustainability Design Assessment or Sustainability Management Plan~~:
 - i. [Site Management Plan approved under Condition 2.9g\) of this Permit](#)
 - ii. [Sustainability Management Plan approved under Condition 8 of this Permit](#)
- j) details of all planter boxes, above basement planting areas, green walls, rooftop gardens and similar, including:
 - i. soil volume sufficient for the proposed vegetation
 - ii. soil mix
 - iii. drainage design
 - iv. details of an automatic irrigation system, including maintenance program and responsibility for maintenance
- k) [vertical landscaping techniques to be applied to the balconies of Building A4 presenting to Showers Street.](#)

Committee note: (k) reflects Committee Recommendation 4

[The Responsible Authority may consent in writing to vary any of these requirements.](#)

4. Before an Occupancy Permit issues, ~~all landscaping works, including installation of automatic irrigation,~~ [the landscaping shown on the approved landscape plan](#) must be

carried out and completed ~~in accordance with the endorsed landscape plan~~ to the satisfaction of the **Responsible Authority**. No later than seven (7) days after the completion of the landscaping, the permit holder must advise Darebin City Council, in writing, that the landscaping has been completed.

5. At all times the ~~All~~ landscaping ~~and irrigation systems~~ shown on the approved landscape plan must be maintained to the satisfaction of the **Responsible Authority**. Any dead, diseased or damaged plants must be replaced with a suitable species to the satisfaction of the **Responsible Authority in consultation with Darebin City Council**.

Tree Protection and Removal

6. Before the development starts (including any demolition, excavations, tree removal, delivery of building/construction materials and/or temporary buildings), a tree protection zone (TPZ) and tree protection fencing (TPF) must be established around all council trees ~~and the trees marked on the endorsed plans as being retained~~ to the satisfaction of the **Responsible Authority in consultation with Darebin City Council**.

The TPZ and TPF must meet the following requirements:

- a) if works are shown on any endorsed plan of this permit within the confines of the calculated TPZ, then the TPF must be ~~taken in~~ reduced to only the minimum amount necessary to allow the works to be completed
 - b) the TPF must:
 - i. encompass the whole of the TPZ. The TPF may be aligned with roadways, footpaths and boundary fences where they intersect the TPZ.
 - ii. form a visual and physical barrier, be a minimum height of 1.5 metres above ground level and of mesh panels, chain mesh or similar material. A top line of high visibility plastic tape must be erected around the perimeter of the fence
 - iii. include fixed signs on all visible sides of the TPF clearly stating "Tree Protection Zone – No entry. No excavation or trenching. No storage of materials or waste". The TPF signage must be complied with at all times
 - c) each week during the summer months, the ~~area within the~~ TPZ ~~and TPF~~ must be irrigated with 1 litre of clean water for every 1cm of trunk girth measured at the soil/trunk interface
 - d) all services (including water, electricity, gas and telephone) must be installed underground, and located outside of any TPZ, wherever practically possible. If underground services are to be routed within an established TPZ, this must occur in accordance with Australian Standard AS4970
 - e) any pruning works must be undertaken by a suitably qualified arborist and carried out in accordance with the Australian Standard AS4373 - 2007: Pruning of Amenity Trees.
7. Before an Occupancy Permit issues, the ~~owner~~ permit holder must pay Darebin City Council a sum reflecting the amenity value, removal, replacement and establishment costs for any street tree removed or damaged through the building works, to the satisfaction of the Responsible Authority.

Environmentally Sustainable Design (ESD) Sustainability Management Plan – changes required

8. Before the development starts, excluding bulk excavation, site preparation, soil removal, site remediation and retention works, an amended Sustainability Management Plan (SMP) ~~and plans~~ must be ~~submitted to the satisfaction of~~

approved and endorsed by the Responsible Authority, in consultation with Darebin City Council.

The SMP must be generally in accordance with the SMP prepared by Frater dated 25 August 2022, but amended to show the following details:

- a) demonstration of a best practice standard of environmentally sustainable design, including the use of materials with low embodied energy and sustainable manufacturing practices
- b) description of sun shading devices to the north and west facing apartments to prevent glare and overheating
- c) measures ~~Greater consideration~~ to reduce potable water use
- d) provisions for e-bike charging in the bicycle parking facilities
- e) electrical provisions for the development to maintain the option of installing ~~an~~ one or more electric vehicle charging points
- f) facilities for the separation of general waste, co-mingled recycling and food/garden waste by the occupants of the development

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

9. Before an Occupancy Permit issues, a report must be submitted to the Responsible Authority. The report must:
 - a) be prepared to the satisfaction of the Responsible Authority
 - b) be from the author of the approved SMP, or a similarly qualified person or company
 - c) confirm (with documented evidence) that all measures specified in the SMP (including any BESS and STORM reports and NatHERS Ratings) have been implemented in accordance with the approved plan.

Stormwater Management System Report – not previously submitted

10. Before the development starts, excluding bulk excavation, site preparation, soil removal, site remediation and retention works, a Stormwater Management System Report must be approved and endorsed by the Responsible Authority.

The Stormwater Management System Report must:

- a) be prepared to the satisfaction of the Responsible Authority
- b) be prepared by a suitably qualified person
- c) include details of:
 - i. how the stormwater management system is designed to meet the current best practice performance objectives for stormwater quality contained in the *Urban Stormwater - Best Practice Environmental Management Guidelines* (Victorian Stormwater Committee, 1999), including:
 - an assessment using an industry recognised stormwater tool
 - the type of water sensitive urban design (WSUD) stormwater treatment measures to be used and details of these treatment measures including cross sections, materials, plants and drainage directions

- the location of stormwater treatment measures in relation to buildings, sealed surfaces, neighbouring properties and landscaped areas
- a plan illustrating where all impervious surfaces will be treated and drained
- a construction and maintenance schedule
- ii. how the stormwater management system contributes to cooling, improving local habitat and providing attractive and enjoyable spaces
- iii. how the WSUD stormwater treatment measures will integrate with on-site [stormwater](#) detention requirements.

Accessibility Report – not previously submitted

11. Before the development starts, excluding bulk excavation, site preparation, soil removal, site remediation and retention works, an Accessibility Report must be approved and endorsed by the Responsible Authority, in consultation with Darebin City Council.

The Accessibility Report must:

- a) be prepared to the satisfaction of the Responsible Authority
- b) [be prepared by a suitably qualified person](#)
- c) detail how the development will incorporate design features in accordance with Standard D18 (Accessibility) of Clause 58.05-1 of the Darebin Planning Scheme, including the detailed design of the adaptable bathrooms (e.g. confirmation of hobless showers and removable hinges to doors)
- d) include a 'Changing Places Facility' within the development, to provide appropriate facilities for people who are unable to utilise standard accessible toilets and shower provisions
- e) ~~Align with the plans for endorsement~~ [be consistent with the plans approved under Condition 2 of this Permit.](#)

Wind Impact Assessment – changes required

12. Before the development starts, excluding bulk excavation, site preparation, soil removal, site remediation and retention works, a Wind Impact Assessment must be approved and endorsed by the Responsible Authority, in consultation with Darebin City Council.

The Wind Impact Assessment must be:

- a) prepared to the satisfaction of the Responsible Authority
- b) [prepared by a suitably qualified person](#)
- c) generally in accordance with the Wind Impact Assessment prepared by Vipac dated 23 August 2022 but amended to show further investigations through wind tunnel testing ~~as recommended~~ to confirm wind effects.

Acoustic ~~Attenuation~~ Report – changes required

13. Before the development starts, excluding bulk excavation, site preparation, soil removal, site remediation and retention works, an Acoustic Report must be approved and endorsed by the Responsible Authority, in consultation with Darebin City Council.

The Acoustic Report must be:

- a) prepared to the satisfaction of the Responsible Authority

- b) prepared by a qualified Acoustic Engineer
 - c) generally in accordance with the Acoustic Report prepared by Acoustic Logic dated 23 May 2022 but amended to be consistent with the plans approved under Condition 2 of this Permit.
14. Before an Occupancy Permit issues, a report must be prepared and provided to the Responsible Authority.
- The report must:
- a) be prepared to the satisfaction of the Responsible Authority
 - b) be from the author of the Acoustic Report or a similarly qualified person
 - c) confirm that all measures specified in the approved Acoustic Report have been implemented in accordance with the approved Acoustic Report.

Waste Management Plan – changes required

15. Before the development starts, excluding bulk excavation, site preparation, soil removal, site remediation and retention works, a Waste Management Plan (WMP) must be approved and endorsed by the Responsible Authority.
- The WMP must be:
- a) prepared to the satisfaction of the Responsible Authority in consultation with Darebin City Council
 - b) generally in accordance with the report prepared by WSP and dated 26 August 2022, but amended to show the following details:
 - i. a requirement for the waste storage areas to be screened from public view at all times through ~~approved~~-screening measures approved by the Responsible Authority, as shown on the endorsed plans
 - ii. a requirement for the waste storage and collection area to:
 - be maintained in a clean and tidy condition to the satisfaction of the Responsible Authority
 - not be used for any other purpose
 - iii. consideration of waste collection from the basement via a 6.4m mini-rear loaded waste vehicle
 - iv. consistency with the plans approved under Condition 2 of this Permit.

Loading Management Plan – not previously submitted

16. Before the supermarket is occupied, a Loading Management Plan (LMP) for the supermarket use must be approved and endorsed by the Responsible Authority in consultation with Darebin City Council.

The LMP must include the following requirements:

- a) the size of trucks entering and exiting the supermarket loading dock is to be limited up to a 12.5m Heavy Rigid Vehicle
- b) loading vehicles must access the site from the east only (and can exit to either the east or the west).

~~Materials and Finishes~~

~~Prior to the commencement of the development starts, excluding bulk excavation, site preparation, soil removal, site remediation and retention works, a schedule of all external materials, colours and finishes including a colour rendered and notated plans/elevations~~

~~must be submitted to and approved by the Responsible Authority in consultation with Darebin City Council.~~

Committee	note:	this	condition	repeats	condition
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Façade Strategy – not previously submitted

17. Before the development starts, excluding demolition, bulk excavation and site preparation works, a facade strategy must be approved and endorsed by the Responsible Authority in consultation with Darebin City Council.

The Façade Strategy must:

- a) [be prepared to the satisfaction of the Responsible Authority](#)
- b) [be prepared by Jackson Clements Burrows Architects](#)
- c) be [consistent](#) ~~generally in accordance~~ with the ~~development~~ plans [approved under Condition 2 of this Permit](#)
- d) include the following matters:
 - i. a concise description by the architect(s) of:
 - the building design concept and how the façades works to achieve this
 - further evolution and detail of the façade design to ensure the delivery of high quality, modulated forms with depth and texture as viewed from key vantage points in the surrounding area
 - ii. example prototypes and/or precedents that demonstrate the intended design outcome indicated on plans and perspective images to produce a high-quality built form outcome in accordance with the design concept
 - iii. a schedule of colours, materials and finishes, including the colour, type and quality of materials showing their application and appearance. This can be demonstrated in coloured elevations or renders from key viewpoints to show the materials and finishes linking them to a physical sample board with clear coding. [Colours, materials and finishes must meet the requirements of Conditions 18 and 19](#)
 - iv. a schedule of glazing, canopies, services, security doors and lighting at the ground level
 - v. elevation ~~details~~ [drawings](#) generally at a scale of 1:20 or 1:50. The drawings must:
 - ~~The finished floor levels and ceiling levels.~~
 - illustrate typical entries, doors, windows, balconies, utilities, façade details and any special features which are important to the buildings' presentation
 - include cross sections or other method of demonstrating the façade systems, including fixing details indicating junctions between materials and significant changes in form and/or materials
 - vi. information about how the façade will be accessed, maintained and cleaned.

Glare and Reflectivity

18. External building materials and finishes must not result in hazardous or uncomfortable glare to pedestrians, public transport operators and commuters, motorists, aircraft, or occupants of surrounding buildings and public spaces, to the

satisfaction of the Responsible Authority, in consultation with Darebin City Council.

19. Light reflectivity from external materials and finishes must not reflect more than 20% of specular visible light, to the satisfaction of the Responsible Authority.

Architect to be retained

Jackson Clements Burrows Architects must be retained to complete [the documents required under Conditions 2 and 17 of this Permit](#) and provide architectural oversight during construction of the [development](#) ~~detailed design~~, as shown in the endorsed plans and endorsed ~~schedule of materials~~ [Façade Strategy](#) to the satisfaction of Responsible Authority. [The Responsible Authority may consent in writing to vary this requirement.](#)

Public Works Plan – not previously submitted

20. Before the development starts, excluding bulk excavation, site preparation, soil removal, site remediation and retention works, a Public Works Plan must be approved and endorsed by the Responsible Authority.

The Public Works Plan must:

- a) be prepared to the satisfaction of the Responsible Authority in consultation with Darebin City Council
- b) detail all works proposed to the public land adjacent to the development, including but not limited to:
 - i. all new public footpaths, including the one on the north side of Oakover Road. Public footpaths are to have a minimum width of 1.8 metres, and be reinstated to the previous levels with a maximum cross fall slope of 1 in 40 (2.5%) [unless otherwise agreed in writing by Darebin City Council](#)
 - ii. any Council or service authority pole or pit within 2 metres of ~~the~~ [a](#) proposed vehicle crossing, including the 1 metre splays on the crossings, relocated or modified
 - iii. the layout and dimensions for new or existing vehicle crossings
 - ~~iv. the kerb, channel and footpath reinstated for any vehicle crossing not being used~~

Committee note: condition (iv) repeats condition A.24 below

- v. any necessary drainage works
- vi. the relocation or replacement of existing and installation of new street furniture and infrastructure, such as parking and traffic signs, public seating, bicycle parking and similar
- vii. the provision of new street tree planting or landscaping in appropriate locations in consultation with Darebin City Council (Open Space Department)
- ~~viii. a detailed design of the road works associated with the right turn lane works, bicycle infrastructure and pedestrian linkages or access via the footpath on Showers Street~~

Committee note: deletion of condition (viii) reflects the discussion in Chapter 8.3

- ix. surface works within the footpath at the St Georges Road / Oakover Road corner to improve the cyclist connection from the St Georges Road shared path to the Oakover Road on-road (eastbound) bicycle path
- c) include a detailed level and feature survey of the [existing](#) footpaths and roads
- d) include construction drawing specifications. All construction details must be in accordance with the Darebin Standard Drawings (or any updated version).

[The Responsible Authority may consent in writing to vary these requirements.](#)

21. Before an Occupancy Permit is issued, all public works shown on the endorsed Public Works Plan must be implemented to the satisfaction of the Responsible Authority, in consultation with Darebin City Council at the expense of the ~~owner of the land~~ [permit holder](#).

The Responsible Authority may consent in writing to vary these requirements.

Construction Management Plan – not previously submitted

22. Before the development starts, a Construction Management Plan (CMP) must be approved and endorsed by the Responsible Authority.

The CMP must:

- a) be prepared to the satisfaction of the Responsible Authority in consultation with Darebin City Council
- b) address, without limitation, the following:
 - i. contact details for key construction site staff including after-hours contact numbers
 - ii. hours for the construction activity
 - iii. measures to control the escape of noise, dust, litter, water and sediment laden runoff from the site
 - iv. measures to control mud, crushed rock or other debris being carried onto public roads or footpaths from the site
 - v. the protection measures for site features to be retained (e.g. vegetation, retaining walls, buildings, other structures and pathways, etc)
 - vi. on site facilities for vehicle washing
 - vii. delivery and unloading points and expected frequency
 - viii. the location of parking areas for construction vehicles and construction workers vehicles, to ensure that vehicles associated with demolition and/or construction activity cause minimal disruption to surrounding land uses and traffic flows
 - ix. any traffic management plans and measures that will be required to allow vehicles to safely access the site and to safely undertake deliveries/works
 - x. management of ~~laneway~~ access [to the laneway off Showers Street](#) during construction
 - xi. an outline of requests to occupy public footpaths, bicycle paths or roads, and anticipated disruptions to public transport services
 - xii. the processes to be adopted for the separation, re-use and recycling of demolition materials

- xiii. the measures for prevention of the unintended movement of building waste and hazardous materials and other pollutants on or off the site, whether by air, water or other means
- xiv. the measures to minimise the amount of waste construction materials; the provision for the recycling of demolition and waste materials; and the return of waste materials to the supplier (where the supplier has a program of reuse or recycling)
- xv. any requirements of the ~~Statement of~~ Environmental Audit required under Condition 43, including the ongoing management measures as relevant to the construction phase of the development
- xvi. any other relevant matters.

The CMP may be prepared and approved in stages for various phases of the development (eg, bulk excavation, site preparation, soil removal, site remediation and retention works).

Engineering

- 23. Before an Occupancy Permit is issued, ~~a~~-vehicle crossings must be constructed in every location shown on the ~~endorsed~~ plans approved under Condition 2 of this Permit to a standard satisfactory to Darebin City Council.
- 24. Before an Occupancy Permit is issued, any existing vehicle crossing not to be used in this use or development must be removed and the kerb and channel, footpath and nature strip reinstated to the satisfaction of Darebin City Council.
- 25. Before an Occupancy Permit is issued, access to the site, any vehicle crossover and any ancillary road and road drainage works must be constructed in accordance with any requirement of the Darebin City Council.
- 26. Before an Occupancy Permit is issued, all telecommunications and power connections (where by means of a cable) and associated infrastructure to the land must be underground to the satisfaction of the Responsible Authority.
- 27. Before an Occupancy Permit is issued, the bicycle storage rooms must have self-closing and self-locking doors or gates that are only accessible using keys, codes or swipe cards in accordance with the Australian Standard for Bicycle Parking (AS2890.3).
- 28. Any service relocation associated with the works must be approved by the Service Authorities and at the ~~owner's~~ permit holder's cost.

Flood levels

- 29. The development's ground floor areas (including retail and lift areas) must be constructed with finished floor levels set no lower than 300mm above the ~~applicable following~~ flood levels in the following locations:
 - a) 54.71m AHD flood level for Buildings A1, A2, A3, D1 and D2;
 - b) 55.02m AHD flood level for Building D3;
 - c) 55.35m AHD flood level for Buildings B and C; and
 - d) 54.96m AHD flood level for Building A4.
- 30. Overshadowing impacts to residential properties on the south-western corner of the St Georges / Oakover Road intersection must not be increased beyond 10am at the equinox (22 September) and overshadowing impacts to 45 Showers Street must not be increased beyond 3pm at the equinox (22 September), as a result of the flood level amendments required by Condition 29, all to the satisfaction of the Responsible

Authority.

Stormwater

31. All stormwater from the land, where it is not collected in rainwater tanks for re-use, must be collected by an underground pipe drain approved by and to the satisfaction of Darebin City Council.
32. The surface of all balconies is to be sloped to collect the stormwater run-off into stormwater drainage pipes that connect into the underground drainage system of the development to the satisfaction of Darebin City Council.
33. The entrances to the basement car park must incorporate a flood proof apex constructed no lower than 300mm above the relevant, applicable flood level in their location.
34. All electrical (e.g. electrical substations, switch rooms, etc) and plumbing fittings must be to the standards of the Relevant Authority for areas subject to inundation, for services contained within the ground floor.

External Lighting System

35. Before the use starts, an automatic external lighting system capable of illuminating the ~~rear ROW~~ laneway off Showers Street (western leg) and all pedestrian walkways within the subject site must be provided on the land to the satisfaction of the **Responsible Authority**.

The external lighting must be designed, baffled and located to prevent any adverse effect on adjoining and nearby land to the satisfaction of the Responsible Authority.

Car Parking

36. The area set aside for the parking of vehicles and access lanes shown on the ~~endorsed~~ plans approved under Condition 2 of this Permit must, to the satisfaction of the **Responsible Authority**:
 - a) be completed before an Occupancy Permit issues
 - b) be properly formed to such levels that it can be used according to the ~~endorsed~~ plans approved under Condition 2 of this Permit
 - c) have the boundaries of all vehicle parking spaces clearly marked on the ground ~~to accord with the endorsed plan.~~
 - d) be numbered to facilitate management of the car park
 - e) be maintained at all times.
37. Carparking areas must not be used for any other purpose other than the parking of vehicles, unless with the prior written consent of the **Responsible Authority**.
38. Before an Occupancy Permit issues, a detailed Car Parking Management Plan must be approved and endorsed by the Responsible Authority in consultation with Darebin City Council.

The Car Parking Management Plan must address, but not be limited to, the following:

- a) allocation of the car parking spaces to the various uses
- b) the use of supermarket parking by residential visitors after trading hours

Committee note: (b) reflects Committee Recommendation 5

- c) [the provision of parking for essential care providers and other residential support services for residents of the development](#)

Committee note: (c) reflects Committee Recommendation 5

- d) specify that all parking spaces must remain in common ownership
- e) any signage associated with allocated parking and directional wayfinding signage
- f) details of any intercom, traffic management and boom gate system at each [building car park](#) entry
- g) security arrangements for access within all car park areas
- h) management arrangements for access to and from the northern basement ramp.
39. Provision must be made on the land for letter boxes and a slot for newspapers to the satisfaction of the [Responsible Authority](#).

Section 173 Agreement [for social and affordable housing](#)

40. Before an Occupancy Permit is issued and before any use commences, the owner of the land must enter into an agreement with the Responsible Authority pursuant to Section 173 of the *Planning and Environment Act 1987*.

The agreement must be registered on the title to the land and provide for the following:

- a) Before an Occupancy Permit is issued, the owner will enter into a binding agreement with a registered housing agency, requiring:
- i. unencumbered ownership of 6% of the total number of dwellings (rounded to the nearest whole number) to be sold to the registered housing agency for a percentage of market value that will deliver an equivalent economic outcome to clause b) below; or
 - ii. unencumbered ownership of 2% of the total number of dwellings (rounded to the nearest whole number) to be transferred to the registered housing agency for nil consideration; or
 - iii. management of 20% of the total number of dwellings (rounded to the nearest whole number) to be assumed by the registered housing agency for leasing as social housing for no less than 13 years from the date of the building's occupancy.
- b) If the social housing is delivered under clause (a)(iii) above, the agreement must contain a mechanism for review:
- i. of the ~~market~~ rent from time to time during the 13-year period to ensure the housing continues to meet the definition of 'social housing' as set out in the Act; and
 - ii. towards the end of the 13-year period to determine whether the housing contribution in clause (a)(iii) can continue for a further term.
- c) The dwellings referred to in clause a) above must:
- i. include a diversity of housing stock including a mix of studio, one bedroom and two bedroom dwellings representative of the approved dwelling mix to the satisfaction of the Responsible Authority
 - ii. be functionally and physically indistinguishable from conventional dwellings within the development

- iii. include access to all common facilities within the ~~building~~ development at no extra fee for occupants of social housing dwellings
- iv. allocate one or more bicycle parking spaces per dwelling for the life of the social housing.

The Responsible Authority may consent in writing to vary any of these requirements.

- d) The provision of housing within the development that is offered at affordable rentals to households with low and moderate incomes (in accordance with section 3AB of the *Planning and Environment Act 1987*) and key workers
- e) The agreement must contain:
 - i. a requirement to report to the Responsible Authority once every 12 months in relation to the quantum of housing provided under clause d) above
 - ii. a mechanism ~~for, with~~ review of ~~these rentals from time to time (and the rent for housing described in clause d) above~~ at least once every 12 months) to ensure that such housing continues to be affordable to such households.

Committee note: (e)(i) reflects the findings in Chapter 7.5

For the purposes of the agreement 'social housing' ~~is to~~ and affordable housing have the same meaning as the definition under the *Planning and Environment Act 1987*.

The owner of the land must pay all of the Responsible Authority's reasonable legal costs and expenses of this agreement, including preparation, execution and registration on title.

Legal Section 173 agreement for Public Access

41. Before an Occupancy permit is issued, the owner of the land must enter into an agreement with the Responsible Authority and Darebin City Council pursuant to Section 173 of the *Planning and Environment Act 1987*.

The agreement must be registered on the title to the land and provide for the following:

- a) ~~Give rights of~~ Maintenance of unrestricted public pedestrian and cycle access 24 hours a day, 7 days a week (save for rights of closure to prevent public rights accruing) to the following areas:
 - i. the proposed 'green heart' section of the development
 - ii. all north-south, east-west access lanes to St Georges Road, Oakover Road, Showers Street and the adjacent property development located at 18-30 Oakover Road.
- b) ~~Give rights of~~ Maintenance of unrestricted public pedestrian, cycle and vehicular access 24 hours a day, 7 days a week (save for rights of closure to prevent public rights accruing) to the following areas:
 - i. the internal south-north road (from Oakover Road to Showers Street); and
 - ii. the widened section of the existing laneway (including road and footpath) and the passing bay, which are located to the west and south of 45 Showers Street.
- c) The installation of signage and varied surface treatments to ensure that the central section of the internal road (between the two basement car park ramps) will operate one-way from south (entry) to north (exit).

- d) The owner must, at its cost, maintain the above internal streets / laneways / public ways to the same standards as is required by Darebin City Council for the adjoining roads, as well as maintaining the corresponding public liability insurance.

The owner of the land must pay all of the Responsible Authority and Darebin City Council's reasonable legal costs and expenses of this agreement, including preparation, execution and registration on title.

Development contributions

- 42. Before a Building Permit is issued, a Community Infrastructure Levy and/or Development Infrastructure Levy must be paid to Darebin City Council in accordance with the approved Development Contributions Plan Overlay.

Environmental Audit

- 43. Before the development starts, either of the following documents must be provided to the Responsible Authority:
 - a) a Certificate of Environmental Audit for the land must be issued in accordance with Section 53Y of the *Environment Protection Act 1970*; or
 - b) a Statement from an Environmental Auditor appointed under Section 53S of the *Environment Protection Act 1970* that the environmental conditions of the land are suitable for the use and development allowed under this permit, in accordance with Section 53Z of that Act.

- 44. Before any remediation works (if required) are undertaken in association with the Environmental Audit, a Remediation Works Plan must be approved by the Responsible Authority.

The Remediation Works Plan must detail all excavation works as well as any proposed structures such as retaining walls required to facilitate the remediation works.

Only those works detailed in the approved Remediation Works Plan are permitted to be carried out prior to the commencement of the use and development.

- 45. Where a Statement of Environmental Audit is issued for the land:
 - a) the buildings and works and the use(s) of the land allowed under this permit must comply with all directions and conditions contained within the Statement
 - b) before an Occupancy Permit is issued and before any sensitive use commences, a letter prepared by an Environmental Auditor appointed under Section 53S of the *Environment Protection Act 1970* must be submitted to the Responsible Authority to verify that the directions and conditions contained within the Statement have been satisfied
 - c) if any condition of that Statement requires any maintenance or monitoring of an ongoing nature, the Owner(s) must enter into an Agreement with the Responsible Authority and Darebin City Council pursuant to Section 173 of the *Planning and Environment Act 1987* providing for the maintenance and monitoring.

Where a Section 173 Agreement is required:

- d) the Agreement must be executed prior to the commencement of the use allowed under this Permit
- e) the agreement must be registered on the title to the land

- f) all expenses involved in the drafting, negotiating, lodging, registering and execution of the Agreement, including those incurred by the Responsible Authority and Darebin City Council, must be met by the Owner(s).

Land Surveyor Report

46. As soon as practicable after ~~At the~~ completion of the constructed ground floor level(s) and before the development is occupied, a Land Surveyor Report must be submitted to the **Responsible Authority**.

The Land Surveyor Report must:

- a) be prepared to the satisfaction of the **Responsible Authority**
- b) be prepared by a licensed land surveyor,
- c) confirm the ground floor level(s).

~~The report must be submitted to the Responsible Authority no later than 14 days from the date of the inspection.~~

~~The development must not be occupied until a report prepared by a licensed land surveyor to the satisfaction of the Responsible Authority is submitted to the Responsible Authority, confirming the floor level(s).~~

Referral Authority conditions

Committee note: Before issuing the permit, further consultation is required with Council, the Head, Transport for Victoria and Assemble's traffic engineer in relation to works required to Oakover Road and its intersection with St Georges Road. Further conditions may be required. See Recommendation 2. The DFP should also ensure the Head, Transport for Victoria (as a determining referral authority) is satisfied with the amended Green Travel Plan condition below.

47. Before ~~commencement of the use~~ an Occupancy Permit is issued, a Green Travel Plan must be ~~submitted to and~~ approved and endorsed by the **Responsible Authority** in consultation with the Head, Transport for Victoria ~~and the Responsible Authority~~. ~~When approved, the Green Travel plan will be endorsed and will form part of this permit.~~

The Green Travel Plan must include, but not be limited to, the following:

- a) a description of the existing active private and public transport context
- b) a requirement to minimise demand for on-street parking by:
 - i. balancing the uptake of parking with the reduced car parking supply
 - ii. controlling the provision of car share vehicles.

Committee note: (b) reflects Committee Recommendation 6

- c) advice regarding how traffic movements and staff parking will be managed and how any alternative, non-private vehicle transport modes will be encouraged
- d) a requirement that tram, train and bus timetables be installed in prominent locations in common areas (on noticeboards, etc)
- e) a requirement that bicycle parking areas be installed in well secured and prominent locations

- f) the installation of signs in prominent locations advising of the location of existing and proposed share car schemes, bicycle parking facilities, tram stops, taxi ranks, railway stations, bus stops and bicycle paths
- g) establishment of a car-pooling database for ~~patrons~~ [residents of the development](#)
- h) specific targets to guide the plan's ongoing implementation
- i) identification of persons responsible for the implementation of actions
- j) a monitoring and review plan requiring annual review for at least five years.

Expiry

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

- a) the development is not commenced within three (3) years from the date of this permit
- b) the development is not completed within six (6) years from the date of this permit
- c) the use is not commenced within two (2) years of the completion of the development.

In accordance with Section 69 of the *Planning and Environment Act 1987*, an application may be submitted to the responsible authority for an extension of the periods referred to in this condition.