

**Priority Projects Standing Advisory Committee Report
Boroondara Planning Scheme
Referral 27: 442-450 Auburn Road and 9 Bills Street,
Hawthorn**

Planning and Environment Act 1987

Planning and Environment Act 1987

24 April 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 27: 442-450 Auburn Road and 9 Bills Street, Hawthorn

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



Sarah Carlisle, Chair



Lucinda Peterson, Member

24 April 2023

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Glossary and abbreviations

AIID	Australian Institute of Infectious Diseases
Council	City of Boroondara
DDO	Design and Development Overlay
DELWP	former Department of Environment, Land, Water and Planning
DPO	Development Plan Overlay
GRZ	General Residential Zone
NRZ	Neighbourhood Residential Zone
PE Act	<i>Planning and Environment Act 1987</i>
PPF	Planning Policy Framework
PPN	Planning Practice Note
RGZ	Residential Growth Zone
RLs	reduced levels, which means a height above (or below) a nominated datum
VCAT	Victorian Civil and Administrative Tribunal
VPP	Victoria Planning Provisions
WCHAC	Wurundjeri Woi Wurrung Cultural Heritage Aboriginal Corporation

1 Overview

(i) Summary

Amendment summary	
Referral	Referral 27: 442-450 Auburn Road and 9 Bills Street, Hawthorn
The draft Amendment	draft Boroondara Planning Scheme Amendment C376boro
Brief description	<ul style="list-style-type: none">- Rezone land to Residential Growth Zone Schedule 2 (from Public Use Zone 2 – Education)- Apply the Development Plan Overlay Schedule 4- Apply the Environmental Audit Overlay
Subject land	442-450 Auburn Road and 9 Bills Street, Hawthorn
Proponent	Hamton Group Pty Ltd and University of Melbourne Commercial Ltd (a wholly owned subsidiary of the University of Melbourne)
Planning Authority	Minister for Planning
Public consultation	11 July to 8 August 2023
Submissions	Number of Submissions: 38 Opposed: 36

Committee process	
The Committee	Sarah Carlisle (Chair) and Lucinda Peterson (Member)
Supported by	Georgia Thomas, Project Officer
Directions Hearing	Online, 7 December 2022
Committee Hearing	Planning Panels Victoria, 20 to 24 March 2023
Site inspections	Unaccompanied, 8 and 15 March 2023
Date of this report	21 April 2023
Citation	Priority Projects Standing Advisory Committee Referral 27 [2023] PPV

(ii) Findings

The Committee finds the draft Amendment is strategically justified and can, with some changes, deliver acceptable planning outcomes. The Committee supports the draft Amendment.

In relation to the matters on which the Minister seeks specific advice:

Built form and building heights

The Development Plan Overlay Schedule 4 (DPO4) should specify building heights in storeys, both overall storeys and storeys that present to the adjacent street. More precision can be provided in the development plan, which should require building heights to be specified both in storeys and metres above existing ground level. Heights should be expressed in the DPO4 as maximum heights, not indicative heights.

Building heights proposed in the DPO4 should be reduced or refined as follows:

- Woodburn Road Precinct – reduce from 4 to 7 storeys (as exhibited) to 4 to 6 storeys, presenting as 3 to 4 storeys to Woodburn Road
- The Woodburn Road Precinct should be extended all the way to Auburn Road, so that building heights on the corner are reduced from 7 storeys (as exhibited) to present as 3 to 4 storeys to Woodburn Road, with 4 to 6 storeys behind
- Auburn Road Precinct – 7 storeys (as exhibited) is acceptable, but should present as 6 storeys to Auburn Road
- Robinson Road Precinct – 4 storeys (as exhibited) is acceptable, but should present as 3 storeys to Robinson Road
- Internal Residential Precinct – 7 storeys (as exhibited) is acceptable, but should present as 6 storeys to the shared bike/pedestrian path and Buildings F and G on the Homes Victoria site.

A range of setbacks should be specified in the DPO4 to provide for greater certainty but also flexibility having regard to the landscaping conditions at the periphery of the subject land. The DPO4 should specify dimensioned setbacks at the periphery of the subject land as follows (consistent with the draft Development Plan):

- Robinson Road - setback range of 3 to 7 metres
- Woodburn Road - setback range of 6 to 12 metres
- Auburn Road - setback range of 6 to 10 metres
- Bills Street - setback range of 3 to 6 metres.

Upper level setbacks do not need to be dimensioned. The revised DPO4 tabled by the Proponent at the Hearing (Document 33) provides sufficient guidance to ensure upper levels will be designed to ensure acceptable outcomes.

Building separation within the subject land, facilitated by 9 metre wide landscaped setbacks and additional visual links, will create visual permeability through the subject land and break up the massing of development. The 9 metre wide separation between the buildings on the southern boundary of the subject land and Buildings F and G on the Homes Victoria site is appropriate.

Traffic impacts

There are no reasons on traffic grounds not to support the draft Amendment. Further analysis of traffic impacts will be required when a development plan is submitted for approval, and when planning permits are sought.

(iii) Recommendations

The Committee recommends:

- 1. The Minister for Planning adopt and approve draft Boroondara Planning Scheme Amendment C376boro, subject to the specific recommendations in this Report.**
- 2. Update the local policy in the Planning Scheme to reflect the new role of the subject land:**
 - a) Update the Strategic Framework Plan in Clause 02.04-1 of the Planning Scheme to identify the subject land as 'Residential – Residential Growth Zone'.**
 - b) Update the Housing Framework Plan in Clause 02.04-3 of the Planning Scheme to identify the subject land as 'Main road apartment precincts'.**

The following recommendations are in relation to the revised DPO4 (Document 33). They have been consolidated and reordered to reflect the order of the text in DPO4 (which the Committee has reordered) to which each recommendation relates. They are substantively identical to the recommendations as presented in Chapters 4, 6 and 7 of this report:

- 3. Amend the 'Information Requirements' in Clause 4.0 as shown in Appendix E:**
 - a) Add an additional requirement:**

A survey plan showing existing ground levels.
 - b) In the 'Development Concept Plan' requirements, replace the sixth sub-point with:**

Building envelopes including the siting, setbacks and heights of buildings in both storeys (overall storeys and storeys presenting to the street) and metres above a defined height datum.
 - c) In the 'Landscape Concept Plan' requirements, add an additional sub-point:**

Measures to protect and maintain the Paul Thomson designed serpentine landscape along the Woodburn Road frontage.
- 4. Amend the 'Requirements for development' in Clause 4.0 as shown in Appendix E:**
 - a) In the 'Building height and setbacks' requirements, add the following to the third paragraph:**

Setbacks along street frontages should be varied, within the following ranges:

 - Robinson Road – setback range of 3 to 7 metres.
 - Woodburn Road – setback range of 6 to 12 metres.
 - Auburn Road – setback range of 6 to 10 metres.
 - Bills Street – setback range of 3 to 6 metres.
 - The boundary of the Homes Victoria land – minimum setback of 4.5 metres.
 - b) Add a new requirement after the 'Building height and setbacks' requirements as follows:**

Layout of development

Buildings should be oriented to avoid excessive overshadowing or loss of privacy both internal and external to the site.
 - c) In the 'Affordable housing' requirements, delete 'in the location prescribed in Figure 1'.**
 - d) Update the 'Tree retention, landscaping and open space' requirements to clarify that:**
 - the Paul Thomson serpentine landscape must be retained and respected and integrated into the new landscaping on the subject land
 - built form within the Landscape Zone and Open Space areas must be limited, and any built form within those areas must complement and integrate with the landscaping
 - deep soil planting areas must be provided along the Robinson Road frontage and the interface with the land at 1-12 Bills Street, Hawthorn (the Homes Victoria land)

- publicly accessible open space of at least 2,670 square metres should be provided
- the location of the publicly accessible open space shown on the Framework Plan is indicative only
- publicly accessible open space should be located and designed to be inviting and accessible to the public during daylight hours.

5. Amend the Framework Plan as shown in Appendix E:

- Extend the Woodburn Road Precinct to Auburn Road.
- Straighten the alignment of the shared path to connect directly from Robinson Road to Auburn Road.
- In the legend, amend the heights to read:
 - ROBINSON ROAD PRECINCT – MAXIMUM 4 STOREYS (PRESENTING AS 3 STOREYS ABOVE THE ADJACENT FOOTPATH LEVEL)
 - WOODBURN ROAD PRECINCT – MAXIMUM 4-6 STOREYS (PRESENTING AS 3-4 STOREYS ABOVE FOOTPATH LEVEL TO WOODBURN ROAD)
 - AUBURN ROAD PRECINCT – MAXIMUM 7 STOREYS (PRESENTING AS 6 STOREYS ABOVE THE ADJACENT FOOTPATH LEVEL)
 - INTERNAL RESIDENTIAL PRECINCT – MAXIMUM 7 STOREYS (PRESENTING AS 6 STOREYS ABOVE THE LEVEL OF THE BIKE/PEDESTRIAN CONNECTION).
- In the legend, change the description of the Affordable Housing and Retail Precinct to:

BILLS STREET PRECINCT
MAXIMUM 7 STOREYS WITH RETAIL TO GROUND FLOOR
- In the legend, change the description of the bike/pedestrian connection to:

INDICATIVE ALIGNMENT OF NEW SHARED BIKE / PEDESTRIAN CONNECTION AND MINIMUM 4.5 METRE BUILDING SETBACK (24 HOUR PUBLIC ACCESS)
- In the legend, change the description of the Open Space to:

INDICATIVE LOCATION OF PUBLICLY ACCESSIBLE OPEN SPACE

6. Make drafting changes as shown in Appendix E to:

- generally improve the structure, precision and clarity of the Schedule
- implement the remaining expert recommendations supported by the Committee
- ensure consistency with the Ministerial Direction on the Form and Content of Planning Schemes.

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 27. The letter of referral for Referral 27 was dated 29 October 2022, and asked the Committee to give:

... consideration and advice on whether the project achieves acceptable planning outcomes
...

and specific advice on:

... matters relating to built form and building heights, and potential traffic impacts.

2.2 The subject land

The subject land is shown in Figure 1.

Figure 1 Subject land



Source: Ms Jordan's evidence (Document 9)

¹ Appendix A

The subject land is bounded by Auburn Road to the east, Woodburn Road to the north, Robinson Road to the west and Bills Street and the Homes Victoria site to the south. The total site area is around 1.62 hectares. The subject land slopes significantly from the northeast corner (at Woodburn Road and Auburn Road) to the south (toward Bills Street) and the west (toward Robinson Road).

The subject land is currently owned by University of Melbourne Commercial Ltd, a wholly owned subsidiary of the University. It was previously the Hawthorn Institute of Education, a college that prepared teachers for technical schools.

The subject land is now surplus to the University's needs. The University sought and was granted ministerial approval to sell the subject land. The University has entered a contract to sell the land to Hamton Group Pty Ltd. The contract is conditional on the land being rezoned for residential purposes.

The Homes Victoria site is currently being redeveloped with six residential buildings containing social and affordable housing. The buildings will range from 3 to 4 storeys along Robinson Road to 7 storeys along the interface with the subject land.

2.3 The referred project

The referred 'project' is draft Boroondara Planning Scheme Amendment C376boro, which facilitates residential redevelopment of the subject land.

(i) Amendment description

The draft Amendment proposes to:

- rezone the land from Public Use Zone 2 – Education to Residential Growth Zone Schedule 2 (RGZ2)
- apply the Development Plan Overlay Schedule 4 (DPO4)
- apply the Environmental Audit Overlay.

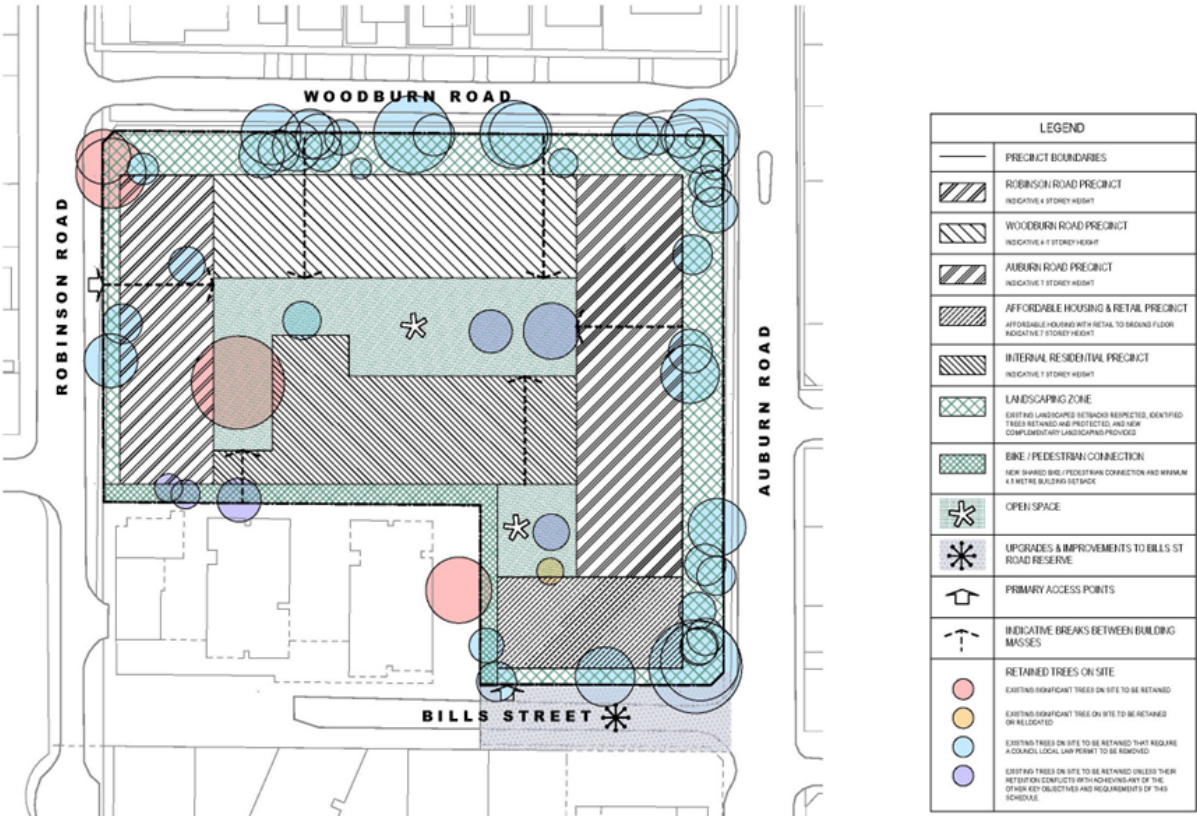
The Minister for Planning is considering preparing, adopting and approving the draft Amendment under section 20(4) of the *Planning and Environment Act 1987* (PE Act).

The then Department of Environment, Land, Water and Planning (DELWP) undertook consultation with owners and occupiers of properties in the area, Boroondara City Council (Council), the then Department of Transport, Wurundjeri Woi Wurrung Cultural Heritage Aboriginal Corporation (WCHAC) and the Environment Protection Authority. It received 38 submissions, 36 of which objected to the draft Amendment. All submissions were referred to the Committee.

(ii) What is proposed?

The DPO4 requires the land to be used and developed generally in accordance with the development plan approved by the responsible authority which is in turn informed by a Framework Plan in the DPO4. The Framework Plan in the consultation draft DPO4 is shown in Figure 2.

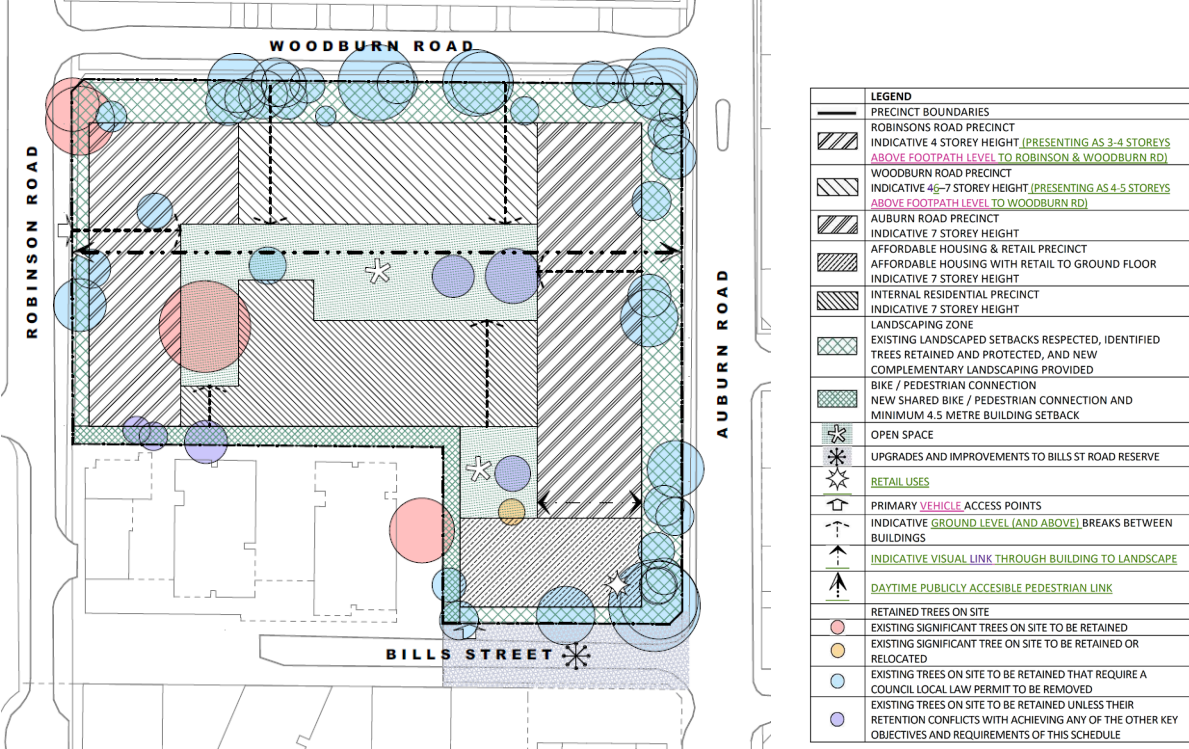
Figure 2 Framework Plan in the consultation draft DPO4



Source: Consultation draft of the DPO4 (contained in Document 2a)

On the second last day of the Hearing, at the Committee’s direction, the Proponent tabled a revised DPO4, reflecting changes recommended by experts (where adopted by the Proponent) (Document 33). It included a revised Framework Plan, which is shown in Figure 3.

Figure 3 Framework Plan in the Proponent’s revised DPO4



Source: Document 33

(iii) Draft Development Plan

No specific redevelopment proposal is before the Committee. However, a draft Development Plan prepared by Woods Bagot (architects) and Oculus (landscape architects) was included in the consultation package (Document 2(b)). The draft Development Plan shows one way in which the subject land could be redeveloped generally in accordance with the proposed DPO4, but there could be others.

The draft Development Plan includes a masterplan (Figure 4). Key features include:

- around 320 apartments, including 32 affordable housing dwellings
- onsite retail facilities including a 150 square metre cafe or retail space and a 400 square metre retail shop or local grocer in the southeast corner of the subject land
- a landscaped setting that includes:
 - retention of the serpentine landscaping along the Woodburn Road interface, designed by Paul Thomson in 1976
 - landscaped setbacks along Robinson Road and Auburn Road
 - a 2,170 square metre centrally located communal open space area known as Woodburn Common
 - a 500 square metre pocket park known as Gardiner Square
- upgrades to Bills Street.

Figure 4 Draft masterplan for the subject land

Masterplan

-  **Approx. 320 Residential Apartments**
incl. 32 Affordable Housing
-  **Approx. 690 Carpark**
Approx. 600 x Resident spaces
Approx. 65 x Visitor spaces
Approx. 3 x 25 x Retail spaces
-  **30% Deep Soil Planting Area**
-  **Onsite Amenity**
150m² cafe / retail
400m² retail shop / local grocer

Legend

Precinct buildings

- 01 Wattle
- 02 Woodburn
- 03 Banksia
- 04 Lilly
- 05 Maple
- 06 Myrtle
- 07 Robinson

Precinct landscape zones

- 08 Woodburn Common
- 09 Secret Gardens
- 10 Gardiner Square
- 11 Auburn Mews
- 12 Existing serpentine landscape

Precinct Retail Amenity

- 13 Local grocer
- 14 Local cafe

Precinct Neighbour

- 15 Homes Victoria site



Source: Consultation draft Development Plan

Proposed access arrangements (Figure 5) include:

- two vehicle access points, off Robinson Road and Bills Street, to basement parking containing around 690 carparking spaces
- a pedestrian link that connects Robinson Road to Auburn Road through Woodburn Common (publicly accessible during daylight hours)

- a shared path that connects Robinson Road to Auburn Road along the southern boundary of the subject land (24 hour public access).

Figure 5 Access to and through the subject land



Source: Consultation draft Development Plan

2.4 Limitations

(i) The draft Development Plan

Council will be responsible for assessing and approving a development plan, should the draft Amendment proceed. The Committee was not asked to consider the draft Development Plan, and has not considered it in detail other than as one indication of how the subject land might be redeveloped in accordance with the DPO4. The Committee notes that evidence presented during the Hearing considered the draft Development Plan, and most experts made recommendations in relation to both the draft Amendment and the draft Development Plan.

(ii) Powers of intervention

Council made submissions that the Minister should not exercise powers of intervention to prepare, adopt and approve the draft Amendment under section 20(4) of the PE Act. It submitted

that this would amount to a denial of natural justice, and that the draft Amendment did not meet the tests set out in section 20(4) or the criteria for intervention set out in Planning Practice Note (PPN) 29: Ministerial Powers of Intervention in Planning and Heritage Matters. Further, it submitted that Council was *“entirely capable of considering and processing planning scheme amendments and applications for development plans for sites such as this located in its municipal boundaries”*.

It is not the Committee’s role to make commentary or recommendations on whether the Minister should exercise powers of intervention. That is a matter for the Minister. The Minister has not sought specific advice from the Committee on that issue. Contrary to Council’s submissions, the mere fact that the issue is raised in submissions does not bring it within the Committee’s remit. The Committee’s remit is defined by its terms of reference and the referral letter, and neither suggest that the Committee is tasked with providing advice and recommendations on the exercise of powers of intervention in relation to this referral.

3 Strategic issues

3.1 Planning context

Key parts of the Planning Policy Framework relevant to the draft Amendment are summarised in Table 1.

Table 1 Planning context

	Relevant references
Victorian planning objectives	- section 4 of the PE Act
Municipal Planning Strategy	- Clause 02.03-1 (Settlement) - Clause 02.03-4 (Built Environment and Heritage) - Clause 02.03-5 (Housing) - the Housing Framework Plan at Clause 02.04 (see Figure 6)
Planning Policy Framework	- Clause 11 (Settlement) - Clause 12 (Biodiversity) - Clause 13 (Environmental Risks and Amenity) - Clause 15.01-5S (state Neighbourhood Character policy). Clause 15.01-5L (local Neighbourhood Character policy) will not apply, as the draft Amendment proposes to exempt the subject land from that policy - Clause 16 (Housing)
Other planning strategies and policies	Plan Melbourne - Outcome 2 (housing to be provided in locations close to jobs and services) - Outcome 5 (inclusive, vibrant and healthy neighbourhoods, including 20 minute neighbourhoods)
Planning scheme provisions	- Residential Growth Zone - Development Plan Overlay - Environmental Audit Overlay - Clause 58 (Apartment Developments)
Ministerial directions	- Ministerial Direction (Form and Content of Planning Schemes) - Ministerial Direction 1 (Potentially Contaminated Land) - Ministerial Direction 9 (Metropolitan Planning Strategy) - Ministerial Direction 11 (Strategic Assessment of Amendments)
Planning practice notes	- PPN23: Applying the Incorporated Plan and Development Plan Overlays - PPN46: Strategic Assessment Guidelines - PPN90: Planning for Housing - PPN91: Using the residential zones


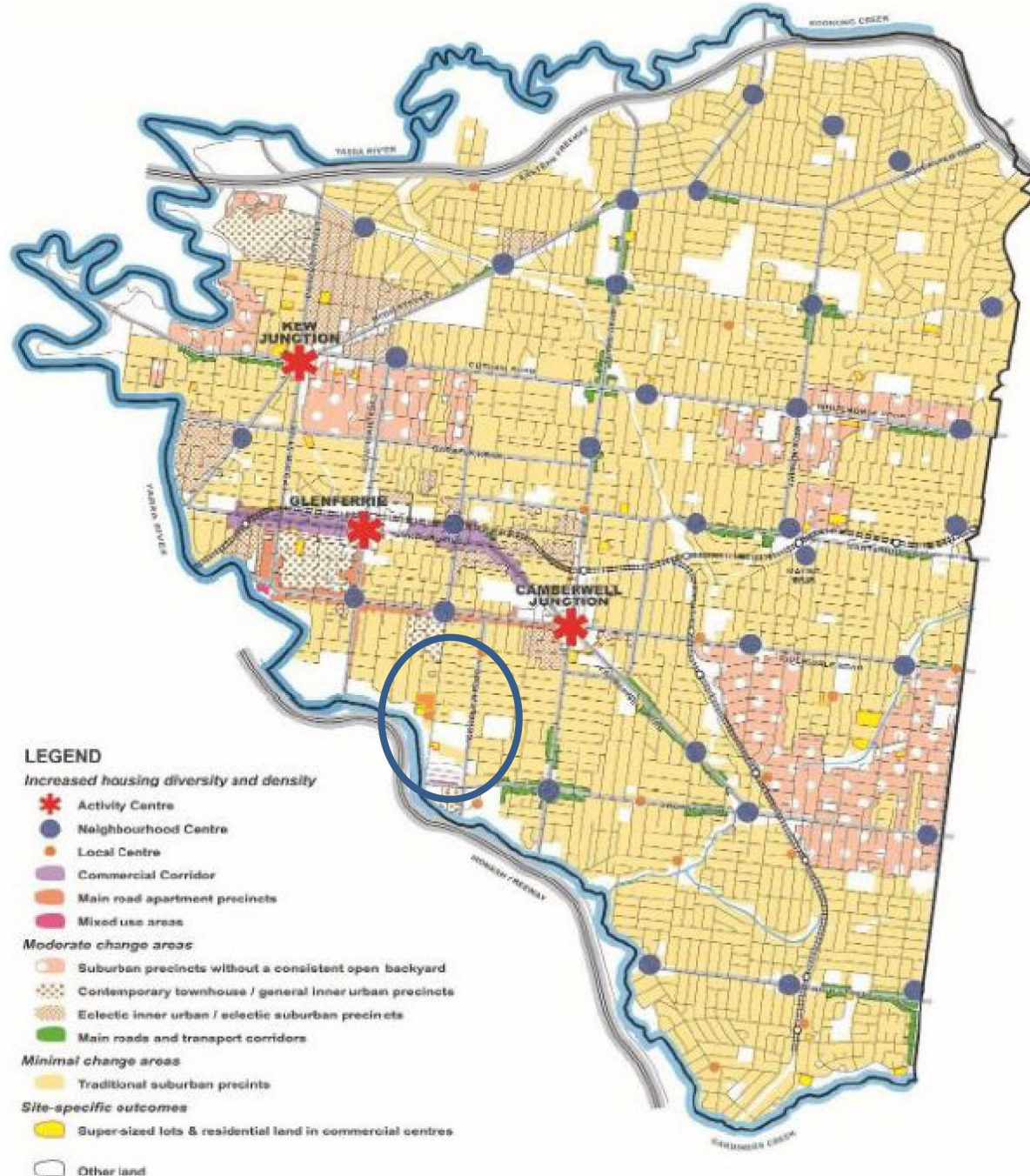
The Housing Framework Plan in Council's Municipal Planning Strategy² identifies the subject land as 'other land', reflecting its current non-residential use (shown as  on Figure 6). The surrounding area is a minimal change area.

Figure 6 Housing Framework Plan at Clause 02.04



Source: Ms Jordan's evidence (Document 9)

² The Municipal Planning Strategy is contained in Clause 02.04 of the Planning Scheme.

3.2 Strategic justification

(i) The issues

The issues are:

- the strategic role and suitability of the subject land for residential redevelopment
- whether the draft Amendment will deliver acceptable planning outcomes and net community benefit.

(ii) Evidence and submissions

The Proponent submitted that the subject land is a very large infill site, in an established, well-serviced inner suburb of Melbourne, with good access to public transport and other services and employment opportunities. It submitted that the subject land is “*an excellent candidate for higher density development*” that has the capacity to absorb substantial built form change, and to create its own character.

The Proponent submitted that this is “*not a typical private redevelopment project*”, but rather will deliver some very significant and unique community benefits, including:

- a 10 percent affordable housing contribution
- around 4,600 square metres of open space which will be available for public use
- new links through the subject land, increasing the permeability of the site and connecting Robinson Road to Auburn Road
- upgrades to Bills Street.

The Proponent advised that the proceeds of the sale of the subject land will be used to contribute to the funding of the Australian Institute of Infectious Diseases (AIID) Project in Parkville, a joint project of the University, the Burnet Institute and the Doherty Institute worth in excess of \$650 million. It submitted the AIID is a project of State and National significance:

The AIID will lead the national effort in tackling the Covid – 19 pandemic and ensuring the nation is better prepared for future pandemics. Better preparedness includes:

- Faster detection and tracking of new infectious diseases, including mutations of Covid-19.
- Faster development of new drug candidates and tools to combat new infectious diseases.
- Stronger connections with industry, pharmaceutical companies and start-ups to drive promising new technologies such as mRNA medicines and rapid diagnostics.
- Major increase in training the experts of the future in pandemic response and infectious diseases.

Ms Jordan gave planning evidence for the Proponent. She addressed (among other things):

- the strategic role and suitability of the subject land for residential activity
- the community benefit that the draft Amendment could deliver.

Ms Jordan’s evidence was that Melbourne is experiencing significant population growth, and there is a clear need for additional housing to accommodate the city’s growing and changing demographics. This requires more diverse housing types (including housing suitable for smaller households), and more affordable housing, in locations close to jobs and services.

Ms Jordan noted that around 80 percent of Boroondara’s residential land is within a Neighbourhood Residential Zone (NRZ), and consequently opportunities for accommodating higher densities within residential environments are “*very constrained*”. Her evidence was:

... it is expected that the majority of new residential development occurring within Boroondara will need to be in the form of medium to high density developments. This ongoing diversification of the housing stock will ensure the community can continue to live and work within the municipality given the limited land available for development, and the varied residential areas can continue to evolve with the population's needs and overall growth.

Ms Jordan recognised the policy framework focuses on ensuring that new development respects the scale and built form of the preferred character of the area. Policy also encourages new housing to achieve high standards of amenity and sustainability in a form that promotes inclusive and cohesive communities.

Ms Jordan considered the subject land is suitable for substantial residential development, and the scale of development contemplated under the DPO4 would deliver an acceptable planning outcome. She noted that the subject land:

- is substantial in size and with a lack of direct sensitive interfaces, making it suitable to accommodate substantial scale that could deliver a variety of housing types
- currently houses institutional buildings of substantial scale
- is well served by schools, public open space, and a road network that connects to key freeways, arterial roads and public transport
- has access to local convenience shopping within a few minutes and more extensive shopping and services in the nearby activity centres
- has good access to local jobs, including in the Cato Street business area just to the south.

She concluded that the subject land:

... is a site that represents a unique opportunity given its attributes and physical context and should be seen as a logical expansion to the established residential precinct of Hawthorn.

Ms Jordan's written evidence was that the proceeds of sale of the subject land will be invested in the AIID project which "*will have direct positive social health and economic outcomes for the State*". In her oral evidence, she clarified that she had not given significant weight to this in forming her conclusion that the draft Amendment is strategically justified and will deliver net community benefit.

Council did not seek to oppose the Proponent's position that the site is suitable for substantial residential redevelopment, although it did express the view that the GRZ was a more strategically justified choice of zone than the RGZ (which is addressed in Chapter 3.3). It also expressed some concerns in relation to the scale of built form proposed (which is addressed in Chapter 4).

While Council did not challenge the Proponent's assertion that the proceeds of sale would be used to contribute to the AIID, it pointed out that there is nothing in the draft Amendment that links the Amendment to the proceeds of sale, and that little weight should therefore be given to the AIID in assessing the merits of the proposed Amendment.

Most submitters were concerned about the scale of development proposed on the subject land. They submitted the central concern and objective behind the draft Amendment is to maximise the capacity of the development, thereby maximising profits for the Proponent, even if it would be "*very substantially to the prejudice of the local residential community*".

(iii) Discussion

The draft Amendment is strategically justified. The subject land is no longer required for institutional or educational uses. Although the subject land is not currently located in an area

identified for housing in the policy framework, it is an obvious candidate for residential redevelopment given its location in an established residential area. There was no real dispute about this.

The dispute was more around the choice of planning tools, and the scale of development that could be accommodated. These issues are addressed in Chapters 3.3, 3.4 and 4.

Boroondara (like the rest of Melbourne) needs to accommodate a growing population with increasingly diverse housing needs. Higher density housing in Boroondara has tended to be located along major roads and adjacent to activity centres.

This does not mean that higher density housing is not strategically justified in other locations. The subject land is a large site that has the potential to make a significant contribution to the future housing needs of the municipality. Its size and physical context make it suitable for higher density development with a diverse range of housing types that can cater for a range of household sizes, ages and needs, and provide housing that is affordable. Affordable housing is in short supply across Melbourne, including Boroondara.³

The Committee does not agree with submitters who criticised the draft Amendment on the basis that it is another example of private development driven by maximising profits at the expense of the local community. The draft DPO4 will secure significant community benefits that are more substantial than would ordinarily be expected in a 'typical' private residential redevelopment. The DPO4 will ensure the delivery of a 10 percent voluntary affordable housing contribution (which is substantially above the 'typical' contributions for this type of development), publicly accessible open space, retail spaces suitable for local convenience shopping, increased public access through the subject land and upgrades to Bills Street.

Provided the draft Amendment (working with other provisions of the Planning Scheme) can ensure development on the subject land will be of an appropriate scale, and will deliver appropriate amenity outcomes, the Committee is satisfied that it will deliver an acceptable planning outcome. Built form and amenity issues are considered in Chapter 4.

The Committee is satisfied that the draft Amendment will deliver net community benefit. In reaching this conclusion, the Committee has placed little weight on the proceeds of sale being used to contribute to the AIID project. There is little doubt that the AIID project will deliver very substantial benefits to the Victorian community, but there is no direct nexus (in a planning sense) between the draft Amendment and the delivery of those benefits.

The Committee agrees with Ms Jordan that the maps in the Municipal Planning Strategy will need to be updated to reflect the subject land's new role from a strategic planning perspective, and considers that this should be done as part of this Amendment. The Committee recommends the subject land be designated 'Main road apartment precinct' on the Housing Framework Plan, as this is the most suitable of the existing categories in the Housing Framework Legend. While Auburn Road is technically a Secondary Link road, evidence was that it effectively operated as a main road (discussed in Chapter 5).

(iv) Findings

The Committee finds:

- The draft Amendment is strategically justified.

³ Demonstrated in the Affordable Housing report submitted with the draft Amendment (included in Document 2(a)).

- The Strategic Framework Plan maps in the Municipal Planning Strategy should be updated to reflect the new strategic role of the subject land. This should be done as part of the draft Amendment.

3.3 Choice of zone

(i) The issue

The issue is whether the GRZ is more appropriate than the RGZ.

(ii) Relevant Planning Practice Notes

PPN91 provides guidance as to the role and application of the residential zones. It states that either the GRZ or the RGZ may be applied in substantial change areas. It suggests that the RGZ should applied to:

... areas suitable for housing diversity and housing at increased densities in locations offering good access to services, jobs and public transport, and to provide a transition between areas of more intensive use and development such as activity centres, and other residential areas

and that the GRZ should be applied to:

... areas where housing development of three storeys exists or is planned for... [and] areas where a planning authority seeks to respect the existing single and double storey character of an area.

It states that proposed building heights are a “*key factor*” to consider when selecting a residential zone to give effect to housing and neighbourhood character objectives.

(iii) Evidence and submissions

Council submitted that the GRZ is the more appropriate zone, given it:

... is more aligned with the strategic framework plan within the planning scheme, Council's transparent approach to using the General Residential (as opposed to the RGZ) and the Subject Land's geographic location and connections to the surrounding area.

It explained that in Boroondara, the RGZ has been deliberately applied to main road locations, where there is excellent public transport links and access to activity centres and community facilities – in Council's words, areas which have “*the attributes that justify the application of the RGZ*”.

Council put forward several reasons as to why the RGZ should not be applied, noting that the subject land:

- is not close to an activity centre or to “*established*” public transport
- sits in a relatively isolated location within Hawthorn, where the character of the area is well defined and governed by the surrounding zoning
- is bordered on three sides by land in the NRZ, with a mandatory maximum height of 2 storeys
- is not identified in the Planning Scheme as a location for higher density housing or change, and no strategic work has been undertaken to suggest otherwise.

Mr Sheppard gave urban design evidence for Council. He considered the policy framework provided “*moderate*” support for increased scale and density of residential development on the subject land. In his view, while the subject land has “*excellent*” access to open space and schools,

it could not be said to be well served by public transport or have good access to shops and services.

Council acknowledged that the GRZ is more restrictive than the RGZ in accommodating non-residential uses, but noted that 'convenience shop' up to 240 square metres, 'convenience restaurant' and 'medical centre' are all permissible with a planning permit. It submitted that if there is a desire to develop commercial uses beyond those permitted by the GRZ, there are other ways that this could be achieved, such as zoning the southeast corner of the subject land Commercial 1. It submitted orally that if commercial uses beyond those permissible under the GRZ are intended to be developed on the subject land, more strategic work should be done to assess the impacts on retail activity and activity centre policy.

Ms Arnadottir and Ms Williams submitted that the thrust of the Planning Scheme is that development should *"respect, and minimise disruption to, the distinctive culture, character and amenity of the prime residential area that surrounds it"*. They submitted:

Accordingly, there is no reason to look beyond GRZ4 as the appropriate zoning for the land: it is well equipped to deliver higher density housing, but in a way that respects and takes into account the neighbourhood's culture, character and existing level of amenity.

They submitted that the RGZ is unsuitable, given the subject land is not within, or adjacent to, activity centres or town centres, and not in a location that offers good access to services, jobs and public transport and that provides a transition between activity centres and other residential areas.

Ms Jordan supported the use of the RGZ. She noted the purposes of the RGZ include to:

- facilitate residential development up to and including four storeys (although a schedule to the zone can provide for greater height)
- encourage a diversity of housing types in *"locations offering good access to services and transport including activity centres and town centres"*.

Her view was that of the suite of residential zones, the RGZ purposes best reflect the degree of growth and change anticipated, and the excepted building heights, consistent with PPN91. Further, the RGZ suits the range of commercial uses proposed on the subject land, without threatening the existing local centre on the corner of Bills Street and Auburn Road.

Ms Jordan considered whether the GRZ would be a suitable choice of zone, and concluded:

Given the potential of the site to accommodate a significant housing contribution, including buildings of between 4 and 7 storeys, I consider this zone to be not an ideal fit as it was not intended to [apply to] areas that could contain higher scale built form.

Ms Jordan accepted that the subject land is not in or adjacent to an activity centre, and is outside the Principal Public Transport Network. However, she considered that the subject land *"possesses other attributes that align with the purposes of the Residential Growth Zone and which should be taken into consideration when determining the most appropriate fit"*. She considered that the subject land has:

- *"good"* access to shops and services, schools, open space and jobs
- *"reasonable"* access to public transport, given parts of the Principle Public Transport Network (including tram services along Riversdale and Glenferrie Roads and Kooyong Train Station) are within a 20 minute walk.

(iv) Discussion

There are four key considerations that influence the selection of the appropriate zone for the subject land:

- the proposed building heights
- whether the subject land has good access to services and transport
- impacts on neighbourhood character
- whether the zone supports the proposed non-residential uses.

Scale of development

Consistent with PPN91, the RGZ is best suited to the scale of development proposed on the subject land. PPN91 states that as a general principle, the zone selected should align with existing building heights (if they are sought to be maintained), or future building heights identified in strategic work. It suggests that where heights of greater than 13.5 metres or 4 storeys are contemplated, the best zone is the RGZ, coupled with an overlay to control building heights.⁴

Access to services and transport

Much of the debate around the choice of zone related to whether the subject land could be described as having “*good access*” to services and transport.

To date in Boroondara, the RGZ has only been applied along major roads on the tram network and adjacent to local activity centres. However there is no strategic reason why it should not be applied in other areas that have good access to services, jobs and transport. Just because main road locations may have better access to services and public transport, does not mean the subject land does not have good access.

In the Committee’s view, the subject land does have good access to services, jobs and transport, consistent with 20 minute neighbourhood principles reflected in Plan Melbourne. There are multiple supermarkets and other retail and commercial offerings within 1.2 kilometres (about 15 minutes walk), including the local centre on the corner of Bills Street and Auburn Road, the commercial strip along the intersection of Auburn Road and Riversdale Road, a Woolworths and other retail and commercial premises on Toorak Road near the intersection with Auburn Road, and the Tooronga Village Shopping Centre. The subject land has excellent access to schools and open space, and excellent access to jobs in the Cato Street business park area, as well as the retail and commercial precincts mentioned above. Although the subject land does not have direct access to the Principle Public Transport Network, buses run along Auburn Road, and higher order transport services are located well within a 20 minute walk.

Neighbourhood character

The purposes of the GRZ specifically refer to respecting neighbourhood character, whereas the RGZ purposes do not.

The subject land is surrounded on three sides by minimal change areas. These areas are zoned NRZ and are characterised by low rise (one to two storey) residential areas. The scale of development contemplated on the subject land will clearly result in a different neighbourhood character to the surrounding area. However, this does not necessarily result in an unacceptable planning outcome, or one that is not strategically justified.

⁴ Refer to Table 3 in PPN91.

The Committee has found that the scale of development proposed is strategically justified, provided impacts on neighbourhood character and amenity can be appropriately managed (see Chapter 4 for more detail). Clauses 02.03-4 and 15.01-5S will ensure new development achieves high quality urban design standards, and respects the preferred neighbourhood character, whether the land is zoned RGZ or GRZ. There is no reason why, with careful design guided by the policies in Clauses 02.03-4 and 15.01-5S, a higher density residential development cannot present a suitable transition to its lower rise surroundings, particularly on an island site separated by streets from surrounding low rise residential properties.

Given a new character is proposed for the subject land (and the Homes Victoria site) that is different from that of the surrounding area, the Committee considers that the RGZ is more appropriate than the GRZ. For the same reason, the proposed exemption of the subject land from Clause 15.01-5L (local neighbourhood character policy) is appropriate. The Committee notes that Council does not oppose this aspect of the draft Amendment.

Support for non-residential uses

The GRZ does not support the extent of non-residential uses contemplated in the draft Development Plan (which includes 400 square metres of retail such as a local grocer). The Committee was not persuaded by Council's oral submission that this extent of non-residential use may upset the activity centre hierarchy in the municipality, or that further strategic work in relation to non-residential uses is required before the RGZ is applied.

Nor does the Committee support applying an alternative zone such as the Commercial 1 Zone to support the extent of retail use contemplated under the draft Development Plan. The purposes of the Commercial 1 Zone are not aligned with the use and development outcomes sought for the subject land, and there is no strategic justification for applying it to the southeast corner of the subject land. A better, and more strategically justified approach is to apply the RGZ.

(v) Finding

The RGZ is the appropriate zone and is strategically justified.

3.4 Choice of overlay

(i) The issue

The issue is whether the Design and Development Overlay (DDO) is more appropriate than the DPO.

(ii) Evidence and submissions

Council submitted that a DDO is the preferable tool because it:

- can more than adequately specify requirements relating to the design or built form of new development on the subject land
- contains the right mix of certainty and flexibility
- can contain decision guidelines to further guide decision making (unlike a DPO)
- does not require a two-step process (unlike a DPO, which requires a development plan to be approved before permits are granted)
- allows third party participation in permit applications (unlike a DPO).

Council submitted that third party participation is a positive feature of the planning system, and generally results in better planning outcomes. It submitted the community should be allowed further engagement given it will have to sit with the redevelopment of the subject land for years after its construction. It submitted:

Council sees no justification in the proposed Amendment that would warrant these critical elements of the planning process being overridden.

Ms Arnadottir and Ms Williams submitted that the draft Amendment:

... strips the planning authority (the Boroondara Council) and residents of the neighbourhood of their existing right to ensure that the culture, character and amenity of the neighbourhood is taken into account in determining the appropriateness of any proposed development.

The Proponent submitted that the DPO is the appropriate tool given a development plan is needed to guide the future development of land, and the land is owned by one entity. It submitted:

- the DPO is commonly used to guide the development of large redevelopment sites, especially surplus public or quasi-public land
- the DPO4 (in combination with the RGZ2) provides an appropriate level of certainty to the Council and the community as to the future use and development of the subject land, including building heights
- the DPO4 provides certainty that the Proponent's core commitments (including the affordable housing contribution, the pedestrian linkages, tree retention, landscaping and open space) will be delivered.

Ms Jordan considered the size of the site and its physical context require a master planned and coordinated, staged approach to development. She considered that the DPO is the appropriate tool that allows for that master planning process to occur, while delivering certainty of built form outcomes (by specifying objectives and requirements for future use and development of the subject land).

In response to submissions on the DPO removing third party participation rights, the Proponent submitted that the DPO is a "*lawful and legitimate overlay*" that is widely used in Victoria in appropriate circumstances. The exclusion of third party rights is an inherent, and deliberate, feature of the overlay, and one which is commonplace in various tools in the Victoria Planning Provisions (VPP). It submitted:

There can be no basis for an argument that [these tools] are inherently inappropriate, or that every planning outcome on every piece of land must be subject to third party rights.

Further, the draft Amendment has been through an extensive public consultation process, including the opportunity to make submissions and present evidence to the Committee.

(iii) Discussion

The Committee agrees with Ms Jordan that the future redevelopment of the subject land should be master planned, given the size and context including its low rise residential surrounds and the adjacent higher density Homes Victoria site. It is clear from a comparison of the purposes of the DDO and the DPO that the DPO is the preferable tool to ensure master planning happens.

It could be said that the master planning process has already happened (with the draft Development Plan), and that the built form outcomes from that process could now be translated into a DDO rather than a DPO. This would potentially provide more certainty to Council and the surrounding community as to the likely development outcomes on the site. It would avoid the

need for a Development Plan to be approved, and could facilitate third party participation in future permit applications.

However, the DDO has certain limitations (as Council fairly recognised):

- it cannot guide the use of land
- it cannot specify conditions on permits and can only set requirements in relation to the design or built form of new development.

Guiding the use of the land is an important element of the draft Amendment, that cannot be achieved by the use of a DDO. The Committee recognises that there are other tools available in the VPP that could guide the use of the land, but it prefers the approach of applying one control that can do most or all that is required, rather than using a more complex suite of planning tools to achieve the same outcome.

Another significant drawback of the DDO is that it cannot include conditions or requirements on permits in relation to affordable housing. The Committee recognises that the Responsible Authority could negotiate a voluntary affordable housing contribution, which could be secured through a section 173 agreement. However, the Committee sees no harm (and perhaps some benefit) in including the affordable housing contribution in the Planning Scheme itself.

The Committee agrees with Council that, in principle, third party participation in permit applications can (and often does) result in better planning outcomes. However, there has been considerable consultation with both Council and the community in relation to the DPO4 and the draft Development Plan. In response to a question from the Committee, Council indicated that its 'standard practice' is to consult with the community before approving a development plan, and it would likely do so in this case. In these circumstances, the Committee considers it appropriate to exempt permit applications from third party notice and appeal, provided that the application is generally in accordance with the approved development plan.

(iv) Finding

The DPO is the appropriate tool, and is preferable to the DDO.

3.5 Conclusions and recommendations

The Committee concludes that the draft Amendment:

- is supported by, and implements, the relevant sections of the Planning Policy Framework
- is well founded and strategically justified
- applies the appropriate VPP tools
- 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 C376boro, subject to the specific recommendations in this Report.

Update the local policy in the Planning Scheme to reflect the new role of the subject land:

- a) Update the Strategic Framework Plan in Clause 02.04-1 of the Planning Scheme to identify the subject land as 'Residential – Residential Growth Zone'.**

- b) Update the Housing Framework Plan in Clause 02.04-3 of the Planning Scheme to identify the subject land as 'Main road apartment precincts'.**

4 Built form issues

4.1 The issues

The issues are:

- the most appropriate method to measure and express building heights
- whether the building heights specified in the Framework Plan in DPO4 are appropriate
- whether the DPO4 appropriately deals with setbacks.

4.2 What is proposed?

(i) The draft Amendment

Building heights

The RGZ2 specifies a mandatory maximum overall height of buildings on the land of 27 metres (28 metres if the land is sloped).

The draft DPO4 includes the following objective:

- To establish new built form scale and character of development that transitions down in height to established residential neighbourhoods on the opposite side of Woodburn Road and Robinson Road.

The draft DPO4 states building heights are to be generally in accordance with the maximum indicative building heights shown in the Framework Plan, and that:

- building height is measured in storeys (excluding architectural features, building services or a basement)
- a residential storey should have a maximum floor to floor height of 3.5 metres and a non-residential storey should have a maximum floor to floor height of 5 metres.

The consultation draft Framework Plan (Figure 2) shows:

- Robinson Road – indicative 4 storeys
- Woodburn Road – indicative 4 to 7 storeys
- elsewhere on the subject land – indicative 7 storeys.

The Proponent's revised Framework Plan (Figure 3) shows:

- Robinson Road – indicative 4 storeys, presenting as 3 to 4 storeys above footpath level
- Woodburn Road – indicative 6 to 7 storeys, presenting as 4 to 5 storeys above footpath level, but with the Robinson Road Precinct (which has lower heights) extended slightly further around the corner into Woodburn Road
- elsewhere on the subject land – indicative 7 storeys.

Setbacks

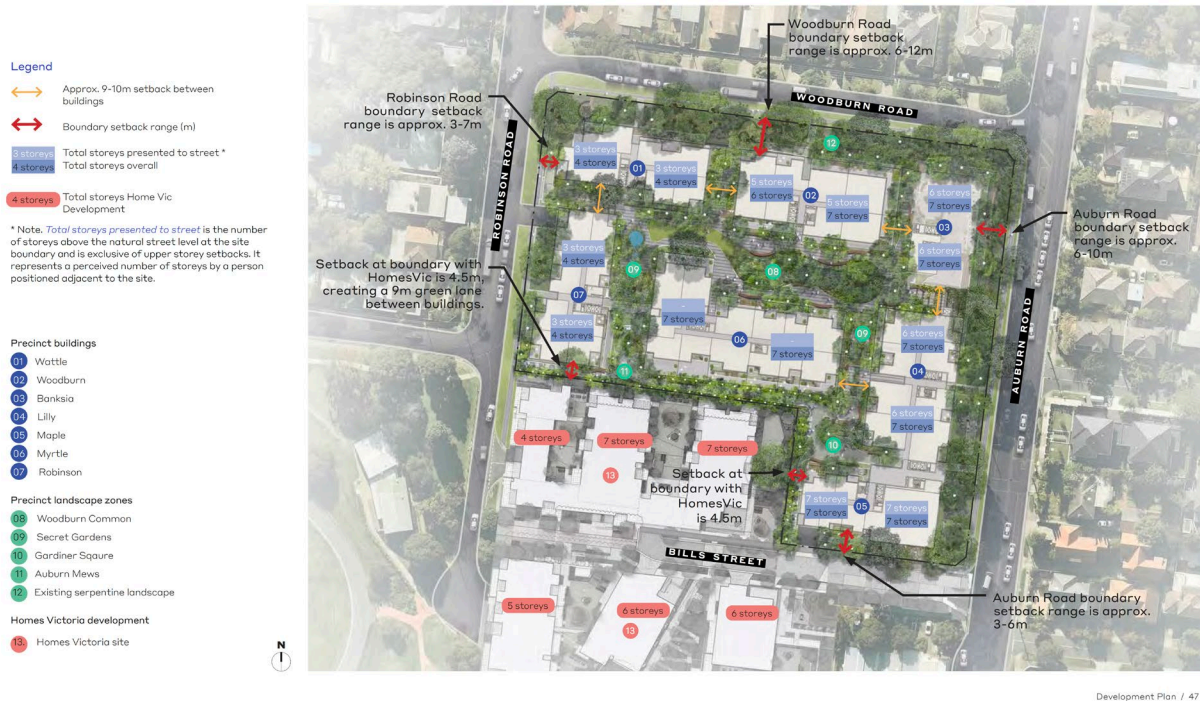
The DPO4 does not specify any dimensioned setbacks, but applies a performance-based direction that buildings are to be set back to “*facilitate retention of canopy trees on the land*” in accordance with the Framework Plan. The Framework Plan shows an un-dimensioned ‘Landscaping Zone’ along each of the street frontages, where existing landscaped setbacks are respected, identified trees are to be retained and protected and new complementary landscaping provided.

(ii) The draft Development Plan

The draft Development Plan showed building envelopes with heights in storeys and dimensioned setbacks (see Figure 7). It contemplated lower heights ‘presented to street’ (except along the southern boundary), with a higher overall height set back from the street.

Figure 7 Heights and setbacks shown in the draft Development Plan

Masterplan - Height & Setbacks



Source: Consultation draft Development Plan (Document 2(b))

Much of the landscape and urban design evidence presented to the Committee was based on the draft Development Plan. While the Committee has been presented with the draft Development Plan as an example of how the DPO4 could be applied, the Committee’s advice and recommendations are directed toward the refinement of the DPO4.

4.3 Expressing building heights

(i) Background

The Planning Scheme defines building height as:

The vertical distance from natural ground level to the roof or parapet at any point.

Neither the DPO4 nor the RGZ2 modify this definition.

(ii) Evidence and submissions

Both Mr Sheppard (for Council) and Professor McGauran (for the Proponent) agreed that the critical parts of the site as far as building heights are concerned are around the peripheries, along the surrounding streets (particularly the smaller residential streets) and the interface with the Homes Victoria site. The Proponent agreed that it would be useful for the Framework Plan legend to refer to both ‘presenting as’ heights and indicative overall heights. These are reflected in its revised DPO4 (Document 33 – refer to the Framework Plan legend in Figure 3).

The Committee heard different opinions as to how building heights at the periphery should be measured and expressed in the DPO4, given the modified sloping terrain of the subject land.

Mr Sheppard recommended that heights on the periphery be expressed:

- as street wall heights (not overall heights)
- in metres (not storeys)
- measured from the footpath level.

He cited PPN60, which he acknowledged applied to Activity Centres but considered its guidance equally applicable here. PPN60 states that the preferred expression of heights is in metres, and discourages the use of “*uncommon terms such as ‘indicative’*”. He considered that specifying height in storeys is particularly problematic along sloping streets, where buildings will inevitably have heights that involve a fraction of a whole storey for most of their length. He considered that, although he is not generally in favour height of ranges, in this case height ranges (in metres) are appropriate to accommodate for buildings stepping up with the slope.

Mr Sheppard acknowledged that measuring height from footpath level is not a usual method, but he considered that in this case natural ground level involves ambiguity and potentially dispute, given the sloping terrain and altered natural ground levels on the subject land. Footpath levels, on the other hand, are fixed and easily measurable. Mr Sheppard recommended the overall building height to the southern boundary (with the Homes Victoria site) be measured to Australian Height Datum (AHD), given the challenges identifying natural ground level and the lack of an adjacent footpath.

Council submitted the natural ground levels on the subject land are ambiguous, requiring more precision in the way that heights are expressed in the DPO4. It supported Mr Sheppard’s position that heights at the periphery should be measured as a street wall, in metres above footpath level.

Professor McGauran considered that perceiving heights on the subject land will be ambiguous given the extent of excavation across the subject land, it’s landscape setting and no direct residential interface. As reduced levels (RLs)⁵ are not known at this stage, it is too early to specify dimensioned heights or street wall heights in the DPO4.

Professor McGauran considered that ‘perceived storeys’ is sufficient to guide the preparation of a development plan, and convey an appropriate design response. He recommended that for buildings with a primary frontage to the more sensitive residential streets (Woodburn and Robinson Roads), the final approved development plan should express heights as a number of storeys presented to the street, and preferred maximum RLs. He acknowledged that footpaths can be used as a reference for street wall height, but can be difficult to apply to heights across a large site such as this.

The Proponent submitted that expressing heights in storeys in the DPO4 is legitimate and would provide helpful guidance, as storeys are more readily understood by the community than metres. Further, height limits in storeys eliminates the potential for more storeys within the maximum height, with lesser floor to ceiling heights. A development plan could provide more detail about heights (in metres) at a later stage.

The Proponent submitted that while there has been debate about how to measure natural ground level in the past, in recent times it has become settled that natural ground level means the existing

⁵ Reduced level means a height above or below a nominated datum.

site levels at the date the permit application was lodged. There is therefore no need to invent a new metric and express heights as being measured from the footpath. Further, using the footpath as a reference point could be equally problematic as natural ground level, as footpath levels may change.

(iii) Discussion

Storeys or metres

The Committee considers it is appropriate for the DPO4 to specify building heights in storeys rather than metres, even though metres would arguably be more precise. The role of the DPO4 is to establish the design parameters for the subject land, which should be clearly understood by Council and the community. Storeys is an understandable measure.

That said, heights in metres should be determined at development plan stage, which will provide more certainty and clarity before permits are issued. The final approved development plan should express heights in both storeys and metres, measured from a clear reference point.

The Committee does not consider that reference to heights in both metres and storeys in the different controls is problematic or likely to lead to confusion. It sees no issue in setting a maximum building height in metres under the RGZ2, and applying guidance for a development response under the DPO4 in storeys. Other controls in the Planning Scheme, including those cited by Council during the Hearing,⁶ apply a combination of both metres and storeys.

Natural ground level or above footpath level

The VCAT cases provided to the Committee by Council during the Hearing demonstrate that VCAT have applied different approaches when it comes to measuring natural ground level. One line of authority is that the 'natural' ground level means the surface level of the relevant land at the date the permit application was lodged. The other line of authority is that the 'natural' ground level means the surface level of the relevant land before it was disturbed by human intervention for development such as excavation or filling.

Considering evidence, submissions and its own observations on site, the Committee notes that the site has undergone considerable change from its original 'pre-development' natural ground level. Additional changes may occur in topography before a development plan is submitted for approval. The Committee therefore considers that at this stage, it is clearer to specify heights in the DPO4 as storeys above footpath level.

More clarity should be provided at the development plan stage, when RLs can be determined. To this end, the Committee recommends the DPO4 include an additional information requirement for a survey plan showing existing ground levels. The Development Concept Plan forming part of the development plan should be required to show proposed heights in both storeys and metres by reference to a defined height datum (the survey plan will provide a suitable datum or reference point).

Street wall heights or overall heights

There was general agreement between the urban design experts that buildings with a street frontage can 'present as' a certain number of storeys to the street, but could be taller behind the

⁶ Examples included the GRZ, the DDO1 'Willsmere Design and Development Area' and the DDO2 'Willsmere Historical Building Design and Development Area'.

street wall. They had differing opinions on how upper levels should be treated, which is addressed in the Chapter 4.4.

The Committee supports the Proponent's additions in the revised DPO4 which refer to heights 'presenting as' a number of storeys to the surrounding streets. The way in which development transitions down to the height of surrounding residential development is a critical issue, particularly along Woodburn Road and Robinson Road, and is specifically referenced in the objectives of the DPO4. This will influence how the scale of future development may be perceived at its edges, having regard to the residential interface. The 'presented as' storeys shown in the draft Development Plan (Figure 7) provide a clearer idea of how the development will be perceived from the street while taking into account the impact of benching of the site.

Noting Professor McGauran's opinion that street wall heights measured from the footpath can be difficult to apply across a large site, the Committee prefers that heights at the periphery be expressed in the DPO4 as 'presenting as' heights rather than street wall heights.

(iv) Conclusions and recommendations

The Committee concludes:

- It is appropriate that the DPO4 refers to storeys rather than metres. Storeys provide an accessible understanding of the proposed form and scale of development in the context of the surrounding neighbourhood.
- Further detail and precision should be provided when a development plan is submitted for approval. This should include a detailed survey plan, and proposed heights measured in both storeys and metres by reference to a defined height datum.
- The Committee supports the changes to the revised DPO4 Framework Plan legend showing heights 'presenting as' a number of storeys above footpath level, as well as overall heights.

The Committee recommends:

Amend the 'Information Requirements' in Clause 4.0 of the revised Development Plan Overlay Schedule 4 (Document 33) in as shown in Appendix E:

a) Add an additional requirement:

A survey plan showing existing ground levels.

b) In the 'Development Concept Plan' requirements, replace the sixth sub-point with:

Building envelopes including the siting, setbacks and heights of buildings in both storeys (overall storeys and storeys presenting to the street) and metres above a defined height datum.

4.4 Building heights

(i) Overall heights

Evidence and submissions

The Proponent submitted that the robust nature of the existing built form on the subject land justifies substantially higher heights than the surrounding residential areas. It noted that the

subject land sits behind a 'veil' of substantial landscaping which is to be largely retained. This, it said, affords the potential for greater heights at the periphery of the subject land.

Considering its historical form, Mr Sheppard and Professor McGauran both considered an overall mandatory maximum height of 27 metres (as proposed in the RGZ2) is appropriate for the subject land. Both agreed that heights at the periphery, however, should be based on neighbourhood character and streetscapes, and respond to the features of the subject land including existing landscaping and topography.

Mr Sheppard considered the proposed scale of development was excessive, and did not adequately respond to policy or existing neighbourhood character. He recommended lowering heights at the periphery and limiting visibility of upper levels, including oblique views. His view was that a 28 metre high upper form only set back, say, 3 metres from a 3 or 4 storey street wall would be too prominent, unacceptably detracting from the character of the surrounding area and not representing an appropriate transition in building scale to the surrounding NRZ areas.

Mr Sheppard acknowledged that a provision seeking 'limited visibility' is imprecise. He had considered whether a more prescriptive provision would be appropriate, to provide greater certainty. However, given the variables in terms of street wall height, sloping streets and existing mature trees, combined with the various built form attributes that contribute to visual presence (such as height, breadth and materiality), he considered a more prescriptive provision would be too difficult to draft without unreasonably limiting design flexibility.

Professor McGauran considered the precinct (the subject land and the Homes Victoria site) is distinctly different to the surrounding fine-grained housing, presenting a different emerging character which is capable of accommodating substantially greater height than the surrounding low rise areas. He considered moderate visibility of development, including upper levels, would be acceptable, provided the development was high quality. He considered upper levels could be dealt with through a series of design 'tools' (such as materiality and greening of upper levels).

The Proponent disagreed with Mr Sheppard's assessment of the sensitivity of the surrounding streetscapes and submitted that visibility of built form, including upper levels, is not likely to cause negative impacts. The Proponent's revised DPO4 included additional text as recommended by Professor McGauran, requiring the development plan to:

- identify how upper levels will not unreasonably impact on the character of the streetscape, through measures such as articulation, landscaped balconies, and materials and finishes (Council suggested that upper floor recessing also be included)
- include a diversity of design approaches and materials and finishes that integrate the overall development with the surrounding neighbourhood and avoid homogenous expression.

Most community submissions considered the proposed heights excessive and unresponsive to the scale of the neighbourhood, which is generally 1 to 2 storey dwellings. They considered the proposed building heights, the size and bulk of the development and the number of units will unreasonably impact on the existing and preferred character of the surrounding streetscapes, and would result in unreasonable bulk that will visually overwhelm residential buildings on Woodburn and Robinson Roads. They submitted that the Homes Victoria development is not a justification for the proposed heights, and some considered 7 storey development on Auburn Road is excessive given existing development along Auburn Road is generally limited to 2 to 3 storeys.

Ms Proposch submitted the maximum height of the overall development towards the centre of the site should be 6 storeys, with lower heights toward the street. This would make the highest part of the development the same apparent height as the Homes Victoria development.

Ms Wilson submitted that the topography is an important aspect of the subject land. Her view was the existing development on the subject land successfully uses the dramatic slope, and successfully responds to the topography and streetscape. She submitted that the same approach should be applied to any redevelopment of the subject land.

Discussion

In considering heights (and setbacks, discussed below), the Committee has considered the character of the surrounding neighbourhood including the prevailing 1 to 2 storey built form, the attributes of the subject land including topography and mature landscaping (which is proposed to be largely retained), the scale of existing development on the subject land, and the scale of the emerging Homes Victoria development.

The Committee supports an overall height limit of 27 metres (28 metres where the land is sloped), as proposed in the RGZ2. However it agrees with Council and both urban design experts that heights at the perimeter need to be responsive to the streetscape. The appropriate 'presenting as' height for each precinct is discussed below.

Provided the development is a high quality design that integrates with its surroundings, the Committee does not consider that visibility of upper levels need needs to be limited, as recommended by Mr Sheppard. The Committee prefers Professor McGauran's approach of a combination of 'presented as' storeys and additional direction in the DPO4 that requires upper levels to not unreasonably impact on the character of the streetscape, through design techniques such as articulation, upper floor recessing, landscaped balconies, and materials and finishes. The Committee supports the additions to the revised DPO4 reflecting Professor McGauran's recommendations.

Findings

The Committee concludes:

- An overall mandatory maximum height of 27 metres (28 metres with slope) is appropriate.
- Visible upper levels (above the 'presenting as' heights) are acceptable, provided the design quality of upper levels is high. Upper levels should be managed through design techniques such as articulation, upper floor recessing, landscaped balconies, and materials and finishes.

(ii) Woodburn Road Precinct

Building heights in the Woodburn Road Precinct are shown as:

- draft Development Plan – 4 to 7 storeys, presenting as 3 to 5 storeys
- DPO4 Framework Plan (consultation draft) – 4 to 7 storeys
- DPO4 Framework Plan (revised) – 6 to 7 storeys, presenting as 4 to 5 storeys.

The revised Framework Plan also extends the Robinson Road Precinct extended further around the corner into Woodburn Road (see Figure 3).

Evidence and submissions

Mr Sheppard considered that heights of 6 storeys above the footpath (at the corner of Woodburn and Auburn Roads), and 3 to 5 storeys above the footpath in the remainder of the Woodburn Road Precinct is not justified in the context of the neighbouring residential area and would be too prominent. He recommended buildings fronting Woodburn Road have a maximum height of 3 to 4 storeys (11 to 14 meters in height), which would allow them to be largely screened by the existing trees.

Professor McGauran considered that greening of Woodburn Road is important, and trees (both existing and new) will have a major mitigating effect on the impact of building heights. Moderate visibility of development from Woodburn Road, including upper levels, behind and above the landscaping would be acceptable provided the development was high quality. He considered that in this precinct, upper levels of development (above 3 storeys), where the setback is less than 9 metres, should have terraces and balconies that are landscaped to integrate with the landscape setback and the street.

Professor McGauran considered the western end of Woodburn Road (near the corner of Robinson Road) to have similar siting characteristics to Robinson Road, and a 4 storey maximum height limit would be appropriate. The Proponent accepted this position, which is reflected in the revised Framework Plan with the extension of the Robinson Road Precinct further along Woodburn Road.

Discussion

Having regard to the streetscape of Woodburn Road and the substantial landscaping (both existing and potential) within the Landscape Zone, the Committee considers that a presentation of 3 to 4 storeys is more appropriate, rather than 4 to 5 storeys as proposed in the revised DPO4. Although landscaping may temper the impact and effect of scale within Woodburn Road, the Committee considers that a presentation of 5 storeys along this residential street would be too much of a juxtaposition to the existing neighbourhood character along Woodburn Street. A presentation of 3 to 4 storeys above footpath level to Woodburn Road as recommended by Mr Sheppard would provide a more sensitive response, while allowing for additional levels below footpath, taking advantage of the topography.

Buildings behind should be 4 to 6 storeys, rather than 4 to 7 storeys as shown on the draft Development Plan or 6 to 7 storeys as shown on the revised Framework Plan. Upper levels should be landscaped (or 'greened') to integrate with the street, as recommended by Professor McGauran.

Findings

The Committee concludes:

- Building heights in the Woodburn Road Precinct should respond better to the low scale residential setting, with buildings presenting as 3 to 4 storeys to Woodburn Road, with 4 to 6 storeys behind. Upper levels should be landscaped.

(iii) Auburn Road Precinct

Building heights in the Auburn Road Precinct are shown as:

- draft Development Plan – 7 storeys, presenting as 6 storeys
- DPO4 Framework Plan (both the consultation draft and the revised) – indicative 7 storeys.

Evidence and submissions

Mr Sheppard considered a presentation of 6 storeys would be too high and not sufficiently sensitive to low-rise form opposite on Auburn Road. He recommended a presentation of 4 to 5 storeys (14 to 17 metres, including parapet or balustrading). Higher built form could be acceptable provided it was set back sufficiently to limit visibility from Auburn Road, including in oblique views.

Professor McGauran considered 7 storeys with a 6 storey presentation acceptable along Auburn Road. He considered there is no reason for buildings on Auburn Road to be recessive and did not consider oblique views an issue when viewing high quality development.

Both experts considered that additional height is justified on the Auburn Road/Woodburn Road corner, above the existing 2 storey presentation. Mr Sheppard considered that built form on this corner should have a street wall height of 3 to 4 storeys (11 to 14 metres), whereas Professor McGauran supported the 6 to 7 storeys shown on the draft Development Plan.

Discussion

Much of the subject land's existing Auburn Road frontage is taken up by substantial brutalist form. Having regard to the existing built form and 'main road' presence, the Auburn Road interface has a different character to Woodburn and Robinson Roads and has the capacity to accommodate a higher form across most of its frontage.

The Committee considers that buildings presenting as 6 storeys to Auburn Road (with 7 storeys behind) are appropriate, as presented in the draft Development Plan and supported by Professor McGauran. The Committee notes the contribution of the existing landscaping, including tall trees, that are proposed to be retained. This will soften the appearance of development in this location.

The corner of Woodburn Road requires a different treatment. The Committee is cognisant of the 1 to 2 storey streetscape on the western side of Auburn Road and northern side of Woodburn Road, and considers that the height at the corner should be more responsive to the Woodburn Road interface and entrance. The same height should be applied on the corner as the Woodburn Road Precinct (presenting as 3 to 4 storeys above footpath level with 4 to 6 storeys behind). This is consistent with Mr Sheppard's recommendation in relation to street wall heights on this corner. This can be achieved by extending the Woodburn Road Precinct to Auburn Road, rather than it finishing short of the corner as shown in both the consultation draft and revised DPO4 Framework Plans.

The Committee supports the extension of the Robinson Road Precinct further around the corner into Woodburn Road, and considers that this is more responsive to the character at the western end of Woodburn Road.

Findings

The Committee concludes:

- Auburn Road has robust existing built form and a less sensitive residential interface. Buildings presenting as 6 storeys to Auburn Road with 7 storeys behind are appropriate.
- Heights at the corner of Woodburn and Auburn Roads should be more responsive to the low scale character of Woodburn Road. The heights in the Woodburn Road Precinct are more appropriate for this corner. The Woodburn Road Precinct should therefore be extended to Auburn Road.
- The Committee supports the extension of the Robinson Road Precinct further around the corner at the western end of Robinson Road.

(iv) Affordable Housing and Retail Precinct (Auburn Road/Bills Street)

Building heights in the Affordable Housing and Retail Precinct are shown as 7 storeys in both the draft Development Plan and the Framework Plan. Both experts considered that a 7 storey height (maximum 24 metres) is appropriate, given this scale will reflect the emerging character of Bills Street resulting from the Homes Victoria development.

Having regard to the evidence, the site conditions, the context including the Homes Victoria development and commercial land on the southern side of Bills Street opposite the subject land, the Committee agrees that 7 storeys in this location is appropriate.

(v) Internal Residential Precinct (interface with the Homes Victoria development)

Building heights are shown as 7 storeys in both the draft Development Plan and the Framework Plan.

Buildings F and G in the Homes Victoria site are 7 storeys fronting Bills Street, but the rear elevation (which backs onto the subject land) presents as 6 storeys, as Buildings F and G are set lower than the subject land due to the sloping topography.

Evidence and submissions

Mr Sheppard did not support 7 storeys in this location as it would create too much enclosure of the 4.5 metre wide landscaped shared path along the boundary between the subject land and the Homes Victoria site, and would likely result in unreasonable overshadowing of the Homes Victoria buildings opposite.

To mitigate these potential impacts, Mr Sheppard recommended a building height limit of 37 metres AHD at the 4.5 metre setback line opposite Building F, and 40 metres AHD at the 4.5 metre setback line opposite Building G. This would deliver buildings with a consistent roof line to the Homes Victoria buildings. He also recommended an overshadowing control be added to the DPO4 to protect the Homes Victoria development.

Professor McGauran supported the proposed 7 storey height limit, noting that the height of the existing primary northern education building is only slightly lower than the proposed height limit (although it is slightly further set back, at 8 metres). He considered that landscaping (including deep soil planting) would be important along this interface, to soften the visual impact of the buildings. He did not share Mr Sheppard's concerns in relation to amenity impacts on the Homes Victoria site.

A number of community submissions highlighted that the proposed development will have an unreasonable impact on the adjoining Homes Victoria development by virtue of unreasonable visual bulk and overshadowing.

The Proponent considered Mr Sheppard's proposed overshadowing control (which was based on the winter solstice) unreasonable. It submitted that most habitable windows and balconies in the Homes Victoria development would not be impacted. Further, the courtyards (communal open space) within the Homes Victoria development are overshadowed by their own buildings, with little relative impact from development on the subject land.

Discussion

The Committee does not support 7 storeys along the interface with the Homes Victoria site. The Committee acknowledges that the separation between buildings on the Homes Victoria site and

the subject land would be 9 metres, based on the setback of Buildings F and G (4.5 metres) and the proposed 4.5 metre setback on the subject land (containing the shared path). While 9 metres appears generous and would provide a suitable break between buildings at the upper levels, this area at ground level is likely to have level changes and could be separated by a high fence, restricting the sense of openness at ground level. The Committee agrees with Mr Sheppard that 7 storeys along this interface would result in an undesirable sense of enclosure of the shared path.

The Committee considers that the height of the southern buildings in this precinct should be reduced so that the roof line more closely reflects those of Buildings F and G on the Homes Victoria site. Buildings should present as 6 storeys, with 7 storeys behind. At 6 storeys, the roof line will sit above that of Buildings F and G given the slope of the land. Some stepping up of roof lines would be acceptable (but not as much as proposed in the DPO4 Framework Plan).

The Committee notes the concerns regarding potential amenity impacts on Buildings F and G. However, it does not consider that assessing overshadowing impact at the winter solstice (as suggested by Mr Sheppard) is an appropriate response. The more common test is based on overshadowing at the September equinox. Further, the Homes Victoria buildings are responsible for most of the overshadowing of the internal open space on the Homes Victoria site.

That said, the Committee recommends that additional direction be added to the Development Concept Plan requirements in the DPO4 relating to orientation to avoid overshadowing and loss of privacy both internal and external to the site.

Findings

The Committee finds:

- Buildings in this precinct should present as 6 storeys to the shared path, with 7 storeys behind.
- The DPO4 should be amended to require buildings to be oriented to avoid overshadowing and loss of privacy both internal and external to the site.

(vi) Robinson Road Precinct

Building heights in the Robinson Road Precinct are shown as:

- draft Development Plan – presenting as 3 storeys, with 4 storeys behind
- DPO4 Framework Plan (both consultation draft and revised) – indicative 4 storeys.

Evidence and submissions

Mr Sheppard considered 4 storeys will present as 4.5 storeys above the footpath level in Robinson Road, given the rising land to the east. He considered this too high, and recommended a 3 storey street wall (a maximum height of 11 metres above footpath level). He considered the height should be less than the heights proposed for Woodburn Road due to fewer trees along the frontage, lesser setback and the lack of cross-fall on this part of the site.

Professor McGauran considered the neighbourhood character of the western side of Robinson Road immediately opposite the subject land is less sensitive, as residences have high front fences and less contributory planting. The major contributor to this part of the street is the landscaping of the subject site. He supported buildings presenting as 3 storeys but with an overall 4 storey height limit as shown on the draft Development Plan, and noted these heights are consistent with the Homes Victoria development that fronts Robinson Road further south (opposite HA Smith Reserve).

The Proponent acknowledged that the Robinson Road interface needs to be considered carefully, but did not regard it as a streetscape that is particularly sensitive to built form. It noted that the existing buildings on the site are robust in their presentation to Robinson Road, with crossovers, areas of hard stand and poor quality aspect (albeit set back some distance from the road). It submitted that the proposed development will improve this interface, and noted that houses on the opposite side of the street are protected by their high front fences.

Ms Proposch submitted the Homes Victoria development is not an appropriate precedent to justify the proposed design response for Robinson Road given its location opposite the reserve, compared with the section of the subject land on Robinson Road which is opposite houses. She submitted that development along Robinson Road should present as two storeys.

Discussion

There is a level drop from the eastern side of Robinson Road to the western side, and dwellings on the western side are set lower.

The Committee notes Mr Sheppard's evidence that, given the slope of the land, 4 storeys on Robinson Road would appear as 4.5 storeys. This has the potential to exaggerate the height of buildings on the subject land fronting Robinson Road. Four storeys appearing as 4.5 storeys could result in a streetscape that undermined valued aspects of the local neighbourhood character. Further, there is less existing landscaping along this frontage, a smaller setback is proposed, and the high front fences of the houses on the opposite side of Robinson Road would provide limited protection from upward views towards the subject land.

The Committee considers the Homes Victoria development fronting Robinson Road provides a suitable scale to apply to the subject land's Robinson Road frontage, notwithstanding the different conditions on the opposite side of the street. Accordingly, an appropriate building height for Robinson Road is 'presenting as' 3 storeys above the footpath level (consistent with the Homes Victoria development), with an overall height limit of 4 storeys.

Findings

The Committee concludes:

- Buildings along the Robinson Road frontage should present as 3 storeys, with 4 storeys behind.

(vii) Recommendations

The Committee recommends:

Amend the 'Requirements for development' in Clause 4.0 of the revised Development Plan Overlay Schedule 4 (Document 33) as shown in Appendix E:

- a) Under the heading add a new requirement after the 'Building height and setbacks' requirements as follows:**

Layout of development

Buildings should be oriented to avoid excessive overshadowing or loss of privacy both internal and external to the site.

Amend the Framework Plan in the revised Development Plan Overlay Schedule 4 (Document 33) as shown in Appendix E:

- a) Extend the Woodburn Road Precinct to Auburn Road.**

b) In the legend, amend the heights to read:

- **ROBINSON ROAD PRECINCT – MAXIMUM 4 STOREYS (PRESENTING AS 3 STOREYS ABOVE THE ADJACENT FOOTPATH LEVEL)**
- **WOODBURN ROAD PRECINCT – MAXIMUM 4-6 STOREYS (PRESENTING AS 3-4 STOREYS ABOVE FOOTPATH LEVEL TO WOODBURN ROAD)**
- **AUBURN ROAD PRECINCT – MAXIMUM 7 STOREYS (PRESENTING AS 6 STOREYS ABOVE THE ADJACENT FOOTPATH LEVEL)**
- **INTERNAL RESIDENTIAL PRECINCT – MAXIMUM 7 STOREYS (PRESENTING AS 6 STOREYS ABOVE THE LEVEL OF THE BIKE/PEDESTRIAN CONNECTION).**

4.5 Setbacks

The draft Development Plan shows setbacks ranging from:

- 6 to 12 metres along Woodburn Road, where the Paul Thomson designed serpentine landscape is located
- 6 to 10 metres along Auburn Road
- 3 to 6 metres along Bills Street in the Affordable Housing and Retail Precinct
- 3 to 7 metres along Robinson Road
- 4.5 metres along the Homes Victoria site boundary, to be used for a landscaped publicly accessible bike/pedestrian connection.

The Framework Plan depicts:

- un-dimensioned 'Landscape Zones' along the Woodburn, Auburn and Robinson Roads frontages, with a series of large trees to be retained (the Landscape Zone along Robinson Road is comparably narrower than those along Woodburn and Auburn Roads)
- a minimum 4.5 metre building setback along the Homes Victoria site boundary (where the new shared path is to be located).

(i) Setbacks to streets and boundaries

Evidence and submissions

Mr Sheppard recommended setbacks consistent with the upper end of the setback ranges specified in the draft Development Plan, namely:

- 12 metres along Woodburn Road, which he considered responsive to the existing Paul Thomson landscape
- 10 metres along Auburn Road
- 7 metres along Robinson Road
- 6 metres along Bills Street.

While Mr Sheppard considered the 4.5 metre setback along the Homes Victoria boundary would provide enough room for a landscaped shared path, he considered the proposed building height is disproportionate to the setback, and recommended reducing the building height along this interface (see Chapter 4.4).

Professor McGauran considered setbacks should be responsive to landscape, with retention of existing trees and provision of new landscaping. He supported a range of setbacks along the street frontages, which he considered preferable to consistent setbacks. He supported the setback ranges specified in the draft Development Plan, noting that:

- 6 to 12 metres along Woodburn Road would facilitate buildings set back within the existing landscape setting
- 3 to 7 metres along Robinson Road is more generous than the 3 metre setback in the neighbouring Homes Victoria development, and would allow for deep soil planting and retention of trees along this frontage
- 3 to 6 metres is appropriate for Bills Street given its “*very urban form*”.

Professor McGauran’s evidence was that landscaping (including deep soil planting) would soften the visual impact of the buildings along Robinson Road and the Homes Victoria interface. He supported the 4.5 metre setback for the shared path, and noted that, when combined with the setback on the Homes Victoria site, there would be a 9 metre gap between buildings which would provide a sufficient visual break.

Mr Atkinson provided landscape evidence for the Proponent. He considered that the range of setbacks shown in the draft Development Plan are appropriate, having regard to vegetation to be retained. They would also allow deep soil areas on the periphery, which can sustain new canopy trees.

Ms Proposch submitted that front yards make an important contribution to the neighbourhood character of Robinson Road. She did not consider a 3 to 7 metre setback would be sufficient, having regard to the street wall height and to establish a garden setting.

The Proponent’s revised DPO4 included the following changes, largely based on Professor McGauran’s recommendations:

- a new setback consideration be added to “*ensure that buildings do not unreasonably impact on the streetscape*”
- the Landscape Concept Plan is to soften upper-level balconies and integrate upper-level skyline forms.

Discussion

Having regard to the existing landscaping, soil depth and opportunities for new planting of canopy trees, and the neighbourhood character (both existing and emerging), the Committee agrees with the performance-based statements within the DPO4 that setbacks are to be guided by the landscape conditions and streetscape response. The Committee supports the additional proposed wording in the Proponent’s revised version, which provides better context for design and decision making.

However, the Committee does not consider that the DPO4 (in its current or revised form) provides enough guidance or certainty in relation to setbacks. Having heard the evidence, the Committee considers that dimensioned setback ranges should be specified, and varied setbacks should be deployed to provide a responsive design outcome according to site conditions, but also to visually ‘break up’ the built form.

Mr Sheppard’s approach of applying a single minimum setback at the maximum of the range proposed by the draft Development Plan may lead to an unintended outcome of uniform setbacks. The Committee prefers the approach in the draft Development Plan of a setback range, which was supported by Professor McGauran and Mr Atkinson.

Having regard to both the urban design and landscape evidence, the Committee considers the ranges proposed in the draft Development Plan are suitable. Deep soil planting opportunities along the peripheries, especially Robinson Road and the Homes Victoria interface, will be

important in ensuring that landscaping along these interfaces is able to include canopy trees that will further soften the appearance of new development. The setback ranges specified in the draft Development Plan are sufficient to allow deep soil planting areas along all frontages.

The Committee supports the revisions to the DPO4 recommended by Professor McGauran in relation to setbacks not unreasonably impacting the streetscape and landscaping treatments to soften upper levels (with some minor adjustment to the wording).

Findings

The Committee finds:

- A range of setbacks, as shown in the draft Development Plan, should be reflected in the DPO4 to provide for greater certainty but also flexibility having regard to the landscaping conditions at the periphery of the subject land.

(ii) Building separation

Evidence and submissions

Professor McGauran considered that visual links through the subject land are important, as shown on the draft Development Plan with the 'campus style' building placement (Figure 7). He supported the nominated breaks between buildings shown in DPO4 Framework Plan and considered it particularly important to break up building form along the streetscape, especially Woodburn and Robinson Roads, both at ground level and above, as well as providing visual links between buildings into the open spaces in the interior of the subject land.

Mr Sheppard considered the Framework Plan could be less prescriptive about where these building breaks should be, and submitted an alternative Framework Plan (Document 12, extracted in Figure 9 on page 58 of this Report) which showed maximum street wall heights and setback dimensions but no detail regarding the internal arrangement of development on the subject land, including the location of breaks between buildings.

Ms Proposch submitted that the Framework Plan needs to clearly show block buildings and a pavilion approach with building breaks (like the draft Development Plan – refer to Figure 7, page 28), rather than a continuous line of built form.

The Proponent's revised DPO4 included the following changes (in summary), largely based on Professor McGauran's recommendations:

- ground level (and above) landscaped breaks at least 9 metres wide between new buildings, generally in the locations shown in the Framework Plan (Council suggested adding for the full height of the buildings)
- the Landscape Concept Plan is to:
 - provide details of visual links through new buildings to enable a visual connection from the street to the site's internal open spaces
 - soften upper-level balconies and integrate upper-level skyline forms.

Discussion

The Committee agrees with Professor McGauran's evidence that visual breaks between buildings are important, and the inclusion of a series of 9 metre landscaped breaks and additional visual breaks between buildings would facilitate this outcome. Greater direction in the DPO4 to ensure visual links through buildings to landscaped spaces would improve visual permeability and prevent

the potential for excessive massing across the site. The Committee supports the additional wording submitted with the Proponent's revised DPO4.

The Committee agrees with Mr Sheppard that there should be some flexibility in relation to where the visual breaks and links between buildings are located, however it considers that sufficient flexibility is provided by depicting these links as 'indicative' in the Framework Plan legend. It prefers this approach to removing the visual depiction of the links (as Mr Sheppard suggested).

While the Committee acknowledges Ms Proposch's submission that the Framework Plan should clearly show a pavilion approach with building breaks, it is satisfied that the guidance provided in the text of the DPO4 will ensure that continuous unbroken walls of built form from one end of the precincts to the other will not eventuate.

Findings

The Committee finds:

- Building separation within the subject land, facilitated by visual links and 9 metre wide landscaped setbacks, will create visual permeability through the subject land and break up the massing of development.

(iii) Recommendations

The Committee recommends:

Amend the 'Requirements for development' in Clause 4.0 of the revised Development Plan Overlay Schedule 4 (Document 33) as shown in Appendix E:

- a) Under the heading 'Building height and setbacks', add the following requirement to the third paragraph:**

Setbacks along street frontages are to be varied, within the following ranges:

- Robinson Road – setback range of 3 to 7 metres.
- Woodburn Road – setback range of 6 to 12 metres.
- Auburn Road – setback range of 6 to 10 metres.
- Bills Street – setback range of 3 to 6 metres.
- The boundary of the land at 1-12 Bills Street, Hawthorn (the Homes Victoria land) – minimum setback of 4.5 metres.

- b) Under the heading 'Tree retention, landscaping and open space', update the requirements to clarify that:**

- deep soil planting areas must be provided along the Robinson Road frontage and the interface with the land at 1-12 Bills Street, Hawthorn (the Homes Victoria land).

5 Traffic issues

5.1 The issues

The issues are:

- traffic congestion
- vehicle access arrangements.

5.2 Background

The draft Development Plan shows development of around 320 apartments and 550 square metres of retail, with basement parking. Two vehicle access points to the carpark are proposed, one in Bills Street and one in Robinson Road. The carpark is shown as containing around 690 car parking spaces (600 spaces for residents, 65 for residential visitors and 25 for the retail land uses).

The subject land currently provides 260 on-site car parking spaces, the majority of which are accessed from Robinson Road. These are not currently heavily used.

The request for an amendment was accompanied by a Transport Impact Assessment prepared by Stantec dated 4 May 2022 (the Stantec Report). It:

- assessed the 'base case' traffic in the area (existing traffic plus predicted traffic from the Homes Victoria development)
- estimated the likely traffic generated by the development shown in the draft Development Plan (1,280 vehicle movements a day, 128 in the morning and evening peaks)
- added the development generated traffic to the 'base case' traffic
- modelled the intersection performance at key intersections
- concluded that the surrounding road network including all intersections would operate within capacity and at acceptable levels.

5.3 Traffic congestion

(i) Evidence and submissions

The Proponent called traffic evidence from Jason Walsh of Traffix Group, who was asked to consider the traffic impacts of the draft Amendment. He had regard to the draft Development Plan and the Stantec Report in preparing his evidence.

Traffix Group undertook traffic counts in Woodburn and Robinson Roads and counts of turning movements at the Auburn Road intersections (Woodburn Road and Bills Street) to check and validate the Stantec traffic counts. The Stantec and Traffix counts were similar in the morning peak, but Stantec's counts were significantly busier in the evening peak.

Mr Walsh undertook his own SIDRA analysis of the key intersections, based on the more recent Traffix Group traffic counts. He applied the traffic generation rate assumed by Stantec (128 peak hour vehicle movements), which he did not query. His evidence was that his additional SIDRA analysis demonstrated that:

- the Auburn Road/Woodburn Road intersection will experience no material change and will continue to operate in the 'acceptable' category in both peak periods

- the Auburn Road/Bills Street intersection will experience change, with a decrease in intersection performance, but will operate in the 'very good' and 'excellent' categories for the morning and evening peaks.

Mr Walsh concluded that post-development traffic, when added to the 'base case' (existing traffic plus Homes Victoria traffic), would be within expectations for local streets, and that the key intersections would operate within acceptable levels.

Council's original submission raised concerns in relation to the traffic impacts of the proposal, but Council did not pursue this at the Hearing and did not call any traffic evidence. Council did however note that all the analysis done to date (including by Council's traffic engineers) has been based on the scenario in the draft Development Plan, which may not end up being developed. It noted that the DPO4 does not specify either the number of dwellings or the number of carparking spaces, and submitted that further assessment will be required when a development plan is submitted for approval and permit applications are made.

Several submitters raised concerns in relation to the amount of traffic that would be generated by a development of the scale proposed. They variously described existing congestion in the area as "*horrific*" and "*already jam-packed*". They felt that existing traffic congestion was understated in both the Stantec Report and in Mr Walsh's evidence, and were concerned that the additional traffic generated by the development would result in unacceptable congestion, particularly in local residential streets, that would detract from the amenity, liveability and quiet character of the area.

Some submitters questioned the accuracy of Mr Walsh's assessment of existing traffic in local residential streets. They pointed out that the tube counts in Robinson Road and Woodburn Road were done in December 2022, after most schools had finished for the year and at a time when there were minimal movements to and from Bills Street due to the construction of the Homes Victoria development.

Ms Arnadottir and Ms Williams summed up the concerns expressed by many submitters:

The very limited observations by Traffix need to be assessed in light of the actual experience of local residents. The fact is that there has been a very substantial increase in the amount of traffic utilising local roads such as Reserve Road, Robinson Road, Illawarra Road, Kooyongkoot Road and Berkeley Street as major avenues to get from Auburn Road to Riversdale Road. A significant part of this is associated with school traffic (especially at pick up and drop off times) getting through to Scotch College, Bialik College, Swinburne University of Technology, Auburn South Primary School and Auburn High School. In addition, as Traffix seems to acknowledge, both Auburn Road and Glenferrie Road have become much more heavily congested in recent times. The proposed development, on top of the [Homes Victoria] development, will substantially increase the volume of traffic using the surrounding residential streets.

(ii) Discussion

The traffic evidence indicates that there is some level of existing congestion in the area. For example, Mr Walsh's SIDRA analysis indicated that motorists currently experience an average delay in the peaks of between 54 and 60 seconds when turning right out of Woodburn Road into Auburn Road. Delays are not as significant for right turns out of Bills Street, but are on average 45 seconds in the morning peak, and 29 second in the evening peak.

Submitters reported a different 'lived experience' to that described in the Stantec Report and in Mr Walsh's evidence. Mr Walsh acknowledged that there is at times substantial queuing in Auburn Road of vehicles accessing Toorak Road. He also acknowledged that there may be times

when the average delays and queue times reported by him in Woodburn Road are exceeded, as several submitters suggested.

The Committee is satisfied that the assessment of existing traffic conditions was appropriate. The traffic counts undertaken by Stantec were checked, validated and updated by Mr Walsh with further counts undertaken over a range of days and times of day. Both Stantec and Mr Walsh reported average delays and queue times, and while these may be exceeded from time to time, it is appropriate for a traffic impact assessment to be based on peak averages, rather than isolated more extreme examples.

The evidence indicates that while there is some existing congestion in the area, it is unlikely to be materially worse when development traffic and Homes Victoria traffic is added. In particular:

- the worst performing intersection (Auburn Road/Woodburn Road) will continue to operate in the 'acceptable' category in both the morning and evening peaks
- the Auburn Road/Bills Street intersection will operate in the 'very good' category in the morning peak, and the 'excellent' category in the evening peak.

This could result in more drivers choosing to enter and exit the carpark from Bills Street rather than Robinson Road, reducing the pressure on Woodburn Road.

The Committee is satisfied that the evidence demonstrates that through traffic on Robinson Road and Woodburn Road, while increased, would still be well within the target traffic volumes. In response to a question from the Committee, Mr Walsh indicated that even if development generated traffic movements in Robinson Road were doubled, the street would still operate well within its design capacity as a predominantly local residential street (with a short section between Reserve Road and Woodburn Road being a collector street).

The Committee explored with Mr Walsh whether he thought upgrades to the Auburn Road/Woodburn Road intersection might be required, given it only operates in the 'acceptable' category, with queueing and delays in the peak periods. He was definitive in his response that this should not be the responsibility of the developer of the subject land, because:

- this is an existing condition (not one that will be caused by the development of the subject land)
- in any event, both he and Stantec found that the intersection would continue to operate within acceptable limits.

The Committee is satisfied that traffic issues have been adequately assessed for this stage in the planning process, and it sees no reason on traffic grounds why the draft Amendment should not be supported.

That said, traffic impacts will need to be assessed further in subsequent stages, when a development plan is submitted for approval and when permit applications are made. These assessments will be more detailed, as there will be more detail available about the number of apartments and onsite parking spaces. They should be based on updated assessments of existing traffic conditions, that may include actual (rather than projected) traffic volumes from the Homes Victoria site. Council is well placed as the Responsible Authority to critically assess the traffic impacts in these subsequent stages.

(iii) Findings

There is no reason on traffic grounds not to support the draft Amendment.

5.4 Vehicle access arrangements

(i) Evidence and submissions

Some submitters suggested that the subject land should be accessed off Auburn Road, to limit the impacts of development generated traffic on local streets including Robinson Road. The Proponent responded that Council's road register and Road Management Plan nominate Auburn Road as a Link (Secondary) Road, from which direct access to properties is typically limited. It submitted that the use of the local road network instead of Auburn Road for direct access is preferred under the Council's road register and Road Management Plan.

Ms Proposch submitted the number of on-site car parking spaces accessible from Robinson Road should be limited, to control traffic in Robinson Road. Mr Walsh did not consider this was necessary at this stage of the planning process. He further noted that the carpark shown on the draft Development Plan was accessible from both the Robinson Road and Bills Street entrances, and that drivers would likely preference the Bills Street entrance because the Bills Street intersection with Auburn Road performs (and will perform) substantially better than the Woodburn Road intersection (which would be used by vehicles accessing the carpark from the Robinson Road entrance).

(ii) Discussion

Council's Road Management Plan discourages direct access to properties off Link Roads such as Auburn Road. Mr Walsh described Auburn Road as functioning more like an arterial road than a Link Road. The Department of Transport discourages direct access off arterial roads.

(iii) Findings

The proposed vehicle access points shown on the Framework Plan in the DPO4 are appropriate.

6 Other issues

6.1 Affordable housing

Council submitted that there should be more clarity in the DPO4 in relation to the delivery of affordable housing. It submitted that affordable housing as defined in the PE Act can be a range of things. Professor McGauran appears to have understood this as ‘community housing’, but the DPO4 does not specify what form the affordable housing should take. Some submitters, including Council’s original submission, considered that the affordable housing should be dispersed throughout the development, not consolidated into the Affordable Housing and Retail Precinct.

The affordable housing provisions in the DPO4 are high level and not very specific. However, the Committee considers that it would not be appropriate to be any more specific about either the form or location of the affordable housing at this stage of the planning process. If the affordable housing takes the form of community housing, then it makes sense to have the affordable housing consolidated in one building, as registered housing providers generally prefer affordable housing in this form (as it is easier to manage than individual apartments dispersed throughout a block of privately owned apartments). If, on the other hand, the affordable housing takes the form of privately owned housing that is affordable for those on moderate incomes (such as key workers), it may not be necessary to consolidate the affordable housing into one precinct.

Some submitters felt that a 10 percent contribution was insufficient. In the Committee’s view, a 10 percent affordable housing contribution is generous when compared to similar developments elsewhere in metropolitan Melbourne.

The Committee recommends:

Amend the ‘Requirements for development’ in Clause 4.0 of the revised Development Plan Overlay Schedule 4 (Document 33) as shown in Appendix E:

- a) Under the heading ‘Affordable housing’, delete ‘in the location prescribed in Figure 1’.

Amend the Framework Plan in the revised Development Plan Overlay Schedule 4 (Document 33) as shown in Appendix E:

- a) In the legend, change the description of the Affordable Housing and Retail Precinct to:

BILLS STREET PRECINCT

MAXIMUM 7 STOREYS WITH RETAIL TO GROUND FLOOR

6.2 Open space and landscaping

The draft Development Plan shows in the order of 4,900 square metres of publicly accessible open space (see Figure 8 below), whereas the DPO4 refers to “*publicly accessible open space of at least 2,000 square metres in size generally in accordance with the location shown in Figure 1*” (see Figure 2 above).

Figure 8 Draft open space plan



Source: Consultation draft Development Plan

(i) Evidence and submissions

Professor McGauran's evidence was that the provision of private, communal and publicly accessible open space was commendable, and consistent with key planning policies and reference documents including Clause 19.02-6R Open space – Metropolitan Melbourne and the Urban Design Guidelines of Victoria. His evidence was:

The positioning of a network of public and semi-private shared midblock open space complemented by an enhanced perimeter landscape setting is an appropriate response to the site location.

Ms Jordan noted that tree retention, deep landscaped setbacks along all frontages and landscaped open spaces (including publicly accessible spaces) are important features of the draft Development Plan. Her evidence was that these will provide for community interaction and support the anticipated population on the subject land. She recommended:

- an additional objective be added to Clause 1.0 on the DPO4 referencing these commitments
- areas that are intended to be publicly accessible be identified in the DPO4 (Professor McGauran made a similar recommendation).

Mr Sheppard considered it unnecessary for the Framework Plan to prescribe the location of the open space. His position was that there should be flexibility in relation to the final positioning of the open space, to allow its location to respond to the final design of the built form and pedestrian

and cycling connections through the site. He noted that it could be located elsewhere on the site (for example on a corner) and deliver just as good an outcome.

Council's original submission supported the provision of publicly accessible open space, noting that it is consistent with Clause 19.02-6L-01 (Open Space - Boroondara) of the Planning Scheme. At the Hearing Council submitted that while this is clearly a potential benefit to the local community, it queried whether it could be regarded as publicly accessible if overnight access is restricted, and the public are unclear on where it is located and whether it is in fact publicly accessible.

The Committee asked the Proponent why the DPO4 only refers to 2,000 square metres of publicly accessible open space, whereas the draft Development Plan shows more than double that amount. The Proponent responded that the 4,600 square metres includes the landscaped setbacks along the street frontages and the shared path, and there may be room for argument about whether these areas are 'open space' or (in the case of the landscaped setbacks) 'publicly accessible'.

(ii) Discussion

The Committee agrees with Council that the publicly accessible open space will only deliver a community benefit if it is designed and located to be accessible and inviting to the public. This should be clearer in the wording of the DPO4, and the Committee has recommended wording to this effect in Appendix E.

The Committee does not consider that publicly accessible open space needs to be accessible 24 hours a day. Most of the community benefit from publicly accessible open space derives from its daytime use, rather than night-time use. Further, there could be security concerns for the new residents of the development if Woodburn Common was to remain open 24 hours a day.

With respect to the area of open space, Woodburn Common and Gardiner Square can truly be described as open space, and are clearly intended to be publicly accessible (at least during daylight hours). These collectively add up to 2,670 square metres. The Committee considers that the DPO4 should be amended to require at least 2,670 square metres of open space that is publicly accessible during daylight hours, and has provided wording to this effect in Appendix E.

The Committee agrees there should be some flexibility in relation to the location of the open space. However, it does not agree that the open space areas should be removed altogether from the Framework Plan, as Mr Sheppard suggested. An indicative location on the Framework Plan provides some certainty and comfort to the community that these open space areas will be provided. The Committee has recommended adjusted wording in the DPO4 and the legend to the Framework Plan to provide more flexibility in relation to the ultimate location of the open space.

The Committee supports the spirit of both Ms Jordan's recommendations, but notes that the Ministerial Direction on Form and Content of Planning Schemes states that a DPO schedule should contain a maximum of 5 objectives. The Committee has provided recommended wording for changes to the exhibited objectives to capture the spirit of Ms Jordan's recommendations, while meeting the Form and Content direction (refer to Appendix E). It has also recommended changes to the Framework Plan legend to indicate publicly accessible open space areas.

Finally, the Committee considers that:

- Greater emphasis should be given to the retention, respect and integration of the Paul Thomson serpentine landscape design along the Woodburn Road frontage. This is a key element of the Oculus landscape design and was highlighted by both urban design

experts and the landscape expert as being a critical element in successfully integrating the new development into its neighbourhood and softening its appearance from Woodburn Road.

- The wording of the 'Tree retention, landscaping and open space' requirements in Clause 4.0 of the DPO4 should be updated to clarify that the Landscape Zone and Open Space areas are primarily for landscaping and open space, and built form within these areas should be limited and should complement and integrate with the landscaping.

(iii) Recommendations

The Committee recommends:

Amend the 'Information requirements' in Clause 4.0 of the revised Development Plan Overlay Schedule 4 (Document 33) as shown in Appendix E:

- a) In the second dot point under 'Landscape Concept Plan', add an additional sub-point:

Measures to protect and maintain the Paul Thomson designed serpentine landscape along the Woodburn Road frontage.

Amend the 'Requirements for development' in Clause 4.0 of the revised Development Plan Overlay Schedule 4 (Document 33) as shown in Appendix E:

- b) Update the 'Tree retention, landscaping and open space' requirements to clarify that:

- the Paul Thomson serpentine landscape must be retained and respected and integrated into the new landscaping on the subject land
- built form within the Landscape Zone and Open Space areas must be limited, and any built form within those areas must complement and integrate with the landscaping
- publicly accessible open space of at least 2,670 square metres should be provided
- the location of the publicly accessible open space shown on the Framework Plan is indicative only
- publicly accessible open space should be located and designed to be inviting and accessible to the public during daylight hours

Amend the Framework Plan in the revised Development Plan Overlay Schedule 4 (Document 33) as shown in Appendix E:

- a) In the legend, change the description of the Open Space to:

INDICATIVE LOCATION OF PUBLICLY ACCESSIBLE OPEN SPACE

6.3 Pedestrian and bicycle links

Two publicly accessible links are proposed through the subject land:

- a pedestrian link connecting Robinson Road to Auburn Road through Woodburn Common (publicly accessibly during daylight hours)
- a shared pedestrian and bicycle link connecting Robinson Road to Bills Street along the Homes Victoria boundary (24 hour access).

North-south links are also proposed for residents of the subject land (that would not be publicly accessible). Refer to Figure 5.

There was general support for these links from all experts and Council. The Committee supports the links, as they will improve permeability through this large site and will provide visual breaks between buildings and additional landscaping opportunities that will soften the mass and appearance of the built form.

The main issue in dispute was whether the shared path should follow the proposed alignment, which includes 'dog leg' turns at Gardiner Square and Bills Street (supported by Professor McGauran and Ms Jordan), or whether it should be straightened to provide a more direct connection to Auburn Road (recommended by Mr Sheppard).

The Committee sees benefits in both options. The proposed 'dog leg' alignment connects Robinson Road to Bills Street, and directs users of the shared path to the retail facilities proposed in the southeast corner of the subject land. Mr Sheppard's alignment, on the other hand, creates a clear sight line between Robinson and Auburn Roads, and connects to Auburn Road slightly closer to the pedestrian crossing.

On balance, the Committee prefers Mr Sheppard's alignment and considers it would deliver a better outcome. A clear sight line from Robinson Road to Auburn Road would make the shared path more legible, and more inviting to the public travelling through the site. The 'exit' point at Auburn Road will be closer to the pedestrian crossing, used by people (including children) accessing destinations to the east such as the schools in Burgess Street and Auburn/Tooronga Roads. Good access will still be available to the retail spaces in the southeast corner of the site via Bills Street (which will itself have a shared path provided through the Homes Victoria site).

That said, the best alignment for the shared path may not be able to be determined until the location of the built form and open spaces are determined. The Committee therefore considers that the alignment should be shown on the Framework Plan as indicative only, to allow flexibility in the design of the shared path to best complement the built form layout on the site.

Mr Sheppard recommended the shared path be in a 9 metre wide landscaped setting for its entire length. As noted in Chapter 4, the Committee supports the proposed minimum 4.5 metre building setback from the Homes Victoria site boundary, which would create a 9 metre wide Landscape Zone along the western part of the path (when combined with the setbacks on the Homes Victoria site). The width along the eastern part required deliver a good urban design outcome will depend to some extent on the built form on either side of the shared path, and the location of open space. While the DPO4 should specify a minimum 4.5 metre Landscape Zone, the development plan is the appropriate stage of the planning process to determine whether any greater distance is required.

(i) Recommendation

The Committee recommends:

Amend the Framework Plan in the revised Development Plan Overlay Schedule 4 (Document 33) as shown in Appendix E:

- a) Straighten the alignment of the shared path to connect directly from Robinson Road to Auburn Road.**
- b) In the legend, change the description of the bike/pedestrian connection to:**

**INDICATIVE ALIGNMENT OF NEW SHARED BIKE / PEDESTRIAN CONNECTION AND
MINIMUM 4.5 METRE BUILDING SETBACK (24 HOUR PUBLIC ACCESS)**

6.4 Aboriginal cultural heritage

(i) Discussion

Ms Wilson submitted that the southwest corner of the subject land was registered as a “*site of significance to Aboriginal Heritage*”. She submitted:

The aboriginal connection with this land is much more real than just being within 200 m of a waterway being [Gardiners] creek. Currently it seems this issue has been left for me to raise. ... Only one of Hamton reports only briefly refer to this issue and in 2 sentences concludes that is not relevant to this stage of considering the change of zoning ... The government has asked us to be respectful and inclusive to all indigenous people and their significant site. It is not respectful to refer to it and then state categorically that I don't need to take it not account, I can in effect ignore it.

Ms Wilson had contacted a Wurundjeri elder through First Nation Heritage and the Wurundjeri Cultural Heritage Aboriginal Corporation (WCHAC) and expressed surprised that they were not party to the Hearing.

The Committee provided Ms Wilson with an opportunity to provide information confirming the registration status of the southwest corner of the subject land. She subsequently provided an email (Document 25) stating (in summary):

- any ‘high impact development’ triggers the need for a Cultural Heritage Management Plan (CHMP)
- apartments of between 4 and 7 storeys is high density impact and everyone would consider the requirement for a CHMP has been triggered
- a Cultural Heritage Advisor should be appointed to advise on whether the land should be rezoned.

The Victorian Aboriginal Heritage Register is not publicly available, as it contains culturally sensitive information. Neither Ms Wilson nor the Committee were able to search it to confirm whether the subject land (or any part of it) is in fact on the Register. In response to a question from the Committee, the Proponent advised that no part of the subject land is a registered Aboriginal cultural heritage place, but the southwest corner of the site is within 200 metres of Gardiners Creek.

The *Aboriginal Heritage Act 2006* requires a CHMP where a ‘high impact activity’ is proposed in an ‘area of cultural sensitivity’. Areas of cultural heritage sensitivity include registered Aboriginal cultural heritage places, as well as landforms and land categories that are generally regarded as more likely to contain Aboriginal cultural heritage. This includes land within 200 metres of a named waterway.

A CHMP may therefore be required before any ‘statutory authorisation’ is granted that would allow a high impact activity (unless exemptions apply under the *Aboriginal Heritage Act*). ‘Statutory authorisations’ are defined in the Act to include a planning permit, but not a planning scheme amendment. There is no need for a CHMP before the land is rezoned.

For completeness, the Committee notes that WCHAC was consulted in relation to the draft Amendment (by DELWP), and elected not to make a submission.

(ii) Conclusion

A CHMP may be required before the grant of planning permits for the redevelopment of the subject land, but it is not required before the draft Amendment is approved.

7 Form and content of the Amendment

7.1 Final form of Residential Growth Zone Schedule 2

(i) Design objectives

Council submitted that the RGZ2 had not been appropriately drafted as it did not contain any design objectives. It noted that the purposes of the zone seek to “*ensure residential development achieves design objectives specified in a schedule to this zone*” and argued that the head clause mandates that a schedule contain design objectives, because clause 32.07-1 states (Committee’s emphasis):

A schedule to this zone must contain the design objectives to be achieved for the area.

The Ministerial Direction on Form and Content of Planning Schemes indicates that Clause 1.0 of a RGZ schedule should either specify a maximum of 5 design objectives, or state ‘None specified’. This indicates that the use of the word ‘must’ in Clause 32.07-1 is not intended to create a mandatory requirement to specify design objectives.

In this case, the Committee does not consider that design objectives are needed in the RGZ2, as the DPO4 specifies what effectively amount to design objectives in Clause 1.0. Further, if design objectives were included in the RGZ2 that were not consistent with, or worded differently to, the objectives in the DPO4, confusion could arise.

The Committee supports not including design objectives in the RGZ2.

7.2 Final form of the Development Plan Overlay Schedule 4

(i) General drafting issues

PPN23 indicates that a DPO schedule should provide an appropriate level of guidance that will allow for a development plan that:

- is concise and flexible
- is not onerous to prepare
- is not overly prescriptive in a way that would stifle appropriate design innovation
- contains objectives and performance measure to help the responsible authority determine if a development plan is ‘generally in accordance’ with the schedule.

Ms Jordan undertook a comprehensive review of the draft DPO4, and concluded it was generally appropriate, subject to minor modifications. She supported the objectives in Clause 1.0 and considered that:

- the requirement in the draft DPO4 that a development plan be prepared for the whole of the land will ensure the redevelopment of the subject land is comprehensively master planned as a cohesive whole from the outset (even if it takes place in stages)
- the development plan will provide a high degree of certainty for the community as to the expected development outcomes
- the requirements for the development plan under the draft DPO4 are generally in line with the standard practice for a project of this type.

The Committee considers that the DPO4, subject to some drafting changes, generally strikes the right balance between precision and flexibility. It is not overly prescriptive, and should not stifle

appropriate design innovation. The objectives and performance measures are generally clearly expressed, and will help Council (as the responsible authority) determine if a development plan is 'generally in accordance' with the DPO4. That said, Council raised concerns that some of the language in the DPO4 needed to be tightened up. The Committee agrees, and has recommended changes in Appendix E.

On a more general note, the Committee found the order of provisions in the DPO4 somewhat confusing. The Committee has reordered some provisions to improve legibility.

Further, some of the requirements in the DPO4 were expressed as requirements for a future development plan, while others were expressed as requirements for future development. The DPO head clause (Clause 43.04) provides a clear head of power for a schedule to specify requirements for a development plan, but not requirements for development. The Committee has reworded relevant requirements to express them as requirements for the development plan (rather than of development).

Reordering of provisions is not tracked in Appendix E, but changes to the wording of provisions is tracked.

(ii) Objectives

While Ms Jordan supported the exhibited objectives in Clause 1.0 of the DPO4, she recommended some additional objectives to cover all key aspects of the future development, including:

- landscaping and open space (discussed in Chapter 6.2)
- the retail components
- housing diversity which includes the delivery of affordable housing
- the improvements to the public domain (including Council land), particularly to Bills Street.

The Ministerial Direction on the Form and Content of Planning Schemes states that a DPO schedule should contain no more than 5 objectives.

As stated in Chapter 6.2, the Committee supports the spirit of Ms Jordan's recommendation for an additional objective in relation to for landscaping and open space, and has incorporated it into existing objectives, to meet the requirements of the Form and Content Direction.

The Proponent's revised DPO4 (Document 33) included an additional objective about providing for limited retail uses to meet every day needs of the local community. While the Committee has no concerns with such an objective, the retail components are not a key feature of the proposal, so the Committee has recommended its deletion to meet the 5 objective limit.

A reference to housing diversity has been added to the first objective in the Proponent's revised DPO4. The Committee supports this inclusion.

While the intended improvements to the public domain (particularly Bills Street) are an important element of the proposed development plan, they are not (in the Committee's view) sufficiently important to be included in the objectives (which would displace one of the existing objectives if the 5 objective limit is to be met). They are better dealt with through requiring a Public Realm Plan (see below).

(iii) Indicative building height

The DPO4 expresses heights as “*maximum indicative building heights*” in the text and “*indicative storey heights*” in the Framework Plan legend. The Committee does not support the reference to ‘indicative’ heights. A considerable amount of work has been done to establish maximum heights that can be accommodated on the subject land. They are not indicative – they are carefully considered and have been the subject of further expert consideration by Mr Sheppard and Professor McGauran. References to ‘indicative’ heights should be replaced with ‘maximum height’. Some flexibility will remain in relation to heights, as the development plan only needs to be ‘generally in accordance’ with the DPO4, and permits only need to be ‘generally in accordance’ with the approved development plan.

Clause 4.0 of the DPO4 includes the following:

The edges of the buildings, building heights and setback envelopes shown in *Figure 1* are indicative only. Minor variations, other than to dimensioned setbacks, resulting from the detailed design may be acceptable provided the objectives of Clause 1.0 are met, to the satisfaction of the responsible authority.

The Committee does not support this provision. It adds nothing to the guidance provided by the DPO4 to future decision-makers beyond the requirement that the development plan must be ‘generally in accordance’ with the DPO4, and creates uncertainty. It should be deleted.

(iv) The Bills Street upgrades

Ms Jordan recommended that the DPO4 provide further information on the scope of the Bills Street upgrades, either through the Framework Plan or by an additional requirement in Clause 4.0 for a ‘Public Realm Plan’ that:

- identifies the intent behind the upgrade works
- nominates the extent to which footpaths are to be upgraded
- nominates street lighting, bike parking and street furniture.

The Committee agrees that the DPO4 should include a requirement for a Public Realm Plan as outlined by Ms Jordan that identifies the intent behind the upgrade works and provides some detail about the upgrades proposed. It has added this to the Information Requirements for the development plan in Appendix E. However, the blue shading on the Framework Plan adequately identifies the extent (area) where upgrades are required.

(v) Community consultation requirements

Council submitted that the DPO4 (if supported) should include a community engagement provision similar to that which is included in DPO1 and DPO3 of the Planning Scheme. The DPO1 applies to the Methodist Ladies College and includes the following requirement:

The development plan and any amendment to the plan must be exhibited for a period of two weeks. The responsible authority must take into account any comments received when considering the development plan or any amendment to the plan.

The DPO3 applies to the Kew Residential Services site, and includes a decision guideline that requires the Minister for Planning (as responsible authority) to consider Council’s views before approving the development plan.

Council referred the Committee to a “*more comprehensive*” community engagement provision in DPO11 of the Yarra Planning Scheme, which applies to the Amcor site in Alphington. That DPO includes the following requirement:

A Community Engagement Strategy which establishes the mechanisms by which the community will be provided with information and opportunities for feedback in relation to the prepared development plan.

The development plan shall be available for public inspection for 28 days prior to its consideration by the responsible authority.

The Committee does not support including such a requirement in this instance as:

- the Department no longer accepts these requirements in DPO schedules and has not done so for some years
- there is no express power within Clause 43.04 (the DPO head clause) to include consultation requirements in relation to a development plan
- inserting such a requirement may result in the requirements of the schedule being inconsistent with the statutory obligations of the responsible authority to assess and approve a development plan within certain timeframes
- the community has already been consulted in relation to the draft Amendment and the draft Development Plan
- as noted in Chapter 3.4, Council indicated to the Committee that it is 'standard practice' for Council to consult with the community before approving a development plan in any event.

(vi) The Framework Plan

Ms Jordan identified the Framework Plan as a key element that guides the preparation of a development plan, and recommended:

- identifying open space areas that are expected to be publicly accessible
- specifying a number of total trees in a group to be retained
- locating the retail space on the corner of Auburn Road and Bills Street, to maximise its benefit to the community
- identifying the preferred location of a direct pedestrian connection with the Homes Victoria land
- improved graphics for the primary access points and clarify that this relates to vehicle access to a basement car park
- specifying minimum setback dimensions (given they appear to be based on existing building setbacks and to ensure retention of nominated canopy trees)
- providing more clarity around what is intended in relation to the breaks between the buildings, including depicting the visual links between building forms contemplated on the draft Masterplan (see Figure 4), which she considered would be more as 'secondary links' rather than physical breaks in built form.

The Committee generally supports these recommendations (some of which were incorporated into the Proponent's preferred version of the DPO4), except identifying the location of the pedestrian connection with the Homes Victoria land. The Committee does not have sufficient information to identify the best location for this connection. In any event, the best location will likely depend on the general location and layout of the open space and built form, so this is a matter that is more appropriately dealt with at development plan stage rather than in the Framework Plan.

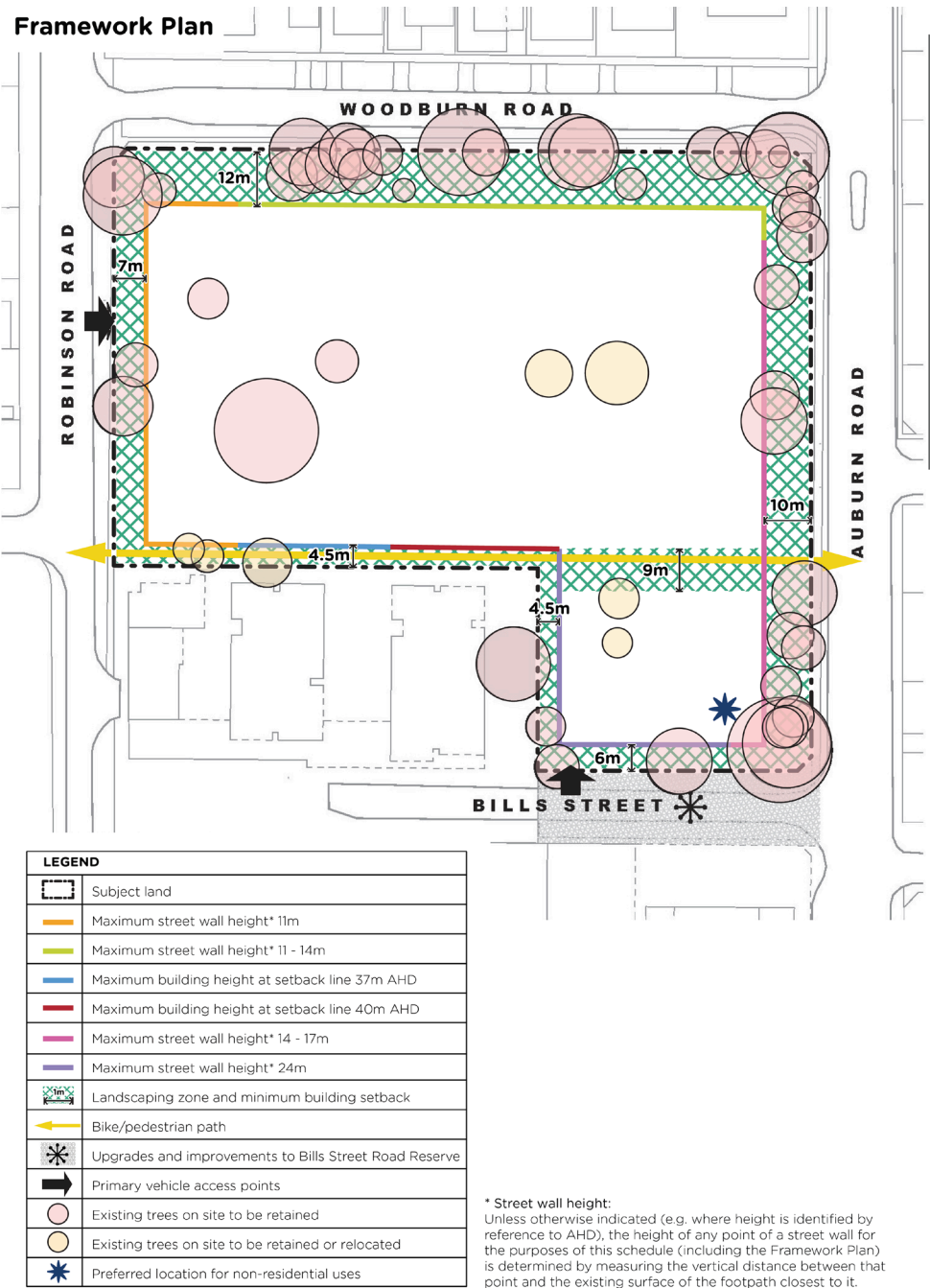
Mr Sheppard recommended that much of the detail (particularly in relation to the location of built form and open space) be removed from the Framework Plan, to allow flexibility in the

development plan and in the final design. His recommended Framework Plan is extracted in Figure 9 below.

Mr Sheppard's more 'minimalist' approach was not supported by the Proponent or its witnesses. The Proponent submitted that the more detailed Framework Plan in its revised DPO4 provided more helpful guidance to future decision makers. It queried whether Mr Sheppard's Framework Plan is *"consistent with the expressed desire of the community and the Council for transparency and certainty in terms of future outcomes on this land"*.

On balance, the Committee considers the Framework Plan should contain more detail than that recommended by Mr Sheppard, notwithstanding that it would be accompanied by (and read and interpreted with) the text of the DPO4. While the Committee supports maintaining flexibility in the DPO4 to allow for innovative design approaches, this must be balanced against providing the community (and Council) with some degree of certainty as to the general layout and scale of the future development on the subject land. Where it considers more flexibility is required (for instance, in the location of the open space), the Committee has recommended additional wording in the DPO4 in Appendix E.

Figure 9 Mr Sheppard’s recommended Framework Plan



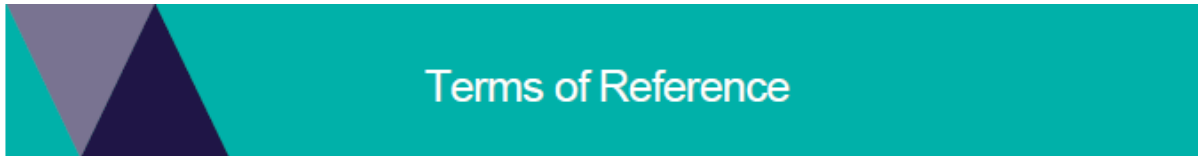
Source: Document 12

(vii) Recommendation

The Committee recommends:

- Make drafting changes to the revised Development Plan Overlay Schedule 4 (Document 33) as shown in Appendix E to:**
- a) generally improve the structure, precision and clarity of the Schedule**
 - b) implement the remaining expert recommendations supported by the Committee**
 - c) ensure consistency with the Ministerial Direction on the Form and Content of Planning Schemes.**

Appendix A 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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Land, Water
and Planning

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	Tony Doan
2	Environment Protection Authority (Victoria)
3	Robert Money
4	M Wilson
5	Alan Gerloff
6	Boroondara City Council
7	Susan S
8	Don and Petrushka Owen
9	Victoria Beale
10	Oliver Carton
11	Mark Gu
12	Ann Gray
13	Sandra Williams
14	Danielle and Robert Frost
15	John & Wendy Hick
16	Clinton Milroy
17	Kevin Chin
18	Ingibjorg Arnadottir
19	Gail Moody and Francis McGinley
20	Mary Richardson
21	Mark and Linda Kerr
22	Anthony McPhee
23	Eliza Bartlett and Kamil Bober
24	Susan S (surname not provided)
25	Michael and Adele Cook
26	David Robson
27	Sandy Cameron and Talitha Becke
28	Oscar Sailing
29	Boyce and Rhonda Pizzey
30	Ye Ping
31	Sheree Proposch

32	Ailsa Wilson
33	Bronwyn and Tony Sterck
34	Fiona Pearse
35	Hamish Taddell
36	Daniel Wang
37	B. Zhang
38	Department of Transport

Appendix C Parties to the Hearing

Submitter	Represented by
Hamton Group Pty Ltd and the University of Melbourne on behalf of UoMC Ltd	Nicholas Tweedie of Counsel instructed by Tamara Brezzi of Norton Rose Fulbright who called the following expert evidence: <ul style="list-style-type: none">- urban design from Rob McGauran of MGS- town planning from Sophie Jordan of Contour Consultants- traffic engineering from Jason Walsh of Traffix Group
City of Boroondara	John Rantino of Maddocks, who called the following expert evidence: <ul style="list-style-type: none">- urban design from Mark Sheppard of Kinetica
Sandra Williams	Neil Young KC
Ingibjorg Arnadottir	Neil Young KC
Sheree Proposch	
Ailsa Wilson	
Danielle Frost	Did not appear, but provided a further written submission

Appendix D Document list

No.	Date	Description	Presented by
1	14 Jun 20	Terms of Reference	Minister for Planning
2	29 Oct 22	Letter of Referral	Department of Environment, Land, Water and Planning (DELWP)
2a	31 Oct 22	Consultation draft Amendment documents including supporting reports: <ul style="list-style-type: none"> - Contamination Report - Design Framework Plan - Planning Submission - Site Services Report - Stormwater Report - Title Re-establishment Survey Plan - Titles, Instruments and Plans - Transport Impact Assessment - Affordable Housing Report - Arborist Report 	DELWP
2b	"	Consultation draft Development Plan prepared by Woods Bagot and Oculus	"
2c	"	Referred submissions	"
2d	"	Relevant provisions of the Boroondara Planning Scheme	"
3	15 Nov 22	Directions Hearing Letter	PPV
4	15 Dec 22	Directions and Timetable	"
5	"	Word version of DPO4 (Exhibited version formatted by Committee)	"
6	19 Dec 22	Committee Chair declaration letter	"
7	27 Feb 23	Landscape Evidence Statement of Darren Atkinson	Proponent
8	"	Traffic Engineering Evidence Statement of Jason Walsh	"
9	"	Planning Evidence Statement of Sophie Jordan	"
10	"	Urban Design Evidence Statement of Rob McGauran	"
11	"	Urban Design Evidence Statement of Mark Sheppard	Council
12		Revised Framework Plan	"
13	14 Mar 23	Part A submissions	Proponent
14	"	Part B submissions	"

No.	Date	Description	Presented by
15	15 Mar 23	Timetable and Distribution List (version 2)	PPV
16	17 Mar 23	Presentation	Sheree Proposch
17	"	Submission	Ingibjorg Arnadottir and Sandra Williams
18	"	Letter to the Committee regarding the AIID project from Professor James McCluskey	Proponent
19	"	Committee book	"
20	19 Mar 23	Submission	Danielle Frost
21	20 Mar 23	Reply evidence of Mark Sheppard to Rob McGauran	Council
22	"	Recirculated Hearing Timetable with current meeting link and updated distribution list	PPV
23	"	Email clarifying source of information regarding car parking numbers for the Homes Victoria development and filing revised presentation	Sheree Proposch
23a	"	Revised presentation	"
24	21 Mar 23	Submission and photographs	Ailsa Wilson
25	"	Email regarding Aboriginal Cultural Heritage matters pertaining to the site	"
26	22 Mar 23	Presentation slides of Mr Sheppard's evidence	Council
27	"	Prof McGauran's Evidence Statement with corrected map on pages 29 and 33	Proponent
28	"	Walk score analysis presented by Prof McGauran	Proponent
29	"	Submission	Council
30	23 Mar 23	9 Bills Street, Hawthorn, Melbourne VIC - Walk Score	Council
31	"	125 Riverdale Road, Hawthorn, Melbourne VIC - Walk Score	Council
32	"	Letter to the Vice Chancellor from Minister Tierney	Proponent
33	24 Mar 23	Revised DPO4 with suggested changes	Proponent

Appendix E Recommended Development Plan Overlay Schedule 4

Tracked against the Proponent's revised version tabled on 23 March 2023 (Document 33)

[Tracked Added](#)

~~Tracked Deleted~~

[Reordering of provisions for clarity is not tracked.](#)

SCHEDULE 4 TO CLAUSE 43.04 DEVELOPMENT PLAN OVERLAY

Shown on the planning scheme map as **DPO4**.

442-450 AUBURN ROAD AND 9 BILLS STREET, HAWTHORN

1.0 Objectives

- To achieve an integrated development of the land comprising more intensive predominantly residential development, including the provision of diverse and affordable housing.
- To establish a new built form scale and character of development that transitions down in height to established residential neighbourhoods on the opposite sides of Woodburn Road and Robinson Road.
- To [set buildings within a landscaped streetscape setting](#), retain existing identified canopy trees and supplement them with new canopy tree planting and landscaping that complements and enhances the surrounding area's landscape character and provides an attractive outlook for occupants of new development, [and to provide publicly accessible, landscaped open space and pedestrian and shared pathways](#).
- To provide appropriate levels of on-site car and bicycle parking within basements that reflect the transport needs of future residents, accessed from locations which avoid unacceptable impacts on the safe and efficient operation of the local street network.
- To ensure new development achieves a net zero carbon outcome in accordance with the Climate Active Framework and best practice water sensitive urban design.
- ~~▪ To provide for limited retail uses to meet every day needs of the local community.~~
- ~~▪ To set buildings within a landscaped streetscape setting that includes publicly accessible, landscaped pedestrian and shared pathways.~~

2.0 Requirement before a permit is granted

A permit may be granted to use or subdivide land, construct a building or construct or carry out works before a development plan has been prepared to the satisfaction of the responsible authority, provided the responsible authority is satisfied that the subdivision, use, building or works will not prejudice the future use or development of the land in an integrated manner.

3.0 Conditions and requirements for permits

The following [conditions and/or requirements apply to permits](#) ~~are to be applied to any permit granted to construct a building or construct or carry out works on the land:~~

Affordable housing

[This requirement only applies to the first permit granted to construct a building on the land.](#)

~~Before~~ ~~Prior to commencement of the~~ development, [starts](#) the landowner must enter into an agreement with the responsible authority under Section 173 of the *Planning and Environment Act 1987* to deliver an affordable housing contribution [equivalent to 10% of all new dwellings](#)

provided on the land, in accordance with the preferred delivery method outlined in the development plan, or by an alternative method of an equivalent value, to the satisfaction of the responsible authority.

The agreement must specify the timing of the delivery of the contribution and a mechanism for the reporting of the outcome to the responsible authority.

The landowner must meet all the expenses of the preparation and registration of the agreement, including the reasonable costs borne by the responsible authority.

Construction Management Plan

~~Before~~ ~~Prior to commencement of the~~ development, starts a Construction Management Plan (CMP) must be submitted to and approved by the responsible authority. The CMP can be prepared and approved in stages, and must include the following information:

- Staging of construction.;
- Protection of ~~identified significant~~ vegetation to be retained.;
- Management of public access and linkages around the site during construction.;
- Site access, parking and traffic management during construction.;
- Any works within the adjacent road reserve.;
- Sediment control and site drainage during construction.;
- Hours of construction.;
- Control of noise, dust and soiling of roadways during construction.;
- Discharge of polluted waters during construction.;
- Demolition and excavation.;
- Storage of construction materials.;
- Location of site offices, and cranes.;
- Management of pPublic safety during construction.;
- Management of potentially contaminated materials.;
- Collection and disposal of building and construction waste.;
- Methodology for responding to complaints associated with the construction works. ~~and~~
- Site manager contact details.

Tree Protection and Management Plan

~~Before~~ ~~Prior to commencement of the~~ development, starts an appropriately detailed Tree Protection and Management Plan (TPMP) must be submitted to and approved by the responsible authority. The TPMP must include:

- Identification of all trees on the site to be retained.
- Details of Tree Protection Zones, as per AS4970-2009 Protection of Trees on Development Sites, for all trees to be retained on the site and for all trees on neighbouring properties (including the public open space trees realm) where any part of the Tree Protection Zone falls within the ~~subject~~ site.;
- Protection measures to be utilised and at what stage of the development (demolition, construction, landscaping) they will be implemented.;
- Appointment of a project arborist detailing their role and responsibilities.;
- Stages of development at which the project arborist will inspect tree protection measures. ~~and~~;
- Monitoring and certification by the project arborist of implemented protection measures.
- ~~▪ A Tree Protection Plan (TPP) in accordance with AS4970-2009 Protection of Trees on Development Sites that is~~
 - ~~▪ Legible, accurate and drawn to scale;~~
 - ~~▪ Indicates the location of all tree protection measures to be utilised and;~~
 - ~~▪ Includes the development stage (demolition, construction, landscaping) of all tree protection measures to be utilised and;~~

~~— Includes a key describing all tree protection measures to be utilised.~~

4.0 Requirements for development plan

Interpretation

In this schedule, the Homes Victoria land means the land at 1-12 Bills Street Hawthorn.

For the purpose of the development plan, building height is measured in storeys above ~~natural~~ existing ground level (or, where specified, above existing footpath level). It does not include architectural features, building services or a basement.

Objectives

A development plan must achieve the objectives of Clause 1.0 and be generally in accordance with the requirements and Framework Plan at *Figure 1* of this schedule.

Information requirements

A development plan must ~~show or include the following information to the satisfaction of the responsible authority, as appropriate:~~

- A survey plan showing existing ground levels.
- A Development Concept Plan ~~which shows~~ showing:
 - The land to which the development plan applies.
 - The proposed use and development of each part of the land, including new building locations, car parking areas, vehicular and pedestrian accessways and open spaces.
 - The indicative staging of development and details of ~~interim~~ arrangements to manage impacts of development of subsequent stages on previously completed stages.
 - The number and type of dwellings.
 - The ~~, as well as~~ extent of retail uses.
 - Building envelopes including the siting, setbacks and heights of buildings in both storeys (overall storeys and storeys presenting to the street) and metres above a defined height datum.
 - Preferred materials, finishes and expression of new buildings, including proposed treatments for key entrances, balconies and terraces.
 - Fencing types.
 - ~~— orientation and other principles to avoid excessive overshadowing or loss of privacy.~~
 - Car park and access principles, including location of crossovers.
 - The preferred delivery method for affordable housing.
 - The location of private, communal and publicly accessible open space ~~and availability and maintenance of open space areas.~~
 - The location of any communal facilities ~~configured to enable effective use of the adjoining open spaces, where applicable.~~
 - Linkages to surrounding areas, including the Homes Victoria land (where allowed by that land's owner).
 - Areas of the site (including links, pathways and open spaces) that will be accessible to the public, and the times at which they will be accessible.
- A Landscape Concept Plan showing:
 - Measures to protect and maintain the Paul Thomson designed serpentine landscape along the Woodburn Road frontage.
 - Trees to be retained.

- Tree protection zones for retained trees and a tree protection strategy to protect trees during construction and after the development is complete. The tree protection strategy must be consistent with the TPMP.
- Areas of new planting and planting themes.
- Proposed facilities including pedestrian paths, shared paths and fence details.
- Communal and/or public open space and provision for pedestrian and bicycle links to and through this space.
- Details of the visual links through new buildings to enable a visual connection from the street to the site's ~~internal~~ open spaces.
- Landscaping of upper level balconies, including indicative sections for planter treatments, to soften and integrate upper-level ~~skyline~~ forms.
- Details of the proposed access to and management of landscaped areas, ~~and the ways in which the Paul Thompson landscape design integrity is to be retained at the Woodburn Road frontage~~
- An ESD Principles Report that demonstrates how development will achieve the ~~Environmentally Sustainable Design~~ (ESD) and Water Sensitive Urban Design (~~WSUD~~) objectives and ~~associated~~ requirements of this schedule.
- An Integrated Transport Plan including:
 - Traffic management and traffic control works required to facilitate the development.
 - Car parking requirements for the development including the number of spaces and the location and layout of all car parking areas.
 - Public transport availability.
 - Bicycle parking and end of trip facilities
 - Bicycle and pedestrian ways and connections.
- A Public Realm Plan that describes the proposed upgrades to the Bills Street Road Reserve in accordance with the requirements of this schedule, including:
 - The extent to which footpaths are to be upgraded.
 - Street lighting, bike parking and street furniture proposed to be upgraded or provided.

Requirements for development

The development plan must require development to meet the following requirements:

Building height and setbacks

All building heights ~~are to~~ should be generally in accordance with the maximum ~~indicative~~ building heights shown in *Figure 1*.

A residential storey should have a maximum floor to floor height of 3.5 metres and a non-residential storey should have a maximum floor to floor height of 5 metres.

Buildings ~~are to~~ should be set back to facilitate the retention of the Paul Thomson designed serpentine landscape along Woodburn Road and ~~identified~~ existing canopy trees on the land identified for retention in, ~~generally in accordance with~~ *Figure 1*.

Setbacks should ~~and~~ ensure that ~~they~~ buildings do not unreasonably impact on the streetscape. Setbacks along street frontages should be varied, within the following ranges:

- Robinson Road – setback range of 3 to 7 metres.
- Woodburn Road – setback range of 6 to 12 metres.
- Auburn Road – setback range of 6 to 10 metres.
- Bills Street – setback range of 3 to 6 metres.
- The boundary of the Homes Victoria land – minimum setback of 4.5 metres.

Ground level ~~(and above)~~ landscaped breaks of at least 9 metres in width ~~are to~~ should be provided between new buildings, generally in accordance with the locations shown in *Figure 1*. The landscaped breaks should be open to the sky.

Visual links ~~should be provided~~ through new buildings to landscaped spaces ~~are to be provided~~, generally in ~~accordance with~~ the locations shown in *Figure 1*.

~~The edges of the buildings, building heights and setback envelopes shown in Figure 1 are indicative only. Minor variations, other than to dimensioned setbacks, resulting from the detailed design may be acceptable provided the objectives of Clause 1.0 are met, to the satisfaction of the responsible authority.~~

~~The development plan must identify how u~~Upper levels of buildings ~~will~~ should be designed to ensure ~~that~~ they do not unreasonably impact on the character of the streetscape through measures such as articulation, landscaped balconies, ~~and~~ materials and finishes and recessing.

Layout of development

Buildings should be oriented to avoid excessive overshadowing or loss of privacy both internal and external to the site.

Communal facilities should be located and configured to enable effective use of the adjoining open spaces, where applicable.

Design responses

~~Design responses for each stage of the development that~~ New development should include ~~provide for~~ a diversity of design approaches and materials and finishes that assist to integrate the overall development with the surrounding neighbourhood and avoid homogenous expression ~~where possible~~.

Land use

New development ~~is to~~ should be substantially dwellings, except for permissible retail uses, which should be confined to the location prescribed in *Figure 1*, to the satisfaction of the responsible authority.

Affordable housing

10% of all new dwellings provided on the land ~~are to~~ should be provided as Affordable Housing, as defined in the *Planning and Environment Act 1987*, ~~in the location prescribed in Figure 1~~, to the satisfaction of the responsible authority.

Environmentally sustainable design

New development ~~is to~~ should meet the following Environmentally Sustainable Design (ESD) outcomes:

- 5 Star Greenstar ~~;~~
- 7 star NatHERS Rating ~~;~~
- Net zero carbon certified in accordance with the Climate Active Framework ~~;~~ ~~and~~
- Best practice performance objectives for stormwater quality as contained in the *Urban Stormwater - Best Practice Environmental Management Guidelines* (Victorian Stormwater Committee, 1999).

Tree retention, landscaping and open space

All trees identified in *Figure 1* ~~are to~~ should be retained, protected in accordance with the TPMP and integrated with development, ~~unless as contemplated~~ in accordance with the legend to *Figure 1*.

Landscaping Zones and Open Space should be provided in the locations shown in Figure 1.

Locations of Open Space in Figure 1 are indicative only.

~~Within the Landscaping Zone and Open Space identified in Figure 1, development is to be complemented by integrated landscaping which~~ The Landscaping Zones and Open Space should be designed and landscaped to:

- Enhance, and respect and complement the design integrity of the Paul Thomson designed serpentine landscape.
- Enhance retained canopy trees and the landscape character of the neighbourhood.
- ~~;~~ ~~and p~~ Provides high quality private and communal open space for future residents.
- Provide high quality publicly accessible open space areas.

Built form within the Landscaping Zones and Open Space areas should be limited, and any built form must complement and be integrated with the landscaping.

New development ~~is to~~ should be designed and sited to provide:

- ~~M~~inimum garden area, as defined by Clause 73.01, of at least 35% of the site's area.;
- ~~D~~eep soil planting areas in excess of the minimum required by Standard D10 of Clause 58.03-5, including opportunities for deep soil planting along the Robinson Road frontage and the interface with the Homes Victoria land.;
- ~~publicly accessible~~ Open space of at least ~~2,000~~2,670 square metres, ~~in size~~ generally in ~~accordance with~~ the indicative locations shown in *Figure 1*, that is publicly accessible, and designed and located to be inviting and clearly accessible to the public during daylight hours; and.
- ~~P~~pedestrian connections to the adjacent public housing redevelopment at ~~1-12 Bills Street, Hawthorn~~ the Homes Victoria land, where permitted by that land's owner.

Car Parking, access and movement

Basement car parks should be designed and sited to minimise their visual impact on the streetscapes, whilst ensuring the safe and efficient movement of vehicles.;

Crossovers ~~Primary vehicular basement access points~~ should be located generally in accordance with locations shown in *Figure 1*.

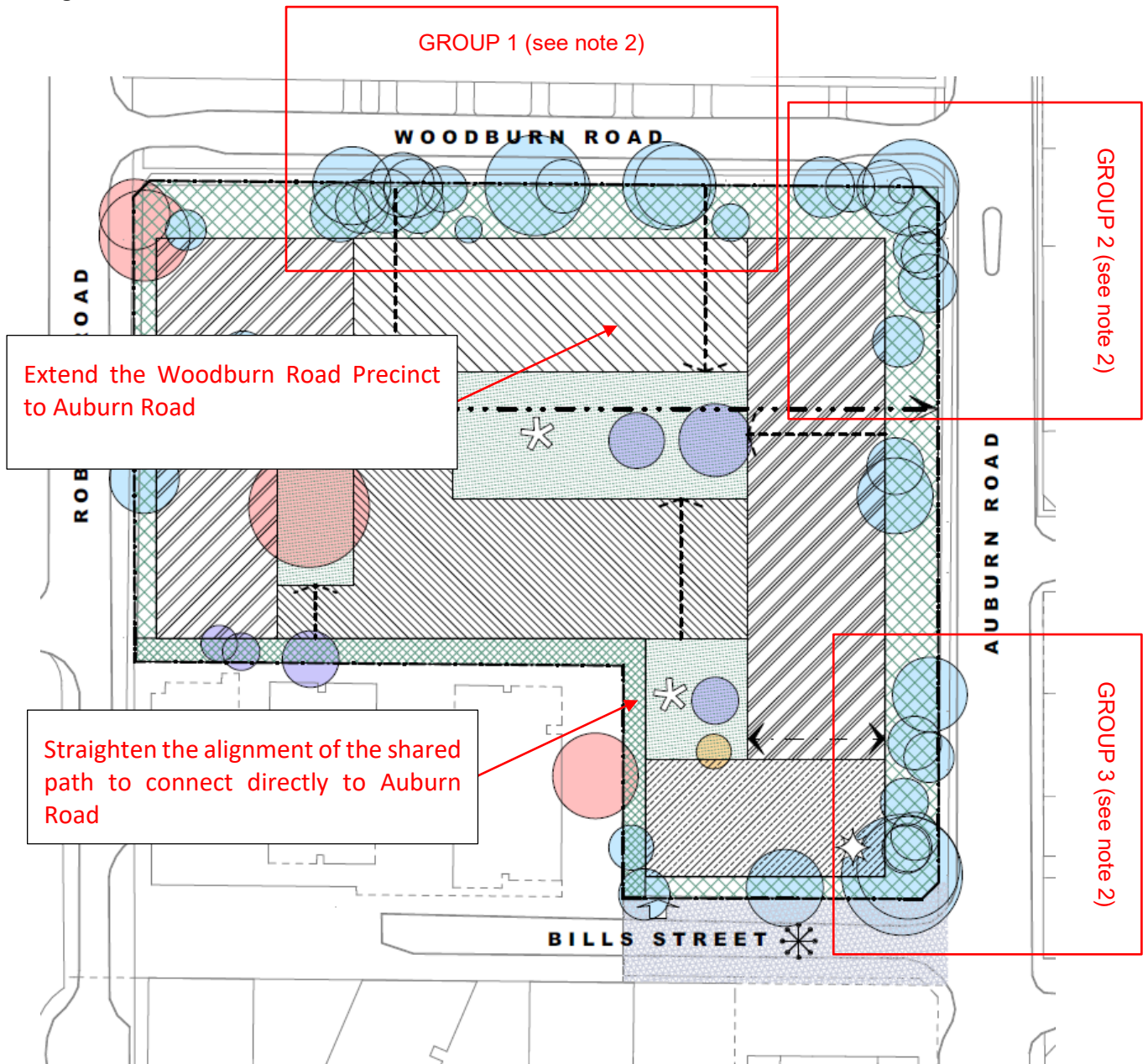
~~Provision of a~~ A shared bicycle/pedestrian pathway should be provided at the interface with ~~Nos. 1-12 Bills Street, Hawthorn (the~~ Homes Victoria land and extending east to Auburn Road), generally in ~~accordance with the location shown in Figure 1 with all buildings at this interface set back a minimum of 4.5 metres from this interface.~~

A publicly accessible, landscaped east-west pedestrian link should be provided between Robinson Road and Auburn Road, generally in ~~accordance with~~ the location shown in *Figure 1*.

Bills Street upgrades

New development ~~is to~~ should include upgrades to the ~~section of the existing~~ Bills Street Road reserve, ~~to the extent indicated in Figure 1,~~ between Auburn Road and the land's western boundary (as shown on Figure 1), to improve pedestrian amenity and landscape outcomes, to the satisfaction of the Responsible Authority and ~~Boroondara City Council~~ the road management authority.

Figure 1 – Framework Plan **2022**





















NOTE 1: All identified trees are to be retained unless their retention conflicts with achieving other key objectives and requirements of this schedule.

NOTE 2: The Framework Plan identifies three groups of trees to be retained:

Group 1 along Woodburn Road contains XX trees

Group 2 around the corner of Woodburn and Auburn Roads contains XX trees

Group 3 along Auburn Road contains XX trees

	LEGEND
	PRECINCT BOUNDARIES
	ROBINSONS ROAD PRECINCT INDICATIVE-MAXIMUM 4 STOREYS HEIGHT (PRESENTING AS 3-4 STOREYS ABOVE <u>THE ADJACENT</u> FOOTPATH LEVEL TO ROBINSON & WOODBURN RD)
	WOODBURN ROAD PRECINCT INDICATIVE-MAXIMUM 6-7 4-6 STOREYS HEIGHT (PRESENTING AS 4-5 3-4 STOREYS ABOVE FOOTPATH LEVEL TO WOODBURN RD)
	AUBURN ROAD PRECINCT INDICATIVE-MAXIMUM 7 STOREYS HEIGHT (PRESENTING AS 6 STOREYS ABOVE THE ADJACENT FOOTPATH LEVEL)
	AFFORDABLE HOUSING & RETAIL <u>BILLS STREET</u> PRECINCT AFFORDABLE HOUSING WITH RETAIL TO GROUND FLOOR INDICATIVE-MAXIMUM 7 STOREYS HEIGHT <u>WITH RETAIL TO GROUND FLOOR</u>
	INTERNAL RESIDENTIAL PRECINCT INDICATIVE-MAXIMUM 7 STOREYS HEIGHT (PRESENTING AS 6 STOREYS ABOVE THE LEVEL OF THE BIKE/PEDESTRIAN CONNECTION)
	LANDSCAPING ZONE EXISTING LANDSCAPED SETBACKS RESPECTED, IDENTIFIED TREES RETAINED AND PROTECTED, AND NEW COMPLEMENTARY LANDSCAPING PROVIDED
	BIKE / PEDESTRIAN CONNECTION <u>INDICATIVE ALIGNMENT OF</u> NEW SHARED BIKE / PEDESTRIAN CONNECTION AND MINIMUM 4.5 METRE BUILDING SETBACK (<u>24 HOUR PUBLIC ACCESS</u>)
	<u>INDICATIVE LOCATION OF PUBLICLY ACCESSIBLE</u> OPEN SPACE
	UPGRADES AND IMPROVEMENTS TO BILLS ST ROAD RESERVE
	RETAIL USES
	PRIMARY VEHICLE ACCESS POINTS <u>TO BASEMENT CARPARKS</u>
	INDICATIVE VISUAL LINK THROUGH <u>LOCATION OF LINKS BETWEEN BUILDINGS (OPEN TO THE SKY, NOT PUBLICLY ACCESSIBLE)</u> TO LANDSCAPE
	DAYTIME PUBLICLY-ACCESIBLE PEDESTRIAN LINK (<u>DAYTIME PUBLIC ACCESS</u>)
	RETAINED TREES ON SITE
	EXISTING SIGNIFICANT TREES ON SITE TO BE RETAINED <u>OR RELOCATED</u>
	EXISTING SIGNIFICANT TREE ON SITE TO BE RETAINED OR RELOCATED
	EXISTING TREES ON SITE TO BE RETAINED (<u>SEE NOTES</u>) THAT REQUIRE A COUNCIL LOCAL LAW PERMIT TO BE REMOVED
	EXISTING TREES ON SITE TO BE RETAINED UNLESS THEIR RETENTION CONFLICTS WITH ACHIEVING ANY OF THE OTHER KEY OBJECTIVES AND REQUIREMENTS OF THIS SCHEDULE

Replace with a clearer symbol

Replace all purple circles on the Framework Plan with blue circles