

**Victorian Transport Projects Integrated Development
Opportunities Standing Advisory Committee Referral 2**

Rosanna Station

Advisory Committee Report

Planning and Environment Act 1987

28 September 2021

Planning and Environment Act 1987

Advisory Committee Report pursuant to section 25 of the Act

Victorian Transport Projects Integrated Development Opportunities Standing Advisory Committee
Referral 2

Rosanna Station

28 September 2021



Kathy Mitchell AM, Chair



Andrew Hutson, Member



Kate Partenio, Member

Contents

	Page
1 Overview	1
1.1 Referral summary	1
1.2 Findings.....	1
1.3 Recommendations.....	3
2 Introduction.....	4
2.1 The Committee	4
2.2 Background and site details.....	4
2.3 Process.....	6
2.4 Procedural issues	6
3 Planning context.....	10
3.1 State policy	10
3.2 Local policy	10
3.3 Statutory provisions	11
3.4 Findings and recommendation	13
4 Built form.....	15
4.1 Background	15
4.2 Height and built form.....	16
4.3 ‘Abrupt’ change.....	20
4.4 Height to road width ratio	21
4.5 Overshadowing	22
5 Access and parking	24
5.1 Background and key issues.....	24
5.2 Road network capacity	24
5.3 Parking supply	25
5.4 Car park access.....	29
5.5 Parking layout.....	32
6 Tree removal and landscaping	35
6.1 Background	35
6.2 Evidence and submissions	35
6.3 Discussion and findings.....	35
7 Other matters.....	37
7.1 Acoustics.....	37
7.2 Sustainable management.....	38
7.3 Department of Transport conditions	40
8 Net community benefit	43
8.1 Clause 71	43
8.2 Benefits and disbenefits	43
8.3 Response to Terms of Reference	44

Appendix A	Terms of Reference
Appendix B	Letter of referral
Appendix C	Submitters
Appendix D	Parties to the Hearing
Appendix E	Document list
Appendix F	Planning framework
Appendix G	Recommended Permit conditions

List of Tables

	Page
Table 1	Planning Policy Framework: State and regional policies 57
Table 2	Planning Policy Framework: Local policies 58

List of Figures

	Page
Figure 1	Subject site and surrounds 5
Figure 2	Zone map 11
Figure 3	Original proposal 15
Figure 4	Revised proposal 16
Figure 5	South east corner of building - extract of Landscape Plan 01 by Site Image Landscape Architects (VIC) 31

Glossary

Council	Banyule City Council
DELWP	Department of Environment, Land, Water and Planning
LXRA	Level Crossing Removal Authority
NAC	Neighbourhood Activity Centre
PE Act	<i>Planning and Environment Act 1987</i>
Proponent	Beetham Parade Pty Ltd
SEPP	State Environmental Protection Policy
VCAT	Victorian Civil and Administrative Tribunal

1 Overview

1.1 Referral summary

Referral Summary	
Date of Referral	11 April 2021
Members	Kathy Mitchell AM (Chair), Andrew Hutson and Kate Partenio
Description of referral	Rezone land at 5 to 7 Turnham Avenue, Rosanna from Public Use Zone 4 (Transport) to Commercial 1 Zone Subdivide the site into two lots, develop the land for a seven storey commercial and residential building, including basement carparking, reduction in car parking requirements and removal of two trees
Draft Amendment	Banyule Planning Scheme Amendment C160bany
Permit application	Planning permit application P384/2021
Common name	Referral 2 – Rosanna Station
Municipality	Banyule
Applicant	Beetham Parade Pty Ltd
Responsible Authority	Minister for Planning
Subject land	Lot 2 on PS506016, Beetham Parade, Rosanna
Site inspection	Unaccompanied on 7 July and 15 August 2021
Consultation	Directions Hearing on Wednesday 14 July 2021 Public hearing on 17, 18, 19, 20, 23 and 24 August 2021
Submissions	55, see Appendix B
Parties	See Appendix C
Information relied upon	Written submissions, evidence and submissions provided at the Hearing, Banyule Planning Scheme, Plan Melbourne and other documents provided at the Hearing, see Appendices D and E
Date of this report	28 September 2021
Citation	Victorian Transport Project Integrated Development Opportunities SAC Referral 2 – Rosanna Station [2021] PPV

1.2 Findings

The Victorian Transport Projects Integrated Development Opportunities Standing Advisory Committee finds:

Planning context:

- It is unequivocal that State and local policy supports increased housing density in activity centres across metropolitan Melbourne.

- The proposal will build on synergies with, and accessibility to, shops, offices, community services, employment and public transport.
- As the removal of the level crossing at Rosanna has led to increased connectivity between the existing components of the neighbourhood centre, a housing proposal on this site in this location is entirely consistent with State and local policy.
- The proposal complies with relevant ResCode objectives and standards can be met by condition.
- While the Committee later notes that it does not support the site being developed for a seven storey building, it supports the rezoning of the site to the Commercial 1 Zone for the mixed use residential proposal.
- A permit should issue subject to the recommendations detailed in the following chapters and in amended conditions set out in Appendix G.

Built form:

- A residential and mixed-use building of some height can be supported on this site in this location at the edge of Rosanna Neighbourhood Activity Centre.
- The height should be reduced to five storeys by deleting levels four and five and retaining the setback topmost level resulting in a four-storey street wall.
- A planning permit for the site is supported, subject to amended conditions in Appendix G.
- There is an appropriate balance between change enabled through the development opportunity and an appropriate response to the various contextual conditions.
- This is best realised with a built form that is five storeys high with a four-storey street wall, and with the upper level recessed.
- The height to road width ratio tool can be an aid in determining appropriate height but has limited use in this matter where there are other compelling considerations regarding height.
- Reduction of the height of the proposal by two storeys would remove overshadowing to the western footpath.

Access and parking:

- The development is unlikely to have a significant impact on the road network.
- The proposed provision of parking is acceptable, especially in the context of the site location in a Neighbourhood Activity Centre adjacent to a railway station.
- Condition 10 (Green Travel Plan) should be modified to ensure that a car share vehicle is provided, not just a car share space, and provision is made for electric charging of cars and bicycles.
- The Green Travel Plan and the Parking Management Plan should be prepared prior to the commencement of development unless otherwise agreed in writing by the responsible authority.
- The location of the car park access is acceptable subject to a sight line splay being provided at the building frontage by splaying the building on the south side of the accessway in accordance with Design Standard 1-Accessways. This is adequately addressed in the proposed condition 1(y).
- A sight line splay is required on the southeast corner of the building to provide adequate sight lines to the public footpath and pedestrian crossing in the rail car park.

- The car stacker platform widths should be widened to 2.7 metres. This can be accommodated by a reduction in the number of parking spaces, noting the Committee’s recommendation to reduce the height of the building will result in a reduction in the number of dwellings.
- The ground floor layout should be modified to improve accessibility and passive surveillance opportunities to the men’s toilet, visitor bicycle parking and residential storage area.

Tree removal and landscaping:

- The existing vegetation on the subject site can be removed.
- The existing red gum (Tree 1) can be removed.
- The green wall must be regularly maintained to ensure that it remains a ‘living’ feature of the proposal.

Acoustics:

- Noise from the development can be reasonably managed
- Post development noise testing to verify the success of the proposed noise treatments in meeting the performance criteria should be undertaken, with amelioration provided should the criteria not be met.
- References to SEPP N-1 should be deleted in favour of current regulations.

Sustainable management:

- The development satisfies the objectives of Clause 22.71.
- The gas meters should be removed from the ground floor plan.
- Condition 39 should be modified to remove a requirement for an agreement for the provision of gas services.

Department of Transport:

- The Development conditions (46-56), as amended are reasonable to protect the interests of the Head, Transport for Victoria, VicTrack and the Rail Operator, subject to replacement of Conditions 52 and 53 with the proposed new condition provided by Department of Transport on 15 September 2021, with that new condition be amended to delete reference to costs associated with the preparation for a construction control indemnity agreement.

Net community benefit:

- The proposal will achieve a sustainable development that will provide for a net community benefit, subject to reducing the height of the building by two storeys.

1.3 Recommendations

The Victorian Transport Projects Integrated Development Opportunities Standing Advisory Committee recommends:

1. **Rezone the land at 5 to 7 Turnham Avenue, Rosanna from Public Use Zone Schedule 4 to Commercial 1 Zone.**
2. **The Minister for Planning issue Planning Permit P384/2021 subject to the conditions in Appendix G.**

2 Introduction

2.1 The Committee

The Victorian Transport Projects Integrated Development Opportunities Standing Advisory Committee (the Committee) was appointed by the Minister for Planning on 10 September 2015 and was most recently reconstituted on 15 August 2021. The purpose of the Committee is set out in its Terms of Reference (Appendix A) to provide:

- ...advice to the Minister for Planning on IDO created by Victorian transport projects, where the IDO has the consent of the relevant Victorian Government department or agency.
- ... a recommendation on the appropriateness of the proposed IDO in light of the relevant provisions of the applicable planning scheme, the Planning Policy Framework and the Plan Melbourne, including whether the proposal should proceed and in what form.

The Committee was provided with a letter from the Minister for Planning for Referral 2, Rosanna Station on 11 April 2021 (Appendix B).

The Committee has considered one other referral since its appointment, Ormond Station in 2017.

The members of the Committee dealing with Referral 2 are:

- Ms Kathy Mitchell AM, Chair
- Associate Professor Andrew Hutson, Member
- Ms Kate Partenio, Member.

The Committee was assisted by Ms Andrea Harwood, Senior Project Manager and Mr Tom Milverton, Project Support Officer of Planning Panels Victoria.

2.2 Background and site details

The proposed planning scheme amendment seeks to rezone the land at 5 to 7 Turnham Avenue, Rosanna from Public Use Zone 4 (Transport) to Commercial 1 Zone (C1Z).

The proposed permit application seeks:

- a two-lot subdivision to create the new lot
- development of the land for a seven storey commercial and residential building, plus basement parking
- reduction in car parking requirements
- removal of two trees.

The Proponent is Beetham Parade Pty Ltd (the Proponent).

The subject site, shown as Lot 2 on the draft plan of Subdivision number PS837622W¹, is proposed to be subdivided from railway land that contains Rosanna Station and is known as 5 – 7 Turnham Avenue, Rosanna. The subject site sits on the western side of the rail line opposite the intersection of Hillside Road and has a direct frontage to Beetham Parade measuring approximately 65.6 metres.

¹ Rosanna IDO 11 Draft Plan of Subdivision

The site has a depth of approximately 20 metres with an overall area of 1,309 square metres and is rectangular in shape. Along the site boundary within Beetham Parade there is some vegetation, including a large river red gum.

Figure 1 provides the site context and its surrounds.

Figure 1 Subject site and surrounds²



The subject site is a section of former hard surface car parking which had been made available for development by excising land from Public Use Zone Schedule 4 following the redevelopment of the Rosanna Railway Station as part of level crossing removal program.

The physical context places the site amongst a range of urban conditions. To the east is the recently completed elevated rail line and station constructed to remove the level crossing at Lower Plenty Road. Associated with the elevated rail is carparking for rail users which extend from the east side of the site, under the elevated rail to the alignment of Turnham Avenue to the east. To the south is additional hard paved carparking for commuters. This area of land extends to the electrical substation and is opposite residential properties along Beetham Parade.

² Document 32, page 2

To the north of the site is a three-storey retail and residential development in the C1Z. The existing developments to the north along Beetham Parade to the intersection with Lower Plenty Road include two three storey mixed-use development with a four-storey mixed-used building at the intersection. These three developments were constructed in recent years but before the level crossing removal and railway station upgrades were undertaken.

To the west facing the site is a 'T' intersection with Hillside Road, with single and double storey residential properties located to the south of the Hillside Road intersection, located in the General Residential Zone. The section of land north of the Hillside Road intersection along the west side of Beetham Parade up to Lower Plenty Road contains one and two storey shopfronts.

The site sits adjacent to Rosanna Station and is currently vacant. A public footpath connecting Beetham Parade with Rosanna Station separates the site from the three storey mixed use development to the north. To the south of the site is a public road providing access to the Rosanna Station car park. The area to the south of the intersection of Hillside Road and Beetham Parade is low scale residential, while north of the intersection is part of the commercial strip that extends from lower Plenty Road.

2.3 Process

The Minister for Planning provided the Committee with revised Terms of Reference dated 31 March 2021 and Letter of Referral dated 11 April 2021 (Documents 1 and 2).

DELWP undertook notification of the proposed planning scheme amendment and planning permit application. Details of the extent of the notification was provided verbally by DELWP during the Directions Hearing and in Document 3. Written submissions were collected online by Planning Panels Victoria through the Engage Victoria website between 24 May 2021 and 2 July 2021.

A Directions Hearing was held online on Wednesday 14 July 2021. Following the Directions Hearing, the Committee confirmed the Hearing would take place over six days, from 17 to 24 August 2021. Due to COVID-19, the Hearing was convened by video-conference.

The Committee received its final information (from Department of Transport [DoT] and the Proponent) in relation to the proposal on 15 September 2021 (Documents 121, 122).

2.4 Procedural issues

There were a number of procedural issues raised during the course of this process. In summary, these related to:

- adjournment of the Hearing
- Member constitution
- request for various documents.

(i) Adjournment of the Hearing

Issues

Some submitters sought an adjournment of the Hearing, raising issues at the Directions Hearing and prior to Day 1 of the Hearing. The key reasons related to what they considered to be a lack of consultation and the impacts of COVID on people's ability to participate.

Ruling

When this was raised at the Directions Hearing, the Committee noted that DELWP was responsible for consultation and notification and had prepared a report outlining how this occurred (Document 3).

With regard to COVID, the Committee noted PPV had convened its full range of Hearings in the COVID and lockdown environment since April 2020 and that while recognising it may be challenging for some individuals, most people were very familiar with on-line engagement. Additionally, PPV provided a dedicated Project Officer to assist all submitters with on-line issues.

(ii) Member reconstitution

Issue – Directions Hearing

The Committee made some verbal declarations at the Directions Hearing and included these declarations in its letter following the Directions Hearing (Document 11). Concerns were raised by some submitters about the inclusion of Member Halaliku due to his office having live planning permit applications in the municipality at the time of this Hearing. The member advised that he was not personally involved with any of the applications. Another issue was raised in relation to the Member about a potential witness, but the Proponent advised that witness was not being called to provide evidence.

Ruling

The Committee ruled the issues raised did not present as a conflict of interest in the Rosanna matter and that the Member, while certainly needing to declare this, had no reason to step down.

Issue – pre-Hearing

Several submitters continued to raise the issue about Member Halaliku through a series of emails to the Committee prior to the Hearing.

Outcome

In opening on Day 1, the Chair explained that the Committee has multiple members drawn from the senior membership of Planning Panels Victoria, being full time members and many of its sessionals across a range of expertise and disciplines. The Committee can operate as a quorum of two, so long as a Chair or Deputy Chair is present.

The Chair noted members Halaliku and Partenio are sessional members of Planning Panels Victoria and that all sessional members supplement their work through other professional work. The Chair advised two members of this Committee of nine have built form experience. Mr Halaliku is one. The other member has and continues to have a clear conflict of interest in this matter so could not be considered.

The Chair noted it made the declaration about other work being undertaken by Member Halaliku at the Directions Hearing and after discussion and consideration, ruled that Mr Halaliku did not have a conflict of interest and that he could bring an open mind to these proceedings.

Since that time, several parties continued to question the integrity of Member Halaliku and Planning Panels Victoria by writing detailed emails both to the Committee and to the Minister for Planning seeking that Member Halaliku step down. The content of some of the emails included

statements about undertaking google searches on his company and making unsubstantiated assertions about aspects of his company and his work.

The Chair reiterated there was no conflict of interest and expressed concern about the sustained and ill-informed attack on the Member and this process. The Chair noted the focus appeared to be personal and acknowledged it had caused Member Halaliku some distress. The Chair noted he is a highly regarded professional planner in Victoria but due to the sustained remarks on his professionalism and integrity, Member Halaliku decided to step down from this matter.

PPV needed to reconstitute the Committee to include a new member with design and built form experience. In that regard, sessional member, Associate Professor Andrew Hutson, a qualified and registered architect, was appointed to the Committee by the Minister for Planning on 15 August. Mr Hutson has declared no conflict of interest in this matter.

(iii) Requests for documents

Issues

Various submitters sought the provision and tabling of various documents that were not in the public domain either at the Directions Hearing, after the Directions Hearing and during the course of the Hearing. These included requests from:

- Submitter 33 for the *Rosanna – Flood Modelling and Mitigation Works Design Report*, commissioned for North Eastern Program Alliance/Level Crossing Removal Project initially at the Directions Hearing, and on 2 August 2021 (Document 12).
- Submitter 51 for updated shadow diagrams to include 8am-3pm and the Winter Solstice date 21 June, followed by further email on 2 August 2021 (Document 14).
- Submitter 51 at the Directions Hearing for a copy of the *LXRA Urban Design Guidelines* and in writing on 2 August 2021 (Document 14).
- Submitter 52 for the *Urban Design Guidelines* and *LXRA Planning and Urban Design Manual for Integrated Development Opportunities, May 2018* on 16 August 2021 (Document 52). Both documents were listed in the urban design evidence of Mr Biles.
- Submitter 51 for the tendered Expression of Interest, in writing on 20 August 2021.
- Submitter 51 for an Information Memorandum from the Proponent, initially during the Hearing and in writing on 24 August 2021 (Document 99).

The Committee sought the provision of these documents from the relevant parties through a number of written and verbal directions throughout the Hearing, including:

- On 16 July 2021, the Committee directed the Proponent to consider and provide a response to Submitter 51's request for updated Shadow Diagrams provided by C. Kairouz Architects in the Proponent's Opening submissions (Document 11).
- On 16 July 2021, the Committee directed the Proponent to consider and provide a response to Submitter 33's request for the *Rosanna - Flood Modelling and Mitigation Works Design Report* in the Proponent's opening submissions (Document 11).
- While not providing a formal direction for the provision of the *LXRA Urban Design Guidelines*, the Committee invited the Proponent to table these at its earliest opportunity on 5 August 2021 (Document 18).
- On several occasions during the Hearing, the Committee verbally requested the *Rosanna – Flood Modelling and Mitigation Works Design Report*, the *Urban Design Guidelines* and

the *Planning and Urban Design Manual for Integrated Development Opportunities*. The Proponent stated in Documents 39 and 60 that these documents could only be provided at the discretion of the Level Crossing Removal Authority (LXRA).

- In a written direction on 13 August 2021 the Committee requested the LXRA provide the *Rosanna – Flood Modelling and Mitigation Works Design Report* to the Committee in the first instance, so the Committee could determine whether that report would be of assistance to it in its considerations.
- The Committee made repeated verbal requests for the provision of the *Urban Design Guidelines* and the *Planning and Urban Design Manual for Integrated Development Opportunities* in the first instance to determine whether that document would be of assistance to it in their considerations.

The Committee was provided with the *Rosanna – Flood Modelling and Mitigation Works Design Report* by the LXRA on 17 August 2021 in redacted version. On 23 August 2021, the LXRA provided the Committee with the *Urban Design Guidelines* and the *Planning and Urban Design Manual for Integrated Development Opportunities*.

Ruling(s)

The Committee reviewed these documents. It ruled the documents were of little assistance to it in its considerations of the specific merits of this Amendment and planning permit application. It therefore advised the documents not be made public through tabled documents.

The Committee considers the constant requests for information detracted from the focus on the planning merits of the proposal, and considerable time was spent by the Committee reviewing the various requests and then, ultimately the documents.

In making these findings, the Committee records its frustration with the LXRA for its lack of responsiveness in providing these documents until late in the Hearing and after multiple requests.

3 Planning context

The detail of the planning policy framework is provided in Appendix F. In summary, the key policy and statutory imperatives include State and local Policy, *Plan Melbourne (2017 – 2050)* and application of the Commercial 1 Zone.

3.1 State policy

Relevant State policy is set out in Appendix F.

State policy such as increased housing opportunities in areas close to public transport, retail and other commercial services is well supported by *Plan Melbourne 2017-2050*, which notes there will be significant population growth and pressure over the next 30 years.

Diversity of housing and increased density coupled with 20-minute neighbourhoods is front and centre of activity centre planning. Less reliance on the use of the private motor vehicle, with more sustainable transport options supports residential and commercial development on this site.

3.2 Local policy

Relevant local policy is set out in Appendix F.

There is policy support for higher order uses and development on the former railway land.

Local policy of the Banyule Planning Scheme is generally consistent with State policy in that it encourages higher residential density in activity centres that are well served by public transport.

The Banyule Planning Scheme does not have local policies relating specifically to its Neighbourhood Activity Centre (NAC) and its Housing Strategy is somewhat dated (2009). Nor does it have a Structure Plan (which would normally have a defined boundary) for the Rosanna Activity Centre.

A significant point of reference and contention at the Hearing related to the status of the Rosanna Village Guidelines, adopted by Council in December 2016. These Guidelines have no status in the Banyule Planning Scheme as noted by Council:

... they do not inform a local planning policy, any overlay and are not an incorporated or background (formerly reference) document to the Scheme. They have no formal status in respect of informing or determining planning permit applications³.

Many submitters sought that these Guidelines be given weight in the deliberations of the Committee. In noting that every suburb has a responsibility to provide for residential growth, Submitter 46 noted that Rosanna Village is not one of those areas where further growth could occur. The submitter contended there was no reason not to use the Rosanna Village Guidelines as a planning tool to assist in assessing the proposal, especially in terms of understanding the character of the area.

³ Document 72, para 114

While the guidelines are informative, the Committee agrees with Council and the Proponent that no weight can be afforded to these. There seemed to be no intent from Council to progress these Guidelines to be included in the Planning Scheme through an Amendment process.

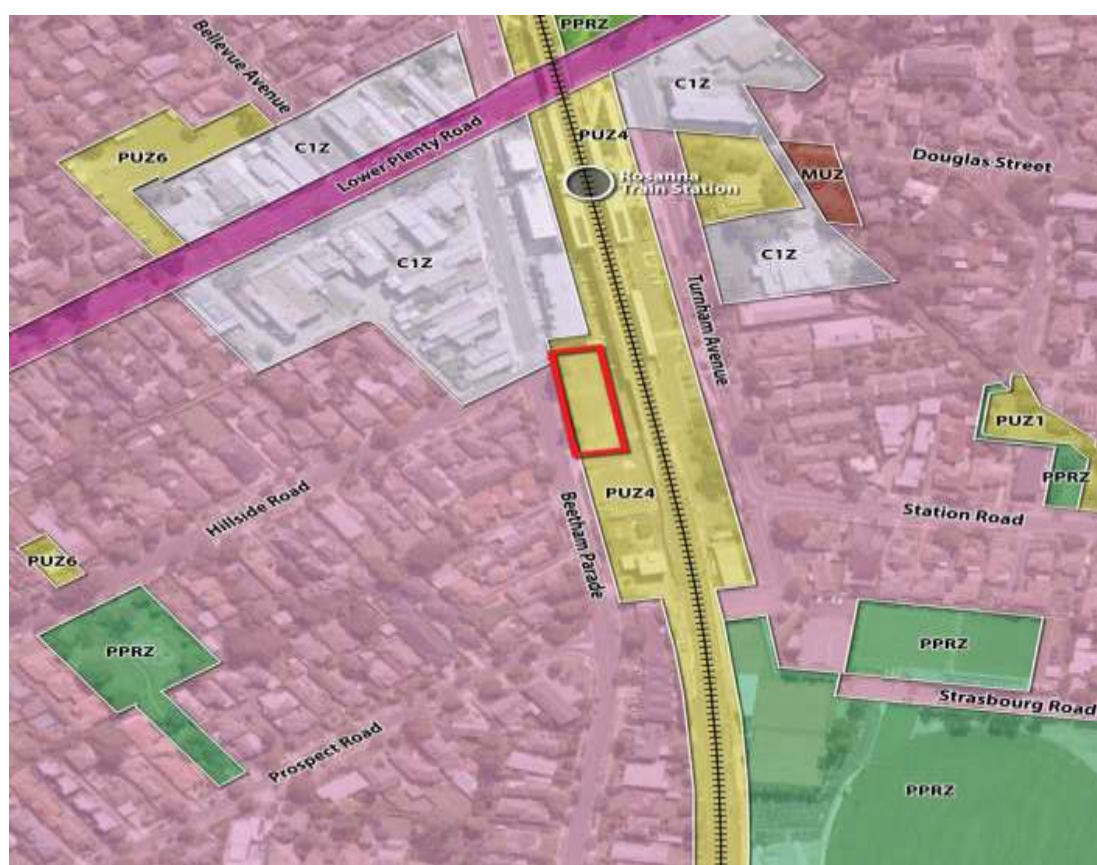
3.3 Statutory provisions

(i) Zones and overlays

The land is currently located in the Public Use Zone Schedule 4 (Transport), which recognises public land for public utility and community services and facilities to provide for uses consistent with the intent of the land or purposes (Figure 2). Once land ceases to be consistent with the specified purposes, it is common practice for such land to be rezoned.

In this case, the land was formerly used for transport purposes as a public car park associated with the Rosanna Station. With completion of the grade separation level crossing removal project, the land was deemed surplus to transport needs and is now proposed to be rezoned to Commercial 1 Zone.

Figure 2 Zone map⁴



The key purposes of the Commercial 1 Zone include:

To create vibrant mixed use commercial centres for retail, office, business, entertainment and community uses.

⁴ Document 32, page 19

To provide for residential densities complementary to the role and scale of the commercial centre.

A permit is not required for accommodation, office and retail premises, subject to conditions being met for accommodation and office.

The site is subject to the Development Contributions Plan Overlay. A Vegetation Protection Overlay applies to the road reserve and other areas near to the site, but not on the site.

In addition, the site must comply with various provisions relating to:

- Clause 52.02: Easements, Restrictions and Reserves
- Clause 52.06: Car Parking
- Clause 52.34: Bicycle Facilities
- Clause 53.18: Stormwater Management in Urban Development
- Clause 58: Apartment Developments
- Clause 65: Decision Guidelines.

Mr Glossop's planning evidence for the Proponent provided a fair analysis of these Clauses, which the Committee adopts. Clauses 52.06 and 52.34 are discussed in more detail in Chapter 5.

There was some discussion by submitters and in questions to Mr Glossop whether the Commercial 1 Zone was the most appropriate zone for the site. Some submitters suggested the Mixed Use Zone would be a better fit. Further, some submitters questioned whether the vacant land to the west of the site might be rezoned at a later date, and if so, whether it was preferable the subject land be in Mixed Use Zone to avoid further commercial development extending too far to the west.

The Committee made it clear that it needs to consider whether the proposal to rezone the subject site to the Commercial 1 Zone is appropriate. It is not able to speculate on what might happen to other sites. That is a role for Council through a Structure Plan or similar process.

The Committee notes the subject land sits at the very edge of the existing Commercial 1 Zone and is contiguous to it. The site is directly opposite land in the General Residential Zone Schedule 1, which abuts land in the Commercial 1 Zone on the north side of Hillside Road.

In its support for the rezoning of the land to Commercial 1 Zone, Council noted:

The Council recognises the subject land needs to be rezoned to enable it to be divested to a private owner and used and developed for a purpose other than public uses⁵.

The Committee agrees with Council and it supports the rezoning of the land to the Commercial 1 Zone.

(ii) ResCode

With regard to ResCode, Mr Glossop undertook a detailed review which was generally accepted by Council and the Committee. Appendix A of his evidence (Document 32) assessed the proposal against the objectives and/or standards of:

- Clause 58.02 Urban Context
- Clause 58.03 Site Layout

⁵ Document 72, para 10

- Clause 58.04 Amenity Impacts
- Clause 58.05 On-Site Amenity and Facilities
- Clause 58.06 Detailed Design
- Clause 58.07 Internal Amenity.

In his assessment, Mr Glossop was satisfied the relevant ResCode requirements were met. He did note several Standards required some variations, including:

- D7 – increasing the communal open space
- D9 – securing the car park with a gate
- D15 – screening between balconies
- D17 – all apartments to be accessible
- D24 – confirmation that all living room dimensions achieved minimum dimensions
- D25 - confirming all apartments achieved minimum floor to ceiling height of 2.7 metres
- D26 – all apartments to have windows on external walls
- D27 – breeze paths.

These variations were generally satisfied through the tabled amended plans and conditions.

The Committee accepts and supports the analysis undertaken by Mr Glossop, who concluded:

The proposed apartments perform well when assessed against the applicable objectives and standards of Clause 58 and will ensure an appropriate design response is achieved which minimises off-site amenity impacts and provides for an appropriate level of internal amenity for future residents⁶.

The Committee concurs with the advice of Mr Glossop that the proposal achieves the objectives of Clause 58 and “...will provide for an appropriate level of internal amenity for future residents without causing off-site amenity impacts”.

3.4 Findings and recommendations

The Committee finds:

- It is unequivocal that State and local policy supports increased housing density in activity centres across metropolitan Melbourne.
- The proposal will build on synergies with, and accessibility to, shops, offices, community services, employment and public transport.
- As the removal of the level crossing at Rosanna has led to increased connectivity between the existing components of the neighbourhood centre, a housing proposal on this site in this location is entirely consistent with State and local policy.
- The proposal complies with relevant ResCode objectives and standards can be met by condition.
- While the Committee later notes that it does not support the site being developed for a seven storey building, it supports the rezoning of the site to the Commercial 1 Zone for the mixed use residential proposal.
- A permit should issue subject to the recommendations detailed in the following chapters and in amended conditions set out in Appendix G.

⁶ Document 33, para 109

The Committee recommends that:

The part of the land at 5 to 7 Turnham Avenue, Rosanna shown as Lot 2 on the draft plan of Subdivision number PS837622W, be rezoned from Public Use Zone Schedule 4 to Commercial 1 Zone.

The Minister for Planning issue Planning Permit P384/2021 subject to the conditions in Appendix G.

4 Built form

4.1 Background

In terms of the built form context, the site is opposite a predominantly single storey residential area and at the southern edge of the current extent of the NAC comprising retail shopfronts and mixed-use developments north of Hillside Road toward Lower Plenty Road. The adjacency of the residential area would not require a design response that directly reflected the housing stock, but it would require the scale and architectural expression to acknowledge the immediate physical context and the degree of change from one side of the road to the other.

The Proponent's architectural plans that were relied on by the Committee are dated 5 August 2021⁷. These differed in minor respects to the original application plans but did not change the height, form, or design articulation to any significant extent.

During the Hearing, suggestions were made by Mr Biles in his urban design evidence for the Proponent regarding the roof canopy on the west elevation and the configuration of the communal open space. The Proponent indicated acceptance of these recommendations and submitted amended drawings⁸.

Figure 3 shows the original proposal considered by Council that was publicly notified. Figure 4 shows the amended proposal presented at the Hearing.

Figure 3 Original proposal⁹



⁷ Document 34

⁸ Document 76

⁹ Document 50, page 12

Figure 4 Revised Proposal¹⁰



Submissions on the built form of the proposal and the impact on the amenity and urban character of the immediate context and wider precinct were made by the Proponent, Council, community groups and individual submitters.

They key issues to be resolved are:

- height
- ‘abrupt’ change
- height to road width ratio
- overshadowing.

4.2 Height and built form

(i) Evidence and submissions

The Proponent’s opening submission identified the two key issues to be resolved related to appropriateness of the proposed building height and form and the adequacy of the carparking provision ¹¹.

With respect to building height, visual bulk, massing, response to neighbourhood character, and potential for overshadowing of the residences to the west and public spaces, the Proponent relied on the evidence of Mr Glossop and Mr Biles. It submitted there were no preferred height or built form controls for the site but that the proposed height could be justified by being part of an activity centre ¹². With regard to building height, the Proponent submitted the proposal is supported by State and local planning policy and the strategic context of the site.

¹⁰ Document 50, page 12

¹¹ Document 54, para 10

¹² Document 54, paras 15-16

The Proponent called Mr Kairouz (principal designer of the development) to explain the design scheme and thinking behind the proposal¹³. With respect to the scale and height, Mr Kairouz explained that the recessed seventh storey and the articulated western façade would break down the visual bulk and create an acceptable scale and response for the site. He noted the location of the subject site in a valley, which he contended, could visually reduce the scale of the proposal from more distant views. He explained changes to the integrated landscape features to the design and the western façade.

Mr Glossop noted the absence of a strategic plan for the activity centre which could directly address the location of the site within the NAC¹⁴. He cited the objective of Clause 15.01-5S (Neighbourhood Character) which is:

To recognise, support and protect neighbourhood character, cultural identity, and sense of place.

He described the site as effectively an ‘island site’ bounded by road, laneway, car park access and the station carpark. His evidence was that the site currently makes no contribution to neighbourhood character. Mr Glossop did not describe how the proposal addressed issues of neighbourhood character but concluded it provided an appropriate response in regard to the level of change the neighbourhood centre has experienced with the Level Crossing Removal Project, the strategic nature of the site for redevelopment (which can establish its own character) and expectations of diversity and housing change¹⁵.

Mr Glossop did not explicitly address the proposal’s height or bulk but rather supported the proposal as presented within the planning scheme context.

Mr Biles directly addressed the issue of whether the visual impact of the proposal would warrant a reduction in height of two storeys as required as a condition for permit by Council¹⁶. Mr Biles referenced examples where developments of six to eight storeys are located within low scale settings, specifically the development at Wesley Avenue, Ivanhoe¹⁷.

He referred to the views toward the site, a recessive seventh storey and its location within an activity centre as leading to the conclusion that the height and form for this site was acceptable.

Mr Biles made some recommendations to the design:

- replanning the façade and partly the floor layout of the seventh story to make it read as a less obvious and ‘calmer’ finish to the upper most level
- replanning in minor ways of corridor widths to make them more generous around door entries
- removal of the capping to the expressed sixth storey frame and minor reduction of the roof terrace
- improved stairwell treatments to include windows to natural daylight¹⁸.

¹³ Document 50

¹⁴ Document 33, para 40

¹⁵ Document 33, para 109

¹⁶ Document 32, page 5

¹⁷ Document 32, page 7

¹⁸ Document 32, page 1

The Proponent accepted the recommended modifications to the design of the capping of the sixth storey frame and accepted the subsequent modifications to the communal open space to achieve a minimum of 177 square metres¹⁹.

Council cited the key issues of built form, massing, and height²⁰. While the Council generally supported the principle of mixed-use development on the site, it considered the proposal was too high. It recommended reducing the height by two levels, with the deletion of levels 4 and 5. Council supported a recessed top level.

Council's reasoning was to ensure that future built form on the site was sympathetic to the surrounding context and that it provide an appropriate transition to the lower scale residential and commercial development in the immediate vicinity²¹.

Council was concerned the public realm experience within the centre would be adversely impacted by the height of the proposed six storey street wall, and submitted:

It is tempting to reduce everything to metrics (such as using the 1:1 ratio as a guiding tool), however in cases such as this Council says that a judgement call is required as to whether the building is simply too high, too dominant and jarring in its context²².

Council called for a balanced approach in assessing the validity of the height and form of the proposal that also considered the single dwelling context to the west of the site²³.

Beetham Parade Prospectors (Submitter 34) raised issues with the height and bulk appearing too dominant in the context²⁴. Other specific concerns were that the NAC:

- should not be considered to be aspiring to be a higher order Activity Centre
- the proposal would cause overshadowing impacts to surrounding streets
- the architecture was inappropriate.

The submitter recommended the proposal be reduced to four levels.

Friends of Banyule (Submitter 52) raised concerns regarding the excessive height and massing of the proposal as being unacceptable to the community and an inappropriate transition to the surrounding context²⁵.

There were a range of individual submitters who raised issues about urban design matters, including the height, form and architecture of the proposal, the amenity impacts on residential areas, and the inappropriateness of the proposal to the precinct.

Submitter 51 contended the proposal did not respect neighbourhood character and proposed the height be four storeys (and not the five storeys as submitted by Council)²⁶. The submitter called Mr Cunningham to provide urban design evidence.

¹⁹ Document 107, para 3

²⁰ Document 72, para 27

²¹ Document 72, para 17

²² Document 72, para 133

²³ Document 72, para 134

²⁴ Document 85

²⁵ Document 86

²⁶ Document 87

Mr Cunningham provided his analysis of the urban context within which the proposal would sit²⁷. He surmised the proposal would be at odds with the existing character and scale of Rosanna Village in Beetham Parade. He stated he could support a maximum of four storeys with design articulation to soften the form²⁸. Mr Cunningham recommended that impact studies in respect of overshadowing be based on the winter solstice and not the equinox.

Submitters 33, 46, 31, 22, 27, 49, 31, 22 and 29 made submissions about the inappropriateness of the height and form of the proposal²⁹. They generally considered the built form and mass to be imposing, and that it should be reduced to three or four storeys and questioned the treatment of public area to the footpath³⁰.

Submitter 48 supported the proposal and noted that in the context of the location, considered change in the area was inevitable and building ‘up and out’ is the only way to accommodate Melbourne’s growing population. The submitter noted the future belongs to ‘our children’ and that he could not find any reason to not support the proposal.

It was generally accepted by all parties that the most sensitive aspects of the proposal within the local context would be in relation to the residential area to the west of the subject site and the immediate context of Beetham Parade. The proposal would be evident in views from the east within Turnham Avenue, but any potential impact would be ameliorated by the elevated rail structure and the rail station carparking in the foreground.

(ii) Discussions and findings

The proposal at a height of seven storeys would be four storeys higher than the adjacent mixed-use development to the north, which is one of three built forms that occupy the land up to Lower Plenty Road. The actual height difference is 15 metres overall. The two forms closer to the corner with Lower Plenty Road are four-storey buildings with the upper level recessed. These developments occurred prior to the station development and elevated rail and are opposite one and two storey retail outlets on the west side of Beetham Parade.

In this regard, while it could be argued these developments were conceived within a different context before the elevated rail, they occupy a significantly different position to the site, being opposite shopfronts within a commercial zone as distinct from the subject site that is opposite the residential area within the General Residential Zone.

The Committee notes the north end of Beetham Parade toward the intersection with Lower Plenty Road is a more intense active area, with retail both sides and retail around the corner in Lower Plenty Road. Rezoning the subject site would extend the southern end of the activity area.

The Committee considered the impact of inserting the seven storey proposed building onto the site. The location of the site is not in the centre of the activity centre but rather would be a southern extension to the edge of this area.

²⁷ Document 38

²⁸ Document 38, page 6

²⁹ Documents 105, 116

³⁰ Document 96

The characteristics of the site location offer no urban design encouragement for the scale proposed. It does not mark a significant urban focus, nor would it be an appropriate marker at that significant scale as an entry into the activity centre from the residential streets to the south and west. While acknowledging the change in context with the recent rail developments and the change in development opportunity, an abrupt change in height, scale and visual bulk relative to recent developments and the residential hinterland of the proposal would be beyond current and anticipated development ambitions for this suburban neighbourhood precinct.

The Committee accepts that a proposed mixed-use building that was five storeys and retained the setback of the uppermost level would offer an appropriate balance between development opportunity and acceptable urban intervention into the activity centre and broader context.

The Committee finds:

- A residential and mixed-use building of some height can be supported on this site in this location at the edge of Rosanna Neighbourhood Activity Centre.
- The height should be reduced to five storeys by deleting levels four and five and retaining the setback topmost level resulting in a four-storey street wall.
- A planning permit for the site is supported, subject to amended conditions in Appendix G.

4.3 'Abrupt' change

(i) Evidence and submissions

Mr Biles and Mr Glossop accepted the proposed scale as being an abrupt change within the context but saw the degree of change as being justified by the development opportunity afforded the site³¹.

In his verbal evidence, Mr Biles acknowledged the proposal was an 'abrupt' change in scale to the immediate area, but the articulation of the west elevation broke down the visual bulk of the six-storey high street wall. His evidence was that there was no need for a transition of scale within the development from the lower scale to the north in the activity centre or the one and two storey residential scale to the west and south.

Council submitted:

That the review site is within a neighbourhood centre and not a higher order centre is particularly relevant to the Council's position that the building should not dominate the public realm, and that an abrupt change in scale is not called for in this setting³².

Council contended the abrupt change is not acceptable, nor would it achieve a human scale at street level "... *commensurate with the low-rise village feel of the local centre*".

Numerous submissions referred to the abruptness of the change in scale of the proposal relative to both the residential hinterland and the three and four storey adjacent mixed-use developments to the north.

³¹ Glossop and Biles verbal presentations 18 August 2021

³² Document 72, para 121

(ii) Discussions and findings

With regard to abrupt change, the overall height of the proposal of 25.17 metres (from the centre of the site frontage), is 15 metres higher than the adjoining mixed-use building to the north. The street wall height, which would have the most visual presence within Beetham Parade, is 21.8 metres. The scale of recent developments in Beetham Parade scale down from four storeys closer to the intersection with Lower Plenty Road to three storeys further south. The substantial overlap of the site with the residential context to the west, and that the site is at the southern end of the activity centre, should be reflected in the overall height response.

The presence of the proposal will make it a significantly dominant building within Beetham Parade. In an urban design sense, such a prominent form would be often be seen as marking major intersections or part of comparable scales within streetscapes. The subject site does not have the characteristics to encourage this degree of prominence. The proposal would be visually prominent within more distant views within Hillside Road and the surrounding environs. The Proponent explained the site being in valley as ameliorating the scale of the proposal against the low scale hills to the east. While this may reduce the visual height of the proposal from distant views, it would not mitigate the scale and bulk within the broader context.

The scale of the proposal would establish the building as a landmark form within a location and context that would not support such an abrupt statement.

There is a balance to be struck between the development opportunities offered by release of land from the development of the railway station and elevated rail and the insertion of a form that responds to the context of the NAC and the close adjacency of the General Residential Zone.

The Committee finds:

- There is an appropriate balance between change enabled through the development opportunity and an appropriate response to the various contextual conditions.
- This is best realised with a built form that is five storeys high with a four-storey street wall, and with the upper level recessed.

4.4 Height to road width ratio

(i) Evidence and submissions

In support of the proposed height, Mr Biles claimed the proposal would establish “*almost a 1:1 ratio with the width of the street*”, noting this ratio is a metric often used as a test by urban designers. While a ratio may be helpful, he did, however, concede that acceptability of height should not rely on this and that the appropriateness of the height in this location is a subjective assessment³³.

Mr Cunningham’s evidence referenced the ratio of the height of street wall to the width of street. This ratio has been used as a tool in various urban design considerations with a 1:1 ratio being a

³³ Document 32, page 10

common measure against which appropriate height can be assessed³⁴. Mr Cunningham and Mr Biles both saw the ratio as a useful tool.

(ii) Discussions and findings

Mr Biles and Mr Cunningham had differing interpretations how the height to road width ratio should be applied but it was agreed that the street wall of the proposal was greater than the street width and outside the 1:1 ratio. The Committee accepts the ratio can be a part of its considerations, but it is not the only or the most important factor to be considered. The substantial change of scale of the proposal within the urban context is the key aspect for consideration.

While one of the few tools that have a quantitative aspect, its use in this matter is limited as it applies generally to the sense of enclosure of the public realm in streets where development is on both sides. However, Mr Biles, Mr Cunningham and Council agreed it could be used to aid a judgement call by the Committee on an appropriate height.

The Committee finds:

- The height to road width ratio tool can be an aid in determining appropriate height but has limited use in this matter where there are other compelling considerations regarding height.

4.5 Overshadowing

(i) Evidence and submissions

Overshadowing diagrams prepared by the Proponent indicated that at the equinox, some additional shade will fall onto the front open spaces of the houses to the west between the hours of 9.00am and 10.00am. One of the residences appears to have the front space as the only open space. There would be some limited loss of amenity to properties, but it would not be significant when considering the impact at the equinox.

Mr Cunningham considered overshadowing impacts for the residences should be undertaken at the winter solstice.

(ii) Discussions and findings

The proposal would cast shade onto the public realm of the western footpath until beyond 10.00am on the equinox. The pedestrian usage along Beetham Parade would likely be higher in the morning as commuters come from the residential hinterland to the station.

The Committee did not assess impacts based on the winter solstice as this is not a common consideration when looking at potential amenity impacts on residential properties, particularly in Activity Centres.

³⁴ City North Structure Plan (Melbourne) is an example where medium scale street walls are envisaged both sides of the street

The Committee finds:

- Reduction of the height of the proposal by two storeys would remove overshadowing to the western footpath.

5 Access and parking

5.1 Background and key issues

Requirements for the provision of parking of cars and bicycles are set out in Clause 52.06 – Car Parking and Clause 52.34 – Bicycle Facilities in the Banyule Planning Scheme.

Clause 52.06 specifies a standard parking requirement for 100 space, comprising 76 resident spaces, 20 office spaces and 4 spaces for the café. A permit is required to reduce this requirement, with the proposed development providing 54 car spaces plus one car share space. Fifty of the car spaces are located in triple decked platform car stackers, which allow for independent access to each vehicle.

Clause 52.34 requires the provision of 14 secure resident bicycle parking spaces and 7 spaces for residential visitors. This is well exceeded by the proposed supply of 80 resident/staff spaces in the basement, 20 resident visitor and café staff spaces on the ground level and 10 public spaces on-street. Staff shower/change rooms are also provided.

Vehicular access to the basement parking facilities is proposed via a curved ramp from Beetham Parade.

They key issues to be resolved are:

- adequate road network capacity to absorb the traffic generated by the development
- adequate provision of parking being provided
- car park access and ramp layout
- car park layout and use and design of the car stackers.

5.2 Road network capacity

(i) Evidence and submissions

The Proponent called traffic and parking evidence from Mr Kiriakidis of Stantec.

Mr Kiriakidis advised that the development was estimated to generate in the order of 230 vehicle movements per day, based on the supply of parking. Having consideration to the road network, he estimated an increase in the peak hour movements of around 14 vehicles per hour at the Beetham Parade/Lower Plenty Road signalised intersection ³⁵.

Mr Kiriakidis was satisfied traffic generation could be comfortably accommodated by the existing road network, noting that the peak hour movement equated to an average increase of one vehicle every four minutes at the traffic lights.

The Department of Transport submitted the site was well located in proximity to both bus and rail services and traffic generation was not of a scale that would adversely impact the road network.

A number of submitters raised concern that traffic queues build up on Beetham Parade as it attracts some through traffic. Further, traffic movements on Lower Plenty Road are prioritised at

³⁵ Document 31, page 52

the signals and travel changes due to Covid-19 restrictions have not been adequately taken account of.

Submitter 51 requested an extension of the 40km/hr limit on Beetham Parade to Prospect Road.

(ii) Discussion and findings

Neither the Council nor the Department of Transport raised any concerns regarding the traffic impact of the development. The local road network is well connected affording the opportunity for traffic to choose a variety of routes to access the arterial road network, including, as Mr Cunningham suggested, cutting through the rail station car park. The limitation of parking also constrains the likely traffic generation minimising potential impacts.

Whilst surveys were undertaken during a period of Covid-19 restrictions, the Committee accepts the evidence of Mr Kiriakidis that the level of traffic generated by the development will not have a material impact on the function or amenity of the road network.

The setting of speed limits for roads is a responsibility of the Department of Transport.

The Committee finds:

- The development is unlikely to have a significant impact on the road network.

5.3 Parking supply

(i) Evidence and submissions

The Proponent submitted that the provision of parking is consistent with the relevant strategic planning policy encouraging modal shifts, the position of the Council in respect of car parking, recent VCAT decisions and the evidence of Mr Kiriakidis, and that local parking controls will limit impacts on neighbouring residents.

Mr Kiriakidis advised that parking is proposed to be allocated as follows:

- 12 x one-bedroom apartments: 0 spaces per dwelling
- 54 x two-bedroom apartments: 0.63 spaces per dwelling
- 5 x three-bedroom apartments: 2.0 spaces per dwelling
- 689.1 sqm office (9 tenancies): 1.31 spaces/100 sqm (1 per tenancy)
- 122.5 sqm food and drink premise: 0.82 sqm/100 sqm (1 for the tenancy)³⁶.

He recommended that the allocation be altered slightly by reallocating two of the spaces from the 3-bedroom units to 1-bedroom units. Otherwise, he was satisfied with the parking provision on the basis of:

- the locational characteristics of the proposed development, which is located adjacent to the Rosanna train station, within the Principal Public Transport Network area and in an area where publicly available car parking is largely controlled to prohibit long-term car parking
- policy expectations around the delivery of development that encourages sustainable transport use in lieu of private car use

³⁶ Document 31, page 29

- the significant provision of bicycle parking for residents, staff, customers and visitors and the end trip facilities for staff
- the provision of residential dwellings with no on-site car parking space will likely be an attractive and affordable option for those residents not owning a car³⁷.

Mr Kiriakidis assessed the development against the car ownership data from the 2016 ABS census for Rosanna and found it indicated a slightly higher residential parking demand than the statutory requirement. However, he noted that the data supported a reduction of parking in locations within 400 metres of Rosanna station with the data showing a higher proportion of residents with zero car ownership than for the suburb and a lower rate of private car use for journey to work. He concluded that this supports a reduction in car parking supply at this location.

He cautioned that

... using ABS Census data to predict car ownership is an approach that is 'backward facing' rather than 'forward facing' in that the use of historical car ownership rates to deliver car parking outcomes for future development will not:

1. Recognise the emerging trend of reduced licensing and corresponding car ownership, or
2. Meet policy objectives seeking to influence travel behaviour and bring about desired change to the way people travel³⁸.

He supported this with reference to a VCAT Red Dot Decision (P459/2016 Ronge v Moreland CC) where the members stated they were not persuaded the ABS data should not be given much weight and *"Policy tells us the future must be different. We consider that oversupplying parking, whether or not to comply with Clause 52.06, has the real potential to undermine the encouragement being given to reduce car-based travel in favour of public transport, walking and cycling"*³⁹.

Mr Kiriakidis advised that both the Planning Scheme and the Banyule Integrated Transport Plan (2015-2035) supports the reduction in parking at this site which is serviced by an adjacent train station and cycle paths.

In response to questions from submitters, Mr Kiriakidis accepted there is potential for staff or residents to seek parking in the rail car park but there are signage limiting the parking to rail commuters.

The Department of Transport submitted that they supported the development and that it did not envisage a need to change the management of the rail station parking as a result of the development.

Council was supportive of the proposed parking supply, noting:

- the availability of public transport
- ability to access everyday services in the Rosanna NAC
- support in the Banyule Integrated Transport Plan 2017-2025 and Plan Melbourne.

It sought a requirement to provide a Green Travel Plan and noted that residents will not be entitled to Council's Residential Parking Permits.

³⁷ Document 31 page 56

³⁸ Document 31, page 36

³⁹ Document 31, page 36

Council acknowledged that the Proponent’s parking surveys were undertaken during a period impacted by the current pandemic which may have lowered the parking demands surveyed but did not consider that this was a concern.

A large number of submissions raised concern with the supply of parking proposed and potential impact on local streets, rail commuters and traders if residents and staff seek to use public parking. Of particular concern was the potential for increased parking in Prospect Road, 120 metres to the south of the site, which does not support cars parking opposite another car. They advised that some parking had recently been lost from the shopping centre due to the rail station and streetscape upgrades and that the loss of additional spaces to create the new driveway and increased demand would make it difficult for residents to find parking at the shopping centre. They noted that Rosanna is a hilly area and advised many locals find it too difficult to walk to and from the shopping centre, relying on cars for transport.

Submitter 47 suggested that charging facilities should be provided for all cars and for bicycles. The Proponent confirmed that it was possible to provide electric charging points in stacker units.

(ii) Discussion, findings and recommendations

In considering the reduction in parking for staff and residents’ consideration must be given to a range of matters including, but not limited to:

- the car parking demand assessment
- relevant planning policy
- access to or provision of alternative transport modes, to the private motorcar
- to and from the land
- the future growth and development of any nearby activity centre
- the impact of fewer car parking spaces on local amenity
- the practicality of providing parking on the site.

The car parking demand assessment using the ABS data does not in itself justify a reduction in parking. However, the data clearly shows that there is potential for the parking demand to be reduced by limiting the supply to cater for residents who choose not to own a car. This is consistent with planning policy to reduce reliance on private vehicle transport and encouraging a shift towards alternative transport modes as well as providing more affordable housing unencumbered by the cost of parking spaces. This site is well positioned to take advantage of that desire being at a public transport interchange, at the edge of an existing activity centre and on a cycle path.

Further support for alternative transport use is the high provision of bicycle parking proposed and the inclusion of a car share and a proposed green travel plan.

This development will form an expansion of the activity centre, providing additional employment opportunities in a location accessible by alternative transport modes, as well as an increase in potential local customers for the activity centre.

The Committee acknowledges that the current Covid-19 pandemic is altering parking patterns due to travel restrictions, with more people working and schooling at home, shopping locally and avoiding or not needing to use public transport. This results in parking surveys being an unreliable method of determining the availability of spare parking in the local area and potential impact on local amenity.

However, in considering the reduction in parking requirements for residents and staff, a survey of available parking in the local area is only of limited assistance given that the Council actively manages on-street parking using short-term parking controls and a resident parking permit scheme for which this development will not be eligible. Council has also included a proposed condition to ensure that residents are advised that they will not be entitled to parking permits. Should parking demands extend beyond existing parking controls this will be something that Council can and is expected to manage as the activity centre expands.

The desire to have ground floor commercial uses rather than parking limits the practicality of providing parking on this site. Indeed, the parking supply has been maximised through the use of triple decked parking stackers.

In relation to the proposed allocation of car parking, the Committee agrees with Mr Kiriakidis that some change to the parking allocation should be considered with no justification provided to provide two car parking spaces per 3-bedroom unit. Given the availability of alternative transport the Committee considers that it would best support government policy to limit all dwellings to a maximum of one space. This is a matter that can be determined by the Council when approving the proposed parking management plan.

The Committee notes that the draft conditions require a car share space but do not require the provision of a car share vehicle. The provision of a car share vehicle is considered to be an important element put forward in the consideration for a reduction in the supply of parking spaces. Accordingly, its provision should be a requirement of any permit being issued and managed as a part of the Green Travel Plan.

During the Hearing, there was some discussion regarding the timing of the provision of the Parking Management Plan (Condition 9) and the Green Travel Plan (condition 10), with early versions of the conditions requiring the Parking Management Plan before the commencement of use and the Green Travel Plan, before the commencement of development⁴⁰. The final tabled version of the conditions changed the Green Travel Plan to prior to the commencement of use⁴¹.

Given that both plans are called up as endorsed plans in Condition 1, it would be appropriate for these to be prepared prior to the commencement of development, noting that they may recommend items that need to be reflected on in finalising the development plans.

Given the increasing use of electric vehicles (cars and bicycles) and government incentives to encourage electric vehicles it will be important that the building has charging facilities to meet the developing needs of its residents and tenants. This is a matter that should be considered in the Green Travel Plan.

The Committee finds:

- The proposed provision of parking is acceptable, especially in the context of the site location in a Neighbourhood Activity Centre adjacent to a railway station.
- Condition 10 (Green Travel Plan) should be modified to ensure that a car share vehicle is provided, not just a car share space, and provision is made for electric charging of cars and bicycles.

⁴⁰ Document 30

⁴¹ Documents 118 and 119 (Proponent's tracked changes)

- The Green Travel Plan and the Parking Management Plan should be prepared prior to the commencement of development unless otherwise agreed in writing by the responsible authority.

The Committee recommends that:

Condition 9 Parking Management Plan be modified to require the plan to be provided prior to the commencement of development, unless otherwise agreed in writing.

Condition 10 Green Travel Plan be modified by:

- a) requiring the plan to be provided prior to the commencement of development, unless otherwise agreed in writing
- b) deleting the words *“and outline arrangements for the management of the car share space”*.
- c) adding a new sentence reading:
 - *“This plan must outline arrangements for providing and managing a car share vehicle and for the provision of electric charging facilities for cars and bicycles”*.

5.4 Car park access

(i) Evidence and submissions

The Proponent advised that the car park access was located on Beetham Parade as VicTrack would not permit access from the rail car park or its access road. The Department of Transport confirmed that restriction, advising that an access from within the rail car park was not permitted as it may encourage overflow parking into the rail car park.

In his written evidence, Mr Kiriakidis advised that the car park access meets Design Standard 1 – Accessways of Clause 52.06 noting:

- a B99 design car cannot pass a B85 car on the curved section of the ramp, but the ramp provides for passing opportunities at its top and bottom
- a pedestrian visibility splay will be provided measuring 2.5 m long along the exit side of the driveway and 2.0 m long along the frontage⁴².

He considered the ramp width to be satisfactory as the access ramp is estimated to carry less than 30 vehicles per hour, which is a threshold for a two-way ramp in the relevant Australian Standard.

In response to questions from the Committee, Mr Kiriakidis advised that:

- Council’s proposed condition 1(l) for a centreline along the ramp should be limited to the straight sections of the ramp where two vehicles can pass
- the ground floor plan shows landscaping outstands along the building frontage (within the road reserve) and adjacent to the driveway which offer a suitable sight distance triangle as they direct pedestrians away from the building frontage. He acknowledged that tactile paving may be required on the footpath to direct the visually impaired around the landscape outstands located along the building frontage.

⁴² Document 31, chapter 6

The Proponent advised the landscape zones along the boundary had been added to the plans in consultation with Council officers.

Council did not object to the location of the access on Beetham Parade but advised that there would be a loss of two or three paid parking spaces on-street and a number of conditions are proposed to address concerns, including 1(i) Crossover to be minimum 1m from power pole, 1(l) Centre line marking on ramp, 1(y) Corner splay on each side of the accessway to comply with Design Standard 1 and 1(dd) Traffic engineering plan (requiring kerb outstands and line marking of on-street parking spaces among other things as set out in Condition 3).

Several submitters sought the driveway to be relocated to the south or east sides of the building to avoid parking loss. Mr Cunningham gave evidence the design should be changed to locate the driveway on the southern side of the building to reduce conflicts with pedestrians and to ensure the building edge provides a clear pedestrian walkway in accordance with DDA requirements⁴³.

He advised the proposed landscape zones along the building frontage would pose difficulty for the sight impaired, resulting in the need for tactile paving to direct people around the landscape strips and to the office entries.

He further advised there are awnings proposed along the front of the building and these are normally provided for weather protection for pedestrians. He observed it would be contrary to divert pedestrians towards the kerb with landscaping against the building line.

Mr Cunningham recommended that the sight line triangle at the driveway entry be provided within the building frontage.

(ii) Discussion, findings and recommendations

Providing the car park access from the south side of the building via the rail car park access road would have a number of advantages including:

- avoiding the loss of on-street parking in the activity centre
- avoiding adding a new conflict point on the Beetham Parade footpath for pedestrians
- allowing the commercial frontage to continue further along the street
- allowing for a straighter ramp design.

However, providing vehicular access from the south side of the building would not necessarily increase opportunity for additional parking in the basement. It is likely it would add a conflict point in the rail car park and require a wider building entry or setback to provide adequate sight lines between cars on the access road and the basement entry.

The Committee is not convinced by the Department of Transport's argument that providing access from the south would add encouragement for drivers to park in the rail car park. The basement car park would be allocated parking, given that no visitor parking is proposed, and therefore there would be no cars overflowing from the proposed car park.

While it may be more desirable to have the car park access on another boundary, the provision of a driveway on Beetham Parade is not a fatal flaw to the application, provided it can be designed to

⁴³ Document 38, page 10

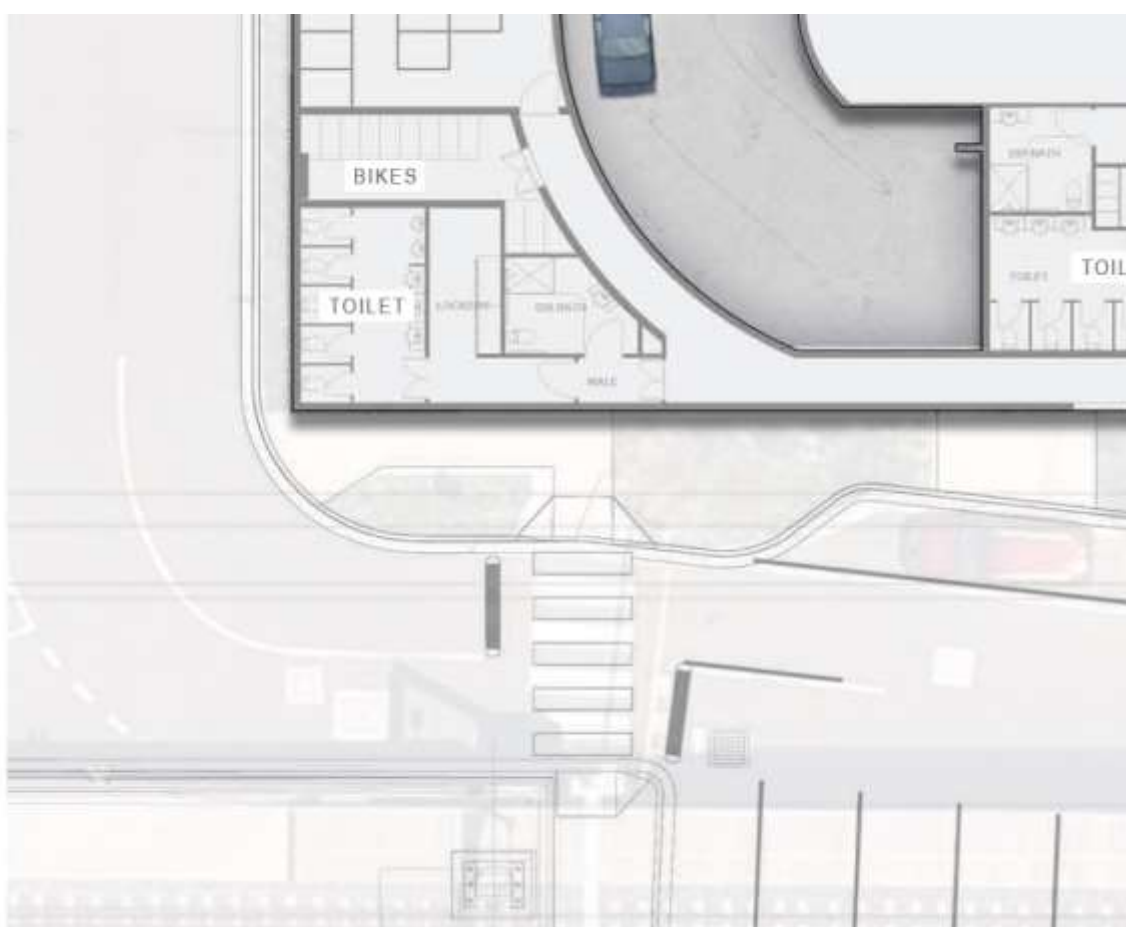
meet Design Standard 1, which requires a sight line splay on the exit side of the driveway measuring two metres across at the building frontage.

In this respect, the Committee agrees with Mr Cunningham that using landscaping along the frontage to divert pedestrians in lieu of splaying the building may lead to a less desirable outcome in the public realm. For the visually impaired and to allow opportunities for street trees to be planted on the nature-strip, as required in Condition 4, the best location for the footpath will be along the building edge, where the awning can also provide weather protection.

In respect to the rail car park access road, the Committee notes the southeast corner of the building, at ground and basement level, will obstruct sight lines to the pedestrian footpath along the east side of the building that connects the car park to the south with a pedestrian crossing as shown in Figure 5, noting the building is only proposed to be offset one metre from the kerb line. To ensure the safety of pedestrians crossing the road to the south and at the pedestrian crossing to the east, it is important that a sight line splay be provided at this corner of the building at the footpath level.

The Committee is conscious that this was not an issue raised at the Hearing but given the potential safety impact, it is a matter that must be addressed. The dimensions of any setback is a matter that should be determined by Council and the Head, Transport for Victoria as the road authority.

Figure 5 South east corner of building - extract of Landscape Plan 01 by Site Image Landscape Architects (VIC)



The Committee finds:

- The location of the car park access is acceptable subject to a sight line splay being provided at the building frontage by splaying the building on the south side of the accessway in accordance with Design Standard 1-Accessways. This is adequately addressed in the proposed condition 1(y).
- A sight line splay is required on the southeast corner of the building to provide adequate sight lines to the public footpath and pedestrian crossing in the rail car park.

The Committee recommends that:

Condition 1 be modified by adding two new sub-clauses to read:

“The south east corner of the building set back at the surrounding ground level to maintain adequate sight lines to the public footpath and pedestrian crossing within the rail car park for cars travelling along the car park access road, to the satisfaction of the Head, Transport for Victoria.”

“The south east corner of the lot boundary on the subdivision plan be modified to set the property line back to accord with the sight line required for the rail car park access road.”

5.5 Parking layout

(i) Evidence and submissions

Mr Kiriakidis stated in evidence that the car park layout meets the requirements of the Clause 52.06 with:

- The car stackers having a minimum platform length of 5.5 metres and a width of at least 2.6 metres
- Each car stacker spaces will be accessed by a 6.6 metre wide aisle and swept path diagrams show that the car stacker spaces are accessible in no more than a 3-point turn for forward entry and reverse exist manoeuvre
- At least 35% of car stackers will accommodate a vehicle height of at least 1.8 metres
- An accessible parking space is provided ⁴⁴.

He advised that car stacker systems are *“a conventional, alternate format of car parking that is now well accepted within the metropolitan Melbourne for mixed use developments”* ⁴⁵. In respect to usage, he advised that it could take around 30 seconds to 2 minutes to access a car stacker and acknowledged that a resident making a short stop at home may choose to park on street if a space is available outside the site, rather than park in the basement. He noted that providing wider platforms could make them more comfortable to use but would likely result in a reduction in the number of bays able to be provided.

In response to the Committee’s questions regarding sight lines and the width of the corridor on the ground level leading to the visitor bike parking, men’s toilets and residential storage lockers, the proponent provided updated drawings in Document 78. Drawing A06.1 Rev B by C. Kairouz

⁴⁴ Document 31, page 47, chapter 6.2

⁴⁵ Document 31, page 47, chapter 6.2

Architects shows how the corridor adjacent where it crosses over the car ramp can be widened to ease two-way movement with bikes and pedestrians at the two right angled turns.

The Council requested that the stacker spaces be increased in width to 2.7 metres (condition 1(k)) and the accessible parking bay be allocated to an office use rather than for the proposed car share vehicle (Condition 1(h)). Condition 1(h) was not contested by the Proponent.

The increased width of the stackers was sought improve access into the bays and to also increase space for drivers to get in and out of the vehicle.

The difficulty and inconvenience of using car stackers was also raised by other submitters with reference made to car stackers reportedly not being used in the adjacent apartment buildings because of usability issues.

(ii) Discussion, findings and recommendation

Car stackers add a level of both inconvenience and delay to users. Drivers parking in the stacker must pull up, exit the vehicle and use a control panel to access their car space. They then return to their vehicle to wait for the space to be manoeuvred into the correct position and the gate to open before entering the stacker and parking the vehicle. Once they leave the vehicle, they have to return to the control panel to close the gate and complete operation freeing the system up for another driver to use.

The Klaus Multiparking brochure advises:

- We recommend a minimum pit length of 570 cm for comfortable use of your parking space and increasingly longer vehicles (page 3).
- We recommend platform widths of minimum 250 cm and driving lane widths of 650 cm in order that vehicles can comfortably access the Multiparking system and enter and leave without difficulty (page 5) ⁴⁶.

The gates in front of the stackers reduce the aisle width to less than 6.2 metres, noting that only the gate directly in front of the space being accessed would open to admit the vehicle. In accordance with Design Standard 2 such an aisle width requires space widths of 2.7 metres plus splays at the entry. Platform widths of 2.7 metre would accord with the Council's and manufacturer's recommendation. Council's proposed conditions 1(h) and 1(k) are justified.

While the swept path diagrams provided by Mr Kiriakidis indicate that the 85th percentile design vehicle can access the stackers with a 3-point turn, no consideration was given to access by larger cars and the Committee is not satisfied that adequate consideration was given to the impact of the stacker doors nor the inconvenience and delay posed to users.

This inconvenience includes the limited space width and height for drivers accessing or egressing the car. The limited clearance height can result in drivers having to crouch and the raised sections at the sides of each individual platform reduce the width between the car and edge of space for walking. By comparison in a conventional parking space, a person can utilise the flat ground space between vehicles or the space is widened on each constrained side.

Car parking stacker systems maximise the ability to provide parking and care needs to be taken to not further sacrifice quality over quantity given the unavoidable usability restrictions.

⁴⁶ Document 31, Appendix E, Klaus Multiparking Product brochure, pages 3 and 5

The recommended reduction in height of the building (refer Chapter 4) will result in the loss of around 26 apartments which would easily compensate for the loss of 6 stacker spaces to facilitate the use of wider bays.

In relation to the ground floor layout, the visitor bicycle parking spaces and the men's toilets are facilities that will be used by the public, including children. While access to the bicycle spaces may be controlled by individual residents, this area by virtue of serving as toilet facilities for the café and offices may be used by vulnerable people. The area offers very limited opportunity for passive surveillance being hidden by the walls for the car park ramp.

While the proposed changes in Document 78 address the physical constraints for cyclists, it does not address the public safety and security concern. This is not able to be addressed by CCTV surveillance as there is no proposed on-site management.

The Committee finds that:

- The car stacker platform widths should be widened to 2.7 metres. This can be accommodated by a reduction in the number of parking spaces, noting the Committee's recommendation to reduce the height of the building will result in a reduction in the number of dwellings.
- The ground floor layout should be modified to improve accessibility and passive surveillance opportunities to the men's toilet, visitor bicycle parking and residential storage area.

The Committee recommends that:

Condition 1 be modified by adding a new sub-clause to read:

“The ground floor layout modified to improve accessibility and passive surveillance opportunities to the men's toilet, visitor bicycle parking and residential storage area.”

6 Tree removal and landscaping

6.1 Background

All existing landscape on the site is to be removed and the plans show a variety of landscape treatments.

The key issues to be resolved are:

- loss of trees
- landscaping and the green wall.

6.2 Evidence and submissions

An arboriculture assessment was undertaken by the Proponent as part of the exhibition information. It identified eight trees located on Beetham Parade which are proposed to be removed. The report concluded that this vegetation “*exhibited significantly reduced aesthetic and amenity value due to their past management regime, the presence of environmental weeds and the poor quality of some trees*”⁴⁷.

With particular regard to the existing river red gum (Tree 1), further advice was submitted by the Proponent from a consultant arborist that the tree would be excessively impacted by proposed development. If it were to be retained, a substantial protection zone and separation would be required. The Proponent submitted that redevelopment of the site would not be viable if the tree was to be retained. Removal of the tree would be offset by the integrated landscape for the proposal⁴⁸.

The Proponent explained the integrated landscaping and vegetation incorporated in the amended plans included the provision of planter boxes to balconies, a ‘green wall’ to the west elevation, and landscaping provisions to the footpath area to the west subject to approval by responsible authority.

Council did not oppose removal of vegetation from the subject site and supported the removal of trees adjacent to the site subject to landscaped replacement treatments⁴⁹.

Submitters concerned with the existing vegetation did not generally accept that existing vegetation should be removed, and that the river red gum was a significant mature tree that should be retained.

6.3 Discussion and findings

The existing vegetation is as described by the arborist report. It is clear the trees could not be retained with the proposal or any other version of viable development that incorporated the footpath interface. Retention of the red gum tree would require excising a significant section of

⁴⁷ Exhibited materials, Treelogic Arboricultural Assessment Report, page 10

⁴⁸ Document 54, para 115

⁴⁹ Document 72, paras 97-98

the site to accommodate root protection, and separation. On balance the tree would need to be removed to enable reasonable development to the site.

The proposed landscape plan intends to include planter areas to balconies and a green wall to the west. These features would integrate vegetation into the design. The important aspect of a viable integrated landscape is a maintenance program that would ensure healthy growth. This is especially important for the viability and water reticulation system for the west facing green wall.

The requirements for a landscape plan for the site and an associated ongoing maintenance program agreed and implemented to the satisfaction of the Responsible Authority is covered under condition 4 of the final conditions.

The provision of landscaping to the western footpath should be undertaken with the agreement of Council and a landscape design plan proposed to the satisfaction of the responsible authority.

The Committee finds:

- The existing vegetation on the subject site can be removed.
- The existing red gum (Tree 1) can be removed.
- The green wall must be regularly maintained to ensure that it remains a 'living' feature of the proposal.

7 Other matters

There were other matters raised in the course of these proceedings, with the key issues to be resolved relating to:

- Acoustics
- Sustainable development
- Department of Transport conditions.

7.1 Acoustics

(i) Submissions

The Applicant submitted the relevant draft conditions, which have been further refined in consultation with the Council and updated to reflect the new *Environment Protection Act 2017* (EPA Act), together with the Marshall Day Acoustics report satisfy the relevant noise and vibration standards, including Standard D16 of Clause 58 and give, confidence that noise levels for future residents of the apartments will be appropriately managed and attenuated.

Council submitted the proposed noise conditions address noise considerations and requirements, subject to the changing the references to State Environmental Protection Policy (SEPP) N-1 and SEPP N-2 to the reference the new noise protocols in the Environmental Protection Regulations 2021. These conditions were not opposed by the Proponent.

Several submitters raised concerns with potential unacceptable noise impacting local residents. Submitter 47 submitted the permit should include the specific performance criteria set out in the acoustic report rather than rely on the treatments determined in that report as necessary to meet the criteria. He noted there was some variation in the proposed window selection between the Marshall Day report and the Ark Resources ESD report.

Submitter 47 further submitted that while the Applicant verbally advised the Committee that post development noise testing would occur, the draft conditions fell short of requiring testing, requiring only a report to verify the measures set out in the acoustic report had been implemented.

(ii) Discussion, findings and recommendations

A number of noise conditions were proposed to protect the amenity of local residents and the future residents and tenants from unacceptable noise. These support the general environmental duty included in the new EPA Act which includes a requirement for residents not to disturb neighbours.

The Marshall Day Acoustic Report was not criticised by any party and included specific measures determined to be necessary to meet the noise performance standards. While there is some attractiveness to specify the noise standards in a permit, this is not necessary where they are clearly contained within a referenced acoustic report.

The Committee however agrees with Submitter 47 that post development noise testing would assist in ensuring that compliance to the EPA Act is obtained and require additional ameliorative works should the criteria set out in the acoustic report not be met. In respect to potential conflict

in window specification with the ESD report, the Committee notes the Acoustic Report allows Marshall Day Acoustics to approve alternative options⁵⁰.

The Committee notes that Conditions 32 and 36 continue to reference superseded noise standards and require updating. Condition 32 can be deleted in its entirety as condition 33 references the relevant standard.

The Committee finds:

- Noise from the development can be reasonably managed
- Post development noise testing to verify the success of the proposed noise treatments in meeting the performance criteria should be undertaken, with amelioration provided should the criteria not be met.
- References to SEPP N-1 should be deleted in favour of current regulations.

The Committee recommends that:

Condition 31 be modified by replacing the second sentence with:
“The report must be to the satisfaction of the Responsible Authority and must contain results of post development noise testing to confirm that the performance criteria specified in the Acoustic Report are met and recommend treatments to address any non-conformances. Any treatments recommended in this report must be implemented to the satisfaction of the Responsible Authority.”

Condition 32 be deleted.

Condition 36 be modified by deleting all references and replacing them with:
“Environmental Protection Regulations 2021.”

7.2 Sustainable Management

(i) Submissions

A sustainable management Plan by Ark Resources was submitted with the development.

The report stated the development would achieve an average 6.5 star energy rating. It included the following key ESD initiatives:

- 20kw Solar photovoltaic system
- rainwater harvesting system for grey water use
- high performance glazing and energy efficient appliances, services and fixtures
- environmentally preferable finishes.

The Ark Resources report indicated the BESS Score and Stormwater quality sits in the Best Practice category.

Council submitted that:

The proposal is not consistent with the objectives of Clause 22.71 Environmentally Sustainable Development), including:

- To reduce the impact of stormwater run-off
- To improve the water quality of stormwater run-off

⁵⁰ Marshall Day Acoustics Rev 01, 13 November 2020, section 7.2.2.

- To achieve best practice stormwater quality outcomes
- To incorporate the use of water sensitive urban design, including stormwater re-use.

In its draft conditions, Council sought a refinement to the Sustainable Management Plan requiring additional detail in the assessment and reports and a prohibition of a gas connection to the property. Council required a condition to locate air conditioning units on the roof to avoid reducing the useable area of balconies. These conditions were accepted by the Applicant.

Submitter 47 raised a number of issues around energy usage, renewable energy and conservation, efficiencies through location of air conditioning units, support for 6.5 star energy rating units, embodied carbon, photovoltaic panels, deletion of gas supply to the development, ventilation, noise protection⁵¹. While this submission was of interest to the Committee and Proponent (they had already removed gas supply to the development), the Committee can only recommend compliance with relevant requirements under the Planning Scheme.

(ii) Discussion, findings and recommendations

The Committee notes the Proponent has agreed to Council's request to remove the gas supply from the development. This is supported by the Committee as a positive sustainable management action and will remove the need for an agreement with the relevant authority for the provision of gas services⁵²

The submission by Submitter 47 was of interest to the Committee, however the Committee can only recommend compliance with relevant requirements under the Planning Scheme. While there would be benefits from aiming for higher ratings, the development meets the objective of Clause 22.71 to achieve best practice and the Committee was not provided with any reason to justify exceedance of best practice standards.

The Committee finds:

- The development satisfies the objectives of Clause 22.71.
- The gas meters should be removed from the ground floor plan.
- Condition 39 should be modified to remove a requirement for an agreement for the provision of gas services.

The Committee recommends that:

Condition 1(b) be modified by adding *“and the ground floor layout modified by the removal of the gas meters”*.

Condition 39 be modified by deletion of the requirement for an agreement with the relevant authorities for the provision of *“gas”* services to each lot.

⁵¹ Document 83

⁵² Condition 39

7.3 Department of Transport conditions

(i) Submissions

In its closing submission, the Proponent objected to the requirement in Condition 48 for the detailed construction engineering plans and structural computations to be approved by both VicTrack and the Rail Operator in addition to the Head, Transport for Victoria, arguing that having three entities involved in the approval can be difficult to manage⁵³.

The Department of Transport advised that it supported the proposal subject to the inclusion of a series of conditions to protect its rail assets and operations⁵⁴.

During the Hearing, the Department of Transport amended some conditions in response to ongoing discussions with the Proponent and questions from the Committee. These were largely agreed by the parties, and where agreed, are considered reasonable by the Committee.

At the direction of the Committee on the final day, further discussions were held between the Department of Transport and the Proponent to try and come to an agreement in relation to Conditions 52 and 53 which require a Construction Control and Indemnity Agreement and a requirement to obtain the Rail Operator's conditions and safety requirements for works on, over or adjacent to railway land.

On 15 September 2021, Department of Transport advised the Committee that it had finalised its position in respect to Conditions 52 and 53 and, noting that the Project Development Agreement is now in place⁵⁵. It requested the following condition in its place to protect the Rail Operator's interests:

Prior to the commencement of any demolition or construction works, the Rail Operator must be contacted through the email address metrositeaccess@metrotrains.com.au to obtain the Rail Operator's conditions and safety requirements for works on, over or adjacent to railway land which must be complied with by the permit applicant during the construction of the development. The permit applicant must enter into a construction control indemnity agreement with the Rail Operator on terms that are to its satisfaction in respect of the development prior to the construction commencing (including demolition and bulk excavation). Any costs required to review documents for the construction control indemnity agreement must be met by the permit holder.

On 15 September 2021, the Proponent advised the Committee that it accepted the change proposed by Department of Transport, subject to the following amendments:

- The construction control indemnity agreement being on terms that are to its "*reasonable*" satisfaction, and
- Each party bearing its own costs associated with reviewing and finalising the agreement⁵⁶.

⁵³ Document 119

⁵⁴ Document 67

⁵⁵ Document 121

⁵⁶ Document 122

(ii) Discussion, findings and recommendations

The Department of Transport submission advised that under Section 64B of the *Transport Integration Act 2010* the primary object of the Head, Transport for Victoria⁵⁷:

... is to coordinate, provide, operate and maintain the public transport system ...

With Condition 48 requiring approval from three separate entities, this could result in Council (or the Minister for Planning) being called upon to arbitrate in the event there was a lack of agreement between one of the parties, which could prove difficult given the detail involved in detailed construction and engineering plans and structural computations.

Accordingly, it would be appropriate for the Head, Transport for Victoria to take on the coordinating role of approval as allowed for in the Transport Integration Act.

The Committee notes Condition 50 calls for the Demolition and Construction Management Plan to be approved by the same three parties. This was not raised as a concern by the Proponent and the Committee notes that such a plan would not contain the same level of complexity as the detailed construction/engineering plans, resulting in a lower potential for dispute.

In relation to Conditions 52 and 53, the Committee understands that construction control indemnity relates to building work not planning. It is therefore not a document that either the Council's planning department, nor the Planning and Environment Division of VCAT, should an application for review under Section 149 of the PE Act be sought, can or should arbitrate.

In the same way that a permit for a subdivision may require certain agreements from other authorities, it is only for the Responsible Authority to be satisfied that all specified agreements are in place, not whether the detail is appropriate. Examples of this are in the proposed 'Subdivision conditions' (Conditions 37 to 41), which require agreements with various authorities or service providers without providing for any potential for a planning merits review that a test of 'reasonableness' might open up.

In respect to costs, this is not a planning consideration but a matter between the two parties to resolve, as presumably has been done with the Project Development Agreement that the Committee was advised has been entered into⁵⁸. Again, the Committee notes that Conditions 37 to 39 make no reference to costs.

The Committee finds:

- The 'Development' conditions (conditions 46 onwards), as amended are reasonable to protect the interests of the Head, Transport for Victoria, Vic Track and the Rail Operator, subject to:
 - removal of a requirement for Vic Track and the Rail Operator to approve the detailed construction/engineering plans in Condition 48
 - replacement of Conditions 52 and 53 with the proposed new condition provided by Department of Transport on 15 September 2021, with that new condition amended to delete reference to costs associated with the preparation for a construction control indemnity agreement⁵⁹.

⁵⁷ Document 67 page 44

⁵⁸ Document 121

⁵⁹ Document 121

The Committee finds:

- The Development conditions (46-56), as amended are reasonable to protect the interests of the Head, Transport for Victoria, VicTrack and the Rail Operator, subject to replacement of Conditions 52 and 53 with the proposed new condition provided by Department of Transport on 15 September 2021, with that new condition be amended to delete reference to costs associated with the preparation for a construction control indemnity agreement.

The Committee recommends:

Condition 48 be modified by removing the words “VicTrack and the Rail Operator”, from the end of the first sentence.

Condition 52 and 53 be deleted and replaced by the following condition:

“Prior to the commencement of any demolition or construction works, the Rail Operator must be contacted through the email address metrositeaccess@metrotrains.com.au to obtain the Rail Operator’s conditions and safety requirements for works on, over or adjacent to railway land which must be complied with by the permit applicant during the construction of the development. The permit applicant must enter into a construction control indemnity agreement on terms that are to its satisfaction in respect of the development prior to the construction commencing (including demolition and bulk excavation).”

8 Net community benefit

8.1 Clause 71

Clause 71.02-3 of the Victoria Planning Provisions ‘Integrated decision making’ provides that: Society has various needs and expectations such as land for settlement, protection of the environment, economic wellbeing, various social needs, proper management of resources and infrastructure.

Planning aims to meet these needs and expectations by addressing aspects of economic, environmental and social wellbeing affected by land use and development. Planning and responsible authorities should endeavour to integrate the range of planning policies relevant to the issues to be determined and balance conflicting objectives in favour of net community benefit and sustainable development for the benefit of present and future generations.

However, in bushfire affected areas, planning and responsible authorities must prioritise the protection of human life over all other policy considerations. [Committee underlining]

In considering net community benefit, the ‘community’ which might be positively or negatively impacted must be acknowledged. It is well recognised that planning is not about maintaining the status quo but, in accordance with the PE Act at section 4(1)(g), to balance the present and future interests of all Victorians.

The Planning Scheme requires these policy tensions be reconciled through the balancing of competing objectives in favour of net community benefit and sustainable development, for the benefit of present and future generations. In this case, the community is local but includes those living in metropolitan Melbourne who might seek to live within an Activity Centre that has excellent access to local shops and services that is well served by public transport.

Substantiable development is also important in terms of social and environmental sustainability.

8.2 Benefits and disbenefits

In determining whether a proposal results in a net community benefit, it is necessary to understand what the benefits and disbenefits might be.

While Mr Glossop quoted Clause 71 in his planning evidence, he did not address it. When asked to consider the net benefits or disbenefits to the community, he concluded the proposal would result in a net community benefit and sustainable development.

The Committee considers the proposal will realise the following positive net benefits:

- increased housing supply and choice
- opportunity for affordable accommodation options through the apartments
- activation of a site that is currently vacant with poor visual interest
- additional opportunities for activation along Beetham Parade, including indoor and outdoor dining
- increase in office space and employment opportunities
- less reliance on private motor vehicles by occupiers
- less need for car parking, more reliance on sustainable options (train, bicycle).

The Committee considers the proposal may realise the following disbenefits:

- intensification of the urban area with a development proposal that is comparatively, much higher than that existing

- changes to traffic flow (minimal)
- impacts of construction (temporary)
- additional built form impacts, including less direct sunlight
- loss of trees and vegetation.

Overall, the Committee concludes this proposal will result in a net community benefit to the local and broader community of Banyule and its surrounds. Further, as a transit oriented development immediately adjacent to a railway station, it provides for sustainable development outcomes consistent with overarching State and local policy, Plan Melbourne and the benchmark '20 minute neighbourhood'.

The Committee finds:

- The proposal will achieve a sustainable development that will provide for a net community benefit, subject to reducing the height of the building by two storeys.

8.3 Response to Terms of Reference

The Committee has complied with and reported on all relevant matters in accordance with its Terms of Reference, in particular Clauses 19, 20, 21, 22, 23, 24, 29, 30 and 31.

Appendix A Terms of Reference



Terms of Reference

Victorian Transport Projects Integrated Development Opportunities Standing Advisory Committee

Version 5: February 2021

Standing Advisory Committee appointed pursuant to Part 7, section 151 of the *Planning and Environment Act 1987* to provide advice on integrated development opportunities (IDO) created by Victorian transport projects, where the IDO has the consent of the relevant Victorian Government department or agency.

Name

1. The Standing Advisory Committee is to be known as the ‘Victorian Transport Projects Integrated Development Opportunities Standing Advisory Committee’ or ‘VTPSAC’ (the Standing Advisory Committee).
2. The Standing Advisory Committee is to have members with the following skills:
 - a) Statutory and strategic planning
 - b) Land development and property economics
 - c) Civil engineering and transport planning
 - d) Design and built form.
3. The Standing Advisory Committee may seek specialist advice as appropriate.
4. The Standing Advisory Committee will include an appointed Chair, Deputy Chairs and other appropriately qualified members.

Purpose

5. The Standing Advisory Committee will provide advice to the Minister for Planning on IDO created by Victorian transport projects, where the IDO has the consent of the relevant Victorian Government department or agency.

Background

6. The Victorian Government is delivering a number of transport projects that will deliver significant improvements to the transport network and reduce congestion for communities across Victoria. These projects include the Level Crossing Removal Project and the Melbourne Metro Rail Project.

7. At some locations the projects will create newly available land. There is an opportunity to develop this newly available land and reinvest the proceeds generated back into further improvements to the public transport system.
8. The Standing Advisory Committee process has been established to provide a consistent and transparent process for considering IDO created by Victorian transport projects.

Method

General

9. The Minister for Planning, or delegate, will refer a location or several locations for proposed IDO to the Standing Advisory Committee for advice.
10. The Minister for Planning may also refer any other aspect of a transport project to the Standing Advisory Committee.
11. The Minister for Planning, or delegate, may for a specific referral, vary or exclude any stage of these Terms of Reference. Any such referral must include the details of any variations.
12. In making a referral, the Minister for Planning, or delegate, must be satisfied that any future provisions for the land make proper use of the Victoria Planning Provisions.
13. The Standing Advisory Committee may apply to the Minister for Planning to vary these Terms of Reference in any way it sees fit prior to submission of its report.
14. The Standing Advisory Committee will generally undertake its work in three stages:
 - Stage 1: Exhibition
 - Stage 2: Public process, including public Hearings if required
 - Stage 3: Outcomes.

Stage 1: Exhibition

15. Once a referral has been received, the Standing Advisory Committee will pre-set the hearing dates. The hearing dates may include a Public Hearing, including a Directions Hearing.
16. The Department of Environment, Land, Water & Planning (DELWP) will give notice of the proposed IDO for a minimum of four weeks. Notice will include:
 - A notice in a local newspaper generally circulating in the area
 - Direct notice to government agencies and servicing authorities
 - Direct notice to relevant councils
 - Direct notice to owners and occupiers who may be materially affected by the proposal.
17. All submissions are to be collected by the office of Planning Panels Victoria (PPV) through Engage Victoria in accordance with the 'Guide to Privacy at PPV'. Electronic copies will be made available for each relevant council, the Proponent and DELWP. -

18. Petitions and pro-forma letters will be treated as single submissions and only the first name to appear on the submission will receive correspondence in relation to the Standing Advisory Committee matters.

Stage 2: Public Hearings

19. The Standing Advisory Committee may conduct hearings, workshops, forums or other meetings using video conferencing or similar technology as necessary and provide all submitters with an opportunity to participate and be heard.
20. If the Standing Advisory Committee convenes a public Hearing, it may limit the time of parties who wish to appear before it and may prohibit or regulate cross-examination.
21. The Standing Advisory Committee may meet and invite others to meet with it when there is a quorum of at least two of the Standing Advisory Committee members including a Chair or Deputy Chair.
22. The Standing Advisory Committee may inform itself in any way it sees fit, but must consider:
 - Any relevant provisions in the Plan Melbourne and the Planning Policy Framework
 - Any relevant provisions of the applicable planning scheme
 - Any relevant documentation prepared by or for the Proponent, or otherwise provided to the Standing Advisory Committee
 - All submissions made in relation to the proposed IDO
 - Possible implementation methods to facilitate the proposed IDO.

Stage 3: Outcomes

23. The Standing Advisory Committee must produce written reports for the Minister for Planning providing:
 - A recommendation on the appropriateness of the proposed IDO in light of the relevant provisions of the applicable planning scheme, the Planning Policy Framework and the Plan Melbourne, including whether the proposal should proceed and in what form
 - A recommendation on the provisions to best facilitate any appropriate IDO including, but not limited to, whether the Minister for Planning should be the responsible authority for approving matters in relation to IDO and whether there should be exemptions from notice and review provisions
 - A recommendation on whether the proposed provisions 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*
 - A recommendation on an implementation process to facilitate the proposed IDO
 - Any other relevant matters raised in the course of the Standing Advisory Committee public process
 - A list of persons who made submissions

- A list of persons consulted and/or heard
- 24. The reports should be brief to reflect the key findings and recommendations of the Standing Advisory Committee.
- 25. The reports may be submitted in stages.

Submissions are public documents

- 26. The Advisory Committee must retain a library of any written submissions or other supporting documentation provided to it directly until a decision has been made on its report or five years has passed from the time of its appointment.
- 27. Any written submissions or other supporting documentation provided to the Standing Advisory Committee must be available for public inspection until the submission of its report, unless the Standing Advisory Committee specifically directs that the material is to remain 'in camera'.

Timing

- 28. Once a referral has been received, DELWP should complete Stage 1 within 40 business days.
- 29. The Standing Advisory Committee is required to begin its determined public process no later than 10 business days from the final date of submissions or as otherwise agreed.
- 30. The Standing Advisory Committee is required to submit its report in writing as soon as practicable but no later than 20 business days from the completion of its public process or hearings.
- 31. All submissions, evidence and other material received will be treated as public documents and will be placed online as part of the exhibition and public notification process.

Fee

- 32. The fee for the Standing Advisory Committee will be set at the current rate for a panel appointed under Part 8 of the *Planning and Environment Act 1987*.
- 33. The costs of the Standing Advisory Committee will be met by the relevant proponent.



Richard Wynne MP
Minister for Planning

Date: 31/ 03/2021

Appendix B Letter of referral



Hon Richard Wynne MP

Minister for Planning
Minister for Housing

8 Nicholson Street
East Melbourne, Victoria 3002

Ms Kathy Mitchell
Chair
Victorian Transport Projects Standing Advisory Committee
Planning Panels Victoria
Level 1, 1 Spring Street
MELBOURNE VIC 3001

Ref: MBR044577



Dear Ms Mitchell

REFERRAL OF C160BANY TO VICTORIAN TRANSPORT PROJECTS STANDING ADVISORY COMMITTEE - ROSANNA STATION

In response to a request from Beetham Parade Pty Ltd, and the Level Crossing Removal Authority, in accordance with the terms of reference for the Victorian Transport Projects Integrated Development Opportunities Standing Advisory Committee, I have decided to refer the following site to the advisory committee for advice:

Site Address	Municipality	Department/Agency
Beetham Parade, Rosanna	Banyule	Level Crossing Removal Project/ VicTrack

The Department of Environment, Land, Water and Planning (DELWP) will work with Planning Panels Victoria on the exhibition and public hearing for the proposal, including times and locations. Beetham Parade Pty Ltd will be the proponent liable for any costs associated with the advisory committee's consideration of this proposal. Invoices can be addressed to Juliana Su, Beetham Parade Pty Ltd at Juliana.su@semz.com.au.

If you require any further information, please contact Mr Andrew Widdicombe, Manager Government Land Planning, at DELWP on 0411 232 434 or at andrew.widdicombe@delwp.vic.gov.au.

Yours sincerely

HON RICHARD WYNNE MP
Minister for Planning

11, 4, 21



Appendix C Submitters

No.	Submitter	No.	Submitter
1	Eliza Mills	29	Julie Lane
2	Jasmine Elias	30	Gerard and Jenny Hook
3	Jane Tunnecliff	31	Sharon Maria Karasmanis
4	Pamela Joan Norton	32	Paul Rizza
5	Balraj Rai	33	Alicia Curry
6	Wayne Michaelson	34	Jackie Baldwin
7	Jim Stockton	35	Campbell Tunnecliff
8	Colleen Holmes	36	Julie Saunders
9	Colin and Marilyn Dowling	37	Karen Lee
10	Jack Li	38	Dr Katrina Philip
11	Paul Roseblade	39	Ada Jean
12	Douglas Franklin	40	Glenda Moon
13	Eddie Schubert	41	Cathy Maniatopoulos
14	Anne Couch	42	Roderick John Scott
15	Diane Murphy	43	Maria Rizza
16	John Leslie Greenland	44	Banyule City Council
17	Pamela Joan Norton	45	Sarah Rizza
18	Jill Barnett	46	Susan Martin
19	Graeme Fuller	47	Douglas Alan Munro
20	Glenys Schubert	48	Kevin Biaggini
21	Laurence Schubert	49	Alicia Waters
22	Phil Power	50	Department of Transport
23	Alan Rogers	51	Carol McColl
24	Alexander Schubert	52	Friends of Banyule
25	Dennis Wollersheim	53	Douglas and Carol Haycroft
26	Phoebe Mills	54	Beetham Parade Prospectors
27	Valda Ulmer	55	Sally Einsiedel
28	Department of Environment, Land, Water and Planning		

Appendix D Parties to the Hearing

Submitter	Represented by
Beetham Parade Pty Ltd	Geoff Lake of Counsel, instructed by Best Hooper Lawyers, who called expert evidence on: <ul style="list-style-type: none">- traffic, car parking and access from John Kiriakidis of Stantec- urban design from Tim Biles of Ratio- planning from John Glossop of Glossop Planning In addition, the Project Architect (Chahid Kairouz) provided a design statement and updated plans and was cross examined
Department of Transport	Renee De Alwis, Metro North West Region
Banyule City Council	Andrew Crack of Crack and Associates
Friends of Banyule	Michelle Giovas
Beetham Parade Prospectors	Kerry Williams
Carol McColl	Who called expert evidence on: <ul style="list-style-type: none">- urban design from Sam Cunningham of Innovative Planning Solutions
Douglas Munro	
Susan Martin	
Kevin Biaggini	
Sharon Karasmanis	
Julie Lane	
Phil Power	
Alicia Curry	
Alicia Waters	

Appendix E Document list

No.	Date	Description	Presented by
1	31 Mar 2021	Terms of Reference	Minister for Planning
2	11 Apr 2021	Letter of referral	Minister for Planning
3	24 Jun 2021	Notification report	DELWP
4	5 July 2021	Directions Hearing Notification Letter	Ms Mitchell, Chair
5	13 July 2021	Correspondence advising of intention to raise procedural matter at Directions Hearing re timing of key dates	Ms McColl
6	“	Correspondence advising of intention to raise procedural matter at Directions Hearing re request for documentation	Ms Curry
7	15 July 2021	Correspondence from Ms Waters in regard to expert witnesses and Committee response	Planning Panels Victoria (PPV)
8	”	Correspondence from Ms Curry in regard to expert witnesses and Committee response	Ms Mitchell
9	”	Submission, Department of Transport	Mr Singleton, Department of Transport
10	”	Response of Proponent to Committee Directions	Mr Curnow, Best Hooper for Beetham Parade Pty Ltd
11	16 July 2021	Directions and Timetable	Ms Mitchell
12	2 August 2021	Correspondence raising procedural matters	Ms Curry
12a	”	Banyule City Council, Minutes 19 December 2016	“
13	”	Submission, Melbourne Water	Ms Ripper, Melbourne Water
14	“	Correspondence raising procedural matters	Ms McColl
15	3 August 2021	Correspondence raising procedural matters	Ms Giovas, Friends of Banyule
16	4 August 2021	Video Conference Letter	Ms Mitchell
17	“	Zoom User Guide	“
18	5 August 2021	Committee response to issues raised by Submitters	Ms Mitchell
19	”	Correspondence raising procedural matters	Ms Williams, Beetham Parade

No.	Date	Description	Presented by
			Prospectors
20	6 August 2021	Committee response to issues raised by Submitter 54	Ms Mitchell
21	"	Correspondence confirming Town Planning expert witness	Mr Curnow
22	9 August 2021	Correspondence raising further procedural matters	Ms McColl
23	10 August 2021	Correspondence providing Part A Submission, evidence and response to submitter queries	Ms Minney, Best Hooper
24	"	Beetham Parade Pty Ltd – Part A Submission	"
25	"	Beetham Parade Pty Ltd – Appendix 1 - Tender request	"
26	"	Beetham Parade Pty Ltd – Appendix 2 - EPA response	"
27	"	Beetham Parade Pty Ltd – Appendix 3 - Letter from VicTrack	"
28	"	Beetham Parade Pty Ltd – Appendix 4 - Consent documents to planning permit application letter	"
29	"	Beetham Parade Pty Ltd – Appendix 5 - Letter from the Minister for Planning	"
30	"	Beetham Parade Pty Ltd – Appendix 6 - Tracked Draft Conditions	"
31	"	Expert Witness Statement - Mr Kiriakidis - Traffic, car parking and access	"
32	"	Expert Witness Statement - Mr Biles - Urban design	"
33	"	Expert Witness Statement - Mr Glossop - Town planning	"
34	"	Beetham Parade Pty Ltd - Information plans	"
35	"	Beetham Parade Pty Ltd - Statement of changes	"
36	"	Beetham Parade Pty Ltd - Appendix 7 - Summary of submissions	"
37	11 August 2021	Further submission	Mr Munro
38	12 August 2021	Expert Witness Statement - Mr Cunningham - Urban Design	Ms McColl
39	"	Correspondence from Proponent regarding Direction 29 (ii)	Ms Minney
40	"	LXRA response regarding Urban Design Guidelines and Flood Report	"
41	"	LXRP Urban Design Framework version 5	"
42	13 August 2021	Committee Direction to Proponent	Ms Mitchell

No.	Date	Description	Presented by
43	"	Correspondence from Proponent regarding extension request and Committee response	PPV
44	"	Rosanna Village Urban Design and Landscape Guidelines 2016	Ms Curry
45	16 August 2021	Timetable (v2)	Ms Mitchell
46	"	Correspondence from LXRA	Mr Tuohey
47	"	Correspondence from Banyule City Council	Mr Calthorpe, Banyule Council
48	"	Curry v Banyule CC [2017] VCAT 430	"
49	"	Correspondence from Proponent	Ms Minney
50	"	Mr Kairouz Design Statement	"
51	"	Appendix A - VicTrack Rail Development Interface Guidelines	"
52	"	Request for documentation	Ms Giovas,
53	17 August 2021	Mr Biles - Presentation - Urban Design	Mr Curnow
54	"	Part B Submission	Ms Minney
55	"	Appendix A - Letter regarding landscaping	"
56	"	Appendix B - Treelogic correspondence	"
57	"	Conditions agreed between Council, DoT and the Proponent 17 August 2021 - Clean	Mr Curnow
58	"	Conditions agreed between Council, DoT and the Proponent 17 August 2021 - Proponent tracked changes	"
59	"	Submitter questions to Mr Kairouz	Ms McColl
60	"	Correspondence from Proponent	Mr Curnow
61	"	Correspondence from LXRA to Proponent	"
62	"	Mr Kairouz response to questions	"
63	"	Mr Kiriakidis - Figure 5.3 of Expert Witness Statement	"
64	18 August 2021	Committee Directions	Ms Mitchell
65	"	Mr Kairouz response to Submitter questions	Mr Curnow
66	"	Timetable (v3)	Ms Mitchell
67	19 August 2021	DoT - Updated Submission	Ms De Alwis
68	"	Attachment 1 – Conditions - DoT tracked version	"
79	"	Correspondence from Proponent	Mr Curnow
70	"	Conditions agreed between Council, DoT and the	"

No.	Date	Description	Presented by
		Proponent 19 August 2021 - Clean	
71	“	Conditions agreed between Council, DoT and the Proponent 19 August 2021 - Proponent tracked changes	“
72	20 August 2021	Banyule City Council - Submission	Mr Crack
73	”	Vivace Property Group Pty Ltd v Glen Eira CC [2021] VCAT 24	Mr Curnow
74	”	Conditions with tracked changes	Ms De Alwis
75	”	Correspondence from Proponent	Mr Curnow
76	“	Roof Canopy and Level 6 plan	“
77	“	Ground floor plan and ramp sections – Updated 23 08 2021	“
78	“	Updated drawing sheets A06.1, A08.1, A09.3, A09.4	“
79	“	Swept path analysis	“
80	”	Correspondence from Ms Giovas	Ms Giovas
81	”	Correspondence from Ms McColl	Ms McColl
82	23 August 2021	Mr Cunningham - Presentation - Urban Design	Ms McColl
83	”	Submission	Mr Munro
84	“	Conditions with tracked changes	“
85	”	Submission	Ms Williams
86	”	Submission	Ms Giovas
87	”	Submission	Ms McColl
88	“	Letter of support	“
89	”	Correction to submission	Ms Williams
90	”	Correspondence from Ms Curry	Ms Curry
91	”	Correspondence from Proponent	Ms Minney
92	”	Letter from Level Crossing Removal Project (LXRP)	Mr Devlin
93	”	Response from Proponent to Committee questions	Ms Minney
94	”	Timetable (v4)	Ms Mitchell
95	24 August 2021	Response from Mr Cunningham to Committee questions	Ms McColl
96	”	Submission	Ms Lane
97	”	Submission, Ms Power	”
98	”	Submission	Ms Karasmanis

No.	Date	Description	Presented by
99	"	Correspondence from Ms McColl	Ms McColl
100	"	Proponent response to comments on conditions	Ms Minney
101	"	Conditions agreed between Council, DoT and the Proponent 24 August 2021 - Clean	"
102	"	Conditions 24 August 2021 - Proponent tracked changes	"
103	"	Closing submission, Banyule City Council	Mr Crack
104	"	Closing submission, DoT	Ms De Alwis
105	"	Submission	Ms Curry
106	"	Correspondence from Proponent	Mr Curnow
107	"	Closing submission, Beetham Parade Pty Ltd	"
108	"	Summary of Submissions	"
109	"	Correspondence from Ms McColl	Ms McColl
110	"	P249 2020 25 & 27 Hillside Road Rosanna Outcome	Ms Curry
111	"	Banyule City Council submission to Banyule Planning Scheme Amendment C76, 2011	"
112	"	Banyule City Council submission to Plan Melbourne, 2013	"
113	"	Rosanna Station Redesign Announcement, 2017	"
114	"	Correspondence from Ms Power	Ms Power
115	"	Correspondence and images from Ms Waters	Ms Waters
116	"	Submission	"
117	31 August 2021	Correspondence from Proponent	Ms Minney
118	"	Conditions agreed between Council, DoT and the Proponent 31 August 2021 - Clean	"
119	"	Conditions 31 August 2021 - Proponent tracked changes	"
120	"	Correspondence from DoT	Ms De Alwis,
121	15 September 2021	Final comments from DoT on conditions	Ms De Alwis,
122	"	Response from Proponent on conditions from DoT	Ms Minney

Appendix F Planning framework

Table 1 Planning Policy Framework: State and regional policies

Relevant clauses
11 Settlement
11.01 Victoria
11.01-1S Settlement Promote the sustainable growth and development of Victoria and deliver choice and opportunity for all Victorians through a network of settlements through development opportunities along existing transport infrastructure, limiting urban sprawl through infill development and ensuring services are located in central locations.
11.01-1R Settlement – Metropolitan Melbourne To create mixed-use neighbourhoods at varying sensitivities, including through the development of urban renewal precincts that offer more choice in housing, create jobs and opportunities for local businesses and deliver better access to services and facilities.
11.02 Managing growth
11.02-1S Supply of urban land Ensure a sufficient supply of land and supporting infrastructure to support sustainable urban development and meet forecast demand.
11.03 Planning for places
11.03-1S Activity centres Encourage the concentration of major retail, residential, commercial, administrative, entertainment and cultural developments into activity centres that are highly accessible to the community.
15 Built Environment and Heritage
15.01 Built Environment
15.01-1S Urban design To create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity.
15.01-2S Building design To achieve building design outcomes that contribute positively to the local context and enhance the public realm.
15.01-4R Healthy Neighbourhoods-Metropolitan Melbourne To create 20-minute neighbourhoods where people have the ability to meet most of their everyday needs within a 20 minute walk, cycle or local public transport trip from their home.
15.02 Sustainable Development
15.02-1S Energy and resource efficiency Encourage land use and development that is energy and resource efficient, supports a cooler environment and minimises greenhouse gas emissions.

Relevant clauses

15.03 Heritage

15.03-2S Aboriginal cultural heritage

Ensure the protection and conservation of places of Aboriginal cultural heritage significance.

16 Housing

16.01 Residential Development

16.01-1R Housing Supply – Metropolitan Melbourne

Identifies opportunities for higher density housing near railway stations and close to jobs services and public transport.

16.01-2S Housing affordability

Locate new housing in designated locations that offer good access to jobs, services and transport.

18 Transport

18.01 Integrated transport

18.01-1S Land use and transport planning

To create a safe and sustainable transport system by integrating land use and transport.

18.02 Movement Networks

18.02-1S Sustainable personal transport

Promote the use of sustainable personal transport.

18.02-2S Public transport

Facilitate greater use of public transport and promote increased development close to high-quality public transport routes.

18.02-3S Road system

Manage the road system to achieve integration, choice and balance by developing an efficient and safe network and making the most of existing infrastructure.

19 Infrastructure

19.02 Community Infrastructure

19.02-4S Social and Cultural Infrastructure

Provide fairer distribution of and access to, social and cultural infrastructure.

Table 2 Planning Policy Framework: Local policies

Relevant clauses

21 Municipal Strategic Statement

21.01 Municipal Profile

Sets out the context of the city of Banyule with emphasis on high quality of vegetation, residential land uses and encouragement for diverse housing in well serviced locations.

21.02 Vision and strategic framework

Identifies Rosanna as a Neighbourhood Centre.

Relevant clauses

21.04 Land use

21.04-1 Housing

Encourage housing growth to locate close to Activity Centres, neighbourhood Centres and the Principal Public Transport Network and continuing to promote appropriate urban consolidation to satisfy housing demand while providing a greater diversity of affordable housing opportunities in appropriate locations

21.04-2 Commercial

Support a diversity of viable, high-quality Activity Centres and Neighbourhood Centres offering a range of retail, business, entertainment, community and tourist-related goods, services and employment and to consolidate and enhance the existing role of commercial centres in the municipality.

21.06 Built environment

Provide high quality, safe and attractive built environment that increases housing diversity and promoted the positive future character in Neighbourhood centres.

21.07 Transport and infrastructure

Create a more accessible, safe, liveable and sustainable community, and to accommodate future growth. Facilitate land use and development that supports sustainable transport.

Clause 21.08 Local Places

Identifies Rosanna as a Neighbourhood Centre.

22 Local Planning Policies

22.02 Residential Neighbourhood Character policy

Seeks to guide future development to contribute to the preferred character of the area.

Clause 22.03 Safer design policy

Promotes the built environment to include safe design elements such as passive surveillance.

22.05 Environmentally sustainable development policy

Provides a framework for development to achieve best practice in environmentally sustainable development from design through to construction and operation.

Plan Melbourne 2017 - 2050

Plan Melbourne notes a greater need for housing choice in Melbourne and identifies transport corridors as key locations to facilitate mixed-use developments while supporting 20-minute neighbourhood principles. This is supported through the following policies:

Policy 1.3.2 notes the importance of new development and investment opportunities on the existing transport network encouraging integrated land development around stations.

Policy 2.1.2 supports new housing in established areas to create 20-minute neighbourhoods close to existing services, jobs and public transport.

Policy 2.1.4 acknowledges the need to provide greater certainty and facilitate long-term growth and housing choice in the suburbs.

Policy 5.1.1 identifies the need for greater housing diversity and mixed use neighbourhoods.

Appendix G Recommended Permit Conditions

Note: This version of the Conditions is based on Document 118 and then amended by the Committee.

[Tracked Added](#)

~~Tracked Deleted~~

ROSANNA STATION INTEGRATED DEVELOPMENT OPPORTUNITY

73 TURNHAM AVENUE, ROSANNA

P384/2021

DRAFT PLANNING PERMIT

What the permit allows:

Development of a mixed use building; use of land for dwellings; reduction in car parking requirements; creation of an easement; and subdivision of land, in accordance with the endorsed plans.

Permit Conditions

- 1 Before the development permitted by this permit commences, amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and be submitted in an electronic format acceptable to the Responsible Authority. The plans must be substantially in accordance with the advertised plans, prepared by C Kairouz Architects & Associates A00.1 – A11.3, dated 05/02/2021 but modified to show:
 - (a) A two-storey reduction in the overall building height through the deletion of levels 4 and 5.
 - (b) A note indicating that there will be no connection to gas [and the ground floor layout modified by the removal of the gas meters](#).
 - (c) The rooftop communal space increased to a minimum area of 177m².
 - (d) The provision of screens between adjacent balconies 1.7m high and a maximum of 25% visual transparency.
 - (e) Dimensions of balconies to confirm compliance with Standard D5.
 - (f) A note stating that air conditioning units are not to be located on balconies.
 - (g) The finished floor level of the ground floor indicated as 41.60m AHD.
 - (h) Car share and disabled parking spaces independent from each other.
 - (i) Crossover to be a minimum of 1m from a power pole.
 - (j) Swept path diagrams to confirm vehicles can enter parking spaces 51-53 with one correctional movement.
 - (k) Platforms for mechanical parking widened to 2.7m.
 - (l) Centre line marking on the ramp to delineate traffic flow.
 - (m) Removal and reinstatement of redundant vehicle crossing.
 - (n) Location of waste collection vehicle parking position within 5m of the waste room door.
 - (o) Turning diagrams for waste collection vehicles within the basement area.
 - (p) Separate storage areas for residential and commercial waste.

- (q) A minimum of 4m² dedicated for hard waste storage for residents, with dimensions to confirm this area is sufficient to store a mattress and bed base.
- (r) Relocation of dedicated hard waste storage for commercial areas so that access is not obstructed by bins.
- (s) Clarification of what type of door or doors are proposed at the entrance to the bin store. If the roller door is proposed, this must be motor operated by a switch.
- (t) Separate waste streams for commercial and residential users.
- (u) A service door to isolate the chutes on Level 6.
- (v) Flat area outside the waste store (zero grade).
- (w) Isolated 1100L MGB and chute system completely from residential access.
- (x) Details of noise reduction measures as recommended in the report of Marshall Day Acoustics dated 17 November 2020.
- (y) Corner splays on each side of the accessway in accordance with Design Standard 1 of Clause 52.06.
- (z) Lateral clearance in lower basement ramp to comply with Design Standard 1 – Accessways of Clause 52.06; The ramp to include a suitable advanced warning mechanism or traffic management device which supplements sight lines at the ramp change in direction to adequately forewarn drivers of oncoming vehicles to the satisfaction of the Responsible Authority.
- (aa) All sustainable design features indicated in the submitted Sustainable Management Plan (SMP). Where sustainable design features outlined in the SMP cannot be visually shown, include a notes table providing details of the requirements (i.e. energy and water efficiency ratings for heating/cooling systems and plumbing fittings and fixtures, etc).
- (bb) A schedule of external building materials, colours and finishes, including details of cladding and roofing materials; the schedule should be presented on a separate sheet and must include colour samples.
- (cc) [Any changes necessary to comply with the approved](#) Development Drainage Plans in accordance with Condition 2 of this permit.
- (dd) [Any changes necessary to comply with the approved](#) Traffic Engineering Plans in accordance with Condition 3 of the permit.
- (ee) [Any changes necessary to comply with the approved](#) ~~An~~-amended Landscape Plan in accordance with Condition 4 of this permit.
- (ff) [Any changes necessary to comply with the approved](#) ~~An~~-amended Waste Management Plan in accordance with Condition 5 of this permit.
- (gg) [Any changes necessary to comply with the approved](#) ~~An~~ amended Sustainable Management Plan (SMP) in accordance with Condition 6 of this permit.
- (hh) [Any changes necessary to comply with the approved](#) ~~A~~-Construction Management Plan in accordance with Condition 7 of this permit.
- (ii) [Any changes necessary to comply with the approved](#) ~~A~~-Public Realm Interface Plan in accordance with Condition 8 of this permit.
- (jj) [Any changes necessary to comply with the approved](#) ~~A~~ Parking Management Plan in accordance with Condition 9 of this permit.
- (kk) [Any changes necessary to comply with the approved](#) ~~A~~ Green Travel Plan in accordance with Condition 10 of this permit.

- (ll) [Any changes necessary to comply with the approved A-Soil Management Plan](#) in accordance with Condition 12 of this permit.
- (mm) [The south east corner of the building set back at the surrounding ground level to maintain adequate sight lines to the public footpath and pedestrian crossing within the rail car park for cars travelling along the car park access road, to the satisfaction of the Head, Transport for Victoria.](#)
- (nn) [The southeast corner of the lot boundary on the subdivision plan be modified to set the property line back to accord with the sight line required for the rail car park access road.](#)
- (oo) [The ground floor layout modified to improve accessibility and passive surveillance opportunities to the men’s toilet, visitor bicycle parking and residential storage area.](#)

Development Drainage Plans

- 2 Before the development permitted by this permit commences, Development Drainage Plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The plans must be prepared by a suitably qualified engineer or similar person showing a properly prepared design with computations for the internal drainage and method of disposal of stormwater from all roofed areas and sealed areas including:
- (a) The use of an On-site Stormwater Detention (OSD) system.
 - (b) The connection to the Council nominated legal point of discharge.
 - (c) The outfall drainage works necessary to connect the subject site to the Council nominated Legal Point of Discharge.
 - (d) The specified flood level for the property.
 - (e) The integration, details and connections of all Water Sensitive Urban Design features in accordance with the endorsed Sustainable Management Plan and STORM report and include drainage details as a result of landscaping.

Traffic Engineering Plans

- 3 Before the development permitted by this permit commences, traffic engineering plans for the access and treatment of street frontage to the development to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. The plans must be prepared by a suitably qualified engineer and include:
- (a) Removal of the existing vehicle crossing and reinstatement of the nature strip and kerb.
 - (b) New vehicle crossing to Council’s specifications and guidelines.
 - (c) Crossover to be a minimum of 1m from the power pole, if it not being relocated.
 - (d) Parking spaces along the front of the site is to be properly line marked to Council’s satisfaction.
 - (e) Kerb outstands to be provided on the north side of the property crossover and south side of the station carpark crossover to protect the parking spaces.
 - (f) Installation of a street light on the power pole to provide better lighting to the car parking access.
 - (g) Relocation of the existing signs and signposts.
 - (h) Removal of any redundant line-marking.

Landscape Plan

- 4 Before the development permitted by this permit commences, a satisfactory amended landscaping plan must be submitted to and approved by the Responsible Authority. Such plan must be prepared by a person suitably qualified or experienced in landscape design and must show:
- (a) Amendments required by Condition 1 of this permit.
 - (b) Provision of the canopy tree planting in conjunction with the Public Realm Interface Plan required by Condition 7 of this permit.
 - (c) An indigenous and/or drought tolerant planting theme.
 - (d) A schedule of all proposed trees, shrubs and ground cover, which includes the location and size at maturity of all plants, the botanical names of such plants and the location of all areas to be covered by grass, lawn or other surface material as specified.
 - (e) Tree species and planting locations must be carefully selected to avoid canopy or root conflicts with overhead wires, easements and existing trees.
 - (f) Location and details of paving, steps, retaining walls, water tanks, clotheslines, fence design details and other landscape works including cut and fill.
 - (g) Location, details and cross section drawings of all Water Sensitive Urban Design features in accordance with the endorsed Sustainable Management Plan and STORM report, with reference to connection details on the engineering plans.
 - (h) A detailed maintenance schedule, including proposed maintenance measures for the initial establishment period of the proposed green wall and planter box plantings, and maintenance measures for ongoing maintenance following the establishment period.

When approved the plan will be endorsed and form part of this permit. Landscaping in accordance with this approved plan and schedule must be completed prior to the occupation of the development.

Waste Management Plan

- 5 Before the development permitted by this permit commences, an amended Waste Management Plan (WMP) prepared by a suitably qualified person must be submitted to and approved by the Responsible Authority. The plan must be in general accordance with the plan prepared by Leigh Design, dated 3 February 2021, but modified to include:
- (a) Amendments to building design as required by Condition 1 (l) to (u).
 - (b) Commercial waste storage area to include separation for food organics, rubbish, recyclables and cardboard.
 - (c) Separate commercial and residential waste streams.
 - (d) Use of an automatic bin exchanger (index) or alternative arrangement for exchanging bins, as agreed with the Responsible Authority.
 - (e) Increased residential hard waste storage area to 4m².
 - (f) Food organics generation rates for café.

Once approved, the Waste Management Plan must always be adhered to by the owners of the development unless otherwise approved in writing by the Responsible Authority.

Sustainable Management Plan

- 6 Before the development permitted by this permit commences, an Amended Sustainable Management Plan must be submitted to and approved by the Responsible Authority. Such

assessment must be in general accordance with the plan prepared by Ark Resources, dated 18 November 2020 but modified to include:

- (a) A final published version of the SMP and BESS reports. All pages of the BESS report must be included.
- (b) Dwellings may only be grouped where they share similar thermal properties. 'Thermally similar' dwellings have similar orientation, similar heating and cooling loads, are of a similar size and have a similar number of external exposed surfaces (walls, floor, and roof). Dwellings must be separated into different groups, respective to their thermal conditions.
- (c) The sample of preliminary energy performance must provide a representation of each of the thermal groups, and rating to be extrapolated to remaining similar dwellings – average must be calculated only when each individual unit has been provided a rating based on this extrapolation.
- (d) Preliminary Energy Report to include NatHERS energy ratings for all thermally unique dwellings. The report must include energy assessment parameters; summary of building fabric assumptions; summary of results (maximum cooling load of 21MJ/m²); preview of NatHERS certificate(s)/Provisional Prognostic(s).
- (e) A detailed daylight report which must include, at minimum:
 - i. Assessment methodology
 - ii. List of assumptions
 - iii. Assessment parameters
 - iv. Indication and levels achieved to all nominated areas (plans mark ups and table)
 - v. Summary of results.
- (f) All the sustainable design strategies included in the BESS assessment. The SMP must be accompanied by the amended BESS report.
- (g) Supporting evidence to demonstrate all design strategies will be achievable. This includes, at minimum: preliminary energy report(s) (as provided); updated stormwater report (as requested below); depicted drawings (as requested).
- (h) No connection to gas.

Once approved, the Sustainable Management Plan must always be adhered to by the owners of the development unless otherwise approved in writing by the Responsible Authority.

Construction Management Plan

7 Before the development permitted by this permit commences, a Construction Management Plan must be submitted to the satisfaction of the Responsible Authority. Once approved, the plan must be implemented to the satisfaction of the Responsible Authority. The plan must address the following issues:

- (a) measures to control noise, dust and water runoff
- (b) prevention of silt or other pollutants from entering into the Council's underground drainage system or road network.
- (c) the location of where building materials are to be kept during construction.
- (d) site security.

- (e) maintenance of safe movements of vehicles to and from the site during the construction phase.
- (f) on-site parking of vehicles associated with construction of the development.
- (g) wash down areas for trucks and vehicles associated with construction activities.
- (h) cleaning and maintaining surrounding road surfaces.
- (i) maintenance of access along the full length of the laneway.

Once approved, this management plan will be endorsed to be read in conjunction with all other endorsed documents and must be adhered to by the owner(s), permit holder(s) and operator(s) of any use at all times unless otherwise approved by the Responsible Authority.

Public Realm Interface Plan

8 Before the development permitted by this permit commences, a public realm interface plan must be submitted to and approved by the responsible authority. The plan must have regard to the new Rosanna streetscape works in terms of consistency of materials and finishes and show, amongst other items:

- (a) The materials and finishes of a new public footpath treatment to Beetham Parade, including any opportunities for planting.
- (b) Treatment of the interface to the public walkway along the northern boundary of the subject site, including lighting and safety
- (c) All treatments to Beetham Parade should start and end at a well-defined point in the public realm to be agreed with the responsible authority to ensure works provide a visually smooth transition between existing finished materials in the streetscape.
- (d) In conjunction with a landscape plan for the site – incorporate greening and opportunities for mature canopy trees into the interface with the public realm on all aspects of the site.
- (e) The provision of easily accessible cycle parking loops.
- (f) Opportunities for public seating where practicable.

The permit holder is encouraged to consider opportunities with the responsible authority to consider kerb outstands or use of on-street parking spaces to provide better public realm opportunities. Once approved, all works shown on the public realm interface plan must be completed to the satisfaction of the responsible authority prior to the issue of a certificate of occupancy, unless otherwise agreed in writing with the responsible authority.

Parking Management Plan

9 Unless otherwise agreed in writing, [before the development permitted by this permit commences](#) ~~prior to the commencement of the use hereby approved~~, a Parking Management Plan must be prepared and approved to the satisfaction of the Responsible Authority. Such a plan must clearly identify, although is not limited to, outlining:

- (a) Unless otherwise agreed in writing, parking must be allocated as follows:
 - i) 44 residential spaces.
 - ii) 10 commercial spaces.
 - iii) 1 car share space.

- (b) Details of any warning light/boom gate systems, etc. to control and manage the movement of vehicles in the basement.
- (c) Where storage enclosures are provided at the end of a car space, the enclosure must be allocated to the dwelling or commercial tenancy that has been allocated the car space.

Green Travel Plan

- 10 Unless otherwise agreed in writing, before the development permitted by this permit commences ~~Prior to the commencement of the use hereby approved~~, a Green Travel Plan for the building must be submitted to and approved by the Responsible Authority. This plan must specify that commercial and residential tenancies will be notified that on street parking permits will not be issued other methods of travelling are encouraged ~~and outline arrangements for the management of the car share space~~. This plan must outline arrangements for providing and managing a car share vehicle and for the provision of electric charging facilities for cars and bicycles.

Soil Management Plan

- 11 Before the development permitted by this permit commences, a Soil Management Plan prepared by a suitably qualified consultant for the site and proposed works must be submitted to and approved by the Responsible Authority to ensure the appropriate categorisation and disposal of waste in accordance with EPA Victoria's Publication IWRG 621, Soil Hazard Categorisation and Management 2009 is undertaken during construction of the proposal.

Notification of Responsible Authority of other matters

- 12 Before the development permitted by this permit commences, the owner of the land must ensure the Responsible Authority is notified when any plans/documents required by external agencies and shown as conditions on this permit are approved by those agencies and provide copies of any such approval.

Section 173 Agreement

- 13 Unless otherwise agreed in writing by the Responsible Authority, before the development permitted by this permit commences, the owner of the land at 73 Turnham Avenue must enter into an agreement with the Responsible Authority pursuant to Section 173 of the *Planning and Environment Act 1987* to the satisfaction of the Responsible Authority and such agreement must require that:
- (a) The owner acknowledge that all refuse and recycling collection will occur by way of a private contractor in accordance with the approved Waste Management Plan endorsed under Planning Permit P384/2021.

A memorandum of the Agreement is to be entered on title and the cost of the preparation and execution of the Agreement and entry of the memorandum on title is to be paid by the owner.

Development Infrastructure Levy

- 14 Before the development permitted by this permit commences, the permit holder must pay to Banyule City Council a development infrastructure levy and community infrastructure levy in accordance with the amount specified in Table 6 of the Banyule Development Contributions Plan 2016-17, September 2018. The contribution amount payable in the table will be adjusted annually from 1 July 2017, each year to cover inflation, by applying

the Consumer Price Index for Melbourne (All Groups) as published by the Australian Bureau of Statistics.

Tree Protection / Landscaping

- 15 Except with the further written consent of the Responsible Authority, no vegetation (other than that indicated on the endorsed plan or exempt from planning permission under the provisions of the Banyule Planning Scheme) must be damaged, removed, destroyed or lopped.
- 16 Unless otherwise agreed in writing by the Responsible Authority, the landscaping shown on the endorsed landscape plans must be carried out in accordance with these plans and, thereafter, any landscaping must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.

Council Trees

- 17 No Council trees are to be removed without the prior written consent of the Responsible Authority.
- 18 Before the development permitted by this permit commences, the required fee for the planting of 3 new street tree/s must be paid to the Responsible Authority.

Note: The planting of a street trees will be carried out as part of Council's works schedule and only during the May to August planting season.

ACTIONS REQUIRED UPON COMPLETION OF DEVELOPMENT

Occupation of Development

- 19 Unless otherwise agreed in writing by the Responsible Authority, the proposed development must not be occupied until:
 - (a) The parking areas shown on the endorsed plans have been constructed to the requirements and satisfaction of the Responsible Authority.
 - (b) The garden and landscape areas shown on the endorsed plans have been planted to the requirements and satisfaction of the Responsible Authority.
 - (c) Drainage works have been undertaken and completed to the requirements and satisfaction of the Responsible Authority.
 - (d) Driveway, pathway, street, basement and undercroft lighting is installed in accordance with the relevant Australian Standards.

ONGOING REQUIREMENTS OF THIS PERMIT

General

- 20 The development as shown on the endorsed plans or described in the endorsed documents must not be altered or modified except with the written consent of the Responsible Authority.

Car Parking/Access

- 21 Areas set aside for the parking of vehicles together with the aisles and access lanes must be properly formed to such levels that they can be utilised in accordance with the endorsed plans and must be drained and provided with an all-weather seal coat. The areas must be constructed, drained and maintained in a continuously useable condition to the satisfaction of the Responsible Authority.
- 22 Areas set aside for the parking and movement of vehicles as shown on the endorsed plans must be made available for such use and must not be used for any other purpose.

- 23 Vehicular access or egress to the subject land from any roadway or service lane must be by way of a vehicle crossing constructed in accordance with Council’s Vehicle Crossing Specifications to suit the proposed driveway(s) and the vehicles that will use the crossing(s). The location, design and construction of the vehicle crossing(s) must be approved by the Responsible Authority. Any existing unused crossing(s) must be removed and replaced with concrete kerb, channel and nature strip to the satisfaction of the Council prior to occupation of the building.

Urban Design and Landscaping

- 24 All external surfaces of the building elevations must be finished in accordance with the schedule on the endorsed plans and maintained in good condition to the satisfaction of the Responsible Authority.
- 25 Any air-conditioning or cooling units, condensers and the like must not be located on external walls and, if located on balconies, must be screened, to the satisfaction of the Responsible Authority.
- 26 All pipes (except down-pipes), fixtures, fittings and vents servicing any building on the site must be concealed in service ducts or otherwise hidden from external view to the satisfaction of the Responsible Authority.
- 27 Unless otherwise agreed in writing by the Responsible Authority, all telecommunications and power connections (where by means of a cable) and associated infrastructure to the land must be underground to the satisfaction of the Responsible Authority.

Waste Management

- 28 No receptacles for any form of rubbish or refuse (other than public waste bins) may be placed or allowed to remain in view from a public road or thoroughfare except during collection. Odour must not be emitted from any such receptacle to cause offence to any person outside the subject land, to the satisfaction of the Responsible Authority.

Maintenance of property

- 29 The occupiers must promptly remove or obliterate any graffiti on the subject site which is visible to the public and keep the site free from graffiti at all times to the satisfaction of the Responsible Authority.

Noise

- 30 The building must be constructed and maintained in accordance with the recommendations contained within the approved Acoustic Report prepared by Marshall Day Acoustics to the satisfaction of the Responsible Authority. The Acoustic Report endorsed under this permit must be implemented and complied with at all times to the satisfaction of the Responsible Authority unless with the further written approval of the Responsible Authority.
- 31 Prior to the occupation of any apartments within the approved building, a report from the author of the Acoustic Report approved pursuant to this permit or similarly qualified person or company must be submitted to the Responsible Authority. The report must be to the satisfaction of the Responsible Authority and must contain results of post development noise testing to confirm that the performance criteria specified in the Acoustic Report are met and recommend treatments to address any non-conformances. Any treatments recommended in this report must be implemented to the satisfaction of the Responsible Authority. ~~confirm that all measures specified in the Acoustic Report have been implemented in accordance with the approved Acoustic Report.~~

~~32—Noise levels emanating from the premises must not exceed those required to be met under State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade), No. N-1.~~

33 Noise emissions from the Subject Land must comply with *Noise Limit and Assessment Protocol for the Control of Noise from Commercial, Industrial and Trade Premises and Entertainment Venues* (Noise Protocol), EPA Publication 1826.4 May 2021.

Amenity

34 The uses permitted by this permit must be conducted, and the appearance of the subject land must be maintained to the satisfaction of the Responsible Authority so as not to unreasonably adversely affect the amenity of the locality by reason of the processes carried on; the transportation of materials, goods, or commodities to or from the subject land; the appearance of any buildings, works or materials; the emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, dust, waste water, waste products, grit, or oil; the presence of vermin, or otherwise.

35 Outdoor lighting must be designed, baffled and located to the satisfaction of the Responsible Authority such that no direct light is emitted outside the boundaries of the subject land and so that there is no unreasonable light spill into any residential properties. Any security lighting is to be connected to a sensor so that illumination of the site is not continuous.

36 Noise emissions from any equipment required for refrigeration, air-conditioning, heating, ventilation and the like must comply with [Environmental Protection Regulations 2021](#). ~~comply with State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No N-1 and/or Environment Protection (Residential Noise) Regulations 1997 and/or Environmental Protection Authority Noise Control Guidelines TG 302/92, as relevant.~~

Subdivision Conditions

37 The owner of the land must enter into an agreement with:

- a) a telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and
- b) a suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

38 Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation from:

- a) a telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; and
- b) a suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can

demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

- 39 The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities and electricity ~~and gas~~ services to each lot shown on the endorsed plan in accordance with the authority's requirements and relevant legislation at the time.
- 40 All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for certification in favour of the relevant authority for which the easement or site is to be created.
- 41 The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of that Act.

Time Limits

- 42 In accordance with Section 68 of the Planning and Environment Act 1987, this permit will expire if one of the following circumstances applies:
 - (a) The development is not commenced within three years of the date of this permit.
 - (b) The development is not completed within six years of the date of this permit.
 - (c) The plan of subdivision is not certified within three years of the date of this permit.
 - (d) The registration of the plan of subdivision is not completed within six years from the date of certification of the plan.

In accordance with section 69 of the *Planning and Environment Act 1987*, the Responsible Authority may extend the periods referred to if a request is made in writing:

- (a) Before the permit expires, or
- (b) Within six months afterwards, or
- (c) Within 12 months afterwards if the development started lawfully before the permit expired.

Subdivision

45. Before the development starts, any existing railway service or utility under / on / over the subject site shall be relocated within Victorian Rail Track land. The relocation design works, as approved by the Head, Transport for Victoria and Victorian Rail Track, must be delivered at a cost borne by the permit holder.

Development

46. Before the development starts, or such other time agreed to in writing by the Head, Transport for Victoria, amended plans to the satisfaction of the Head, Transport for Victoria must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be generally in accordance with the plans submitted with the application (dated 11 May 2021, Revision 6 and prepared by C. Kairouz Architects Pty Ltd) but modified to show:
 - (a) the development does not encroach, at any point, onto railway land.
 - (b) the development is designed to ensure routine cleaning, replacement, inspection, maintenance and repair of any part of the building or development can be undertaken without access to railway land being required and so electrical safety requirements of the rail operator are met, unless otherwise agreed in writing with the Head, Transport for Victoria, Victorian Rail Track and the Rail Operator.

- (c) Passive surveillance provisions for existing and proposed pedestrian and cycling pathways (such as: appropriate lighting and way finding/signage) to ensure the safety of users of the development as is reasonably practicable.
47. Any windows doors and balconies that are set back from, and generally facing the railway land title boundary, shall:
- (a) be designed to prevent illegal trespass of people onto railway land as is reasonably practicable
 - (b) be designed to prevent items from being thrown or falling onto railway land as is reasonably practicable.
 - (b) not require people to access onto railway land for the purposes of cleaning, replacement, inspection and maintenance of the development, unless otherwise agreed in writing with the Head, Transport for Victoria, Victorian Rail Track and the Rail Operator.
 - (c) not cause reflected sunlight to interfere with train driver visibility or interpretation of rail signals.
 - (d) not reflect or refract artificial light such that it interferes with train driver visibility or interpretation of rail signals.
48. Before the development starts, detailed construction/engineering plans and structural computations for any construction abutting railway infrastructure or railway land must be submitted and approved by the Head, Transport for Victoria, ~~Victorian Rail Track and the Rail Operator~~. The plans must detail all basement excavation design, retention works and controls of the site adjacent to the railway corridor having any impact on railway land. The design plans must ensure compliance with:
- (a) the relevant Rail Operator's engineering standard for minimum structural gauge clearances
 - (b) minimum clearances to all electrical assets and procedures for works adjacent such assets, including:
 - i. Energy Safe Victoria (ESV) requirements for minimum clearances to electrical assets and works adjacent.
 - ii. Australian Standards AS2067, AS7000 and Electricity Safety (General Regulations 2019, Part 6) for clearances to electrical assets. Clearances required include for safe working, fire life safety design, electromagnetic interference and earthing, bonding, and electrolysis mitigation design.
 - iii. Any other reasonable safety requirements required by the Rail Operator.
 - (c) the required rail collision loadings and collision protection measures for the building supports adjacent the rail tracks in accordance with AS5100 Part 1 – 'Bridge Design, Scope and General Principals' unless otherwise agreed in writing with the Head, Transport for Victoria, Victorian Rail Track and the Rail Operator.
 - (d) earthquake design loadings for structure designated as a minimum Importance Level 2, by AS1170.4 – 'Structural Design Actions, Earthquake Actions in Australia' unless otherwise agreed in writing with the Head, Transport for Victoria, Victorian Rail Track and the Rail Operator.
 - (e) demonstration that ground stabilisation devices, such as temporary or permanent ground anchors, soil nails, reinforced earth straps, do not

penetrate onto railway land, unless otherwise agreed in writing with the Head, Transport for Victoria, Victorian Rail Track and the Rail Operator.

49. Before the development starts (including demolition and bulk excavation), a Traffic Management Plan must be submitted to and approved by the Head, Transport for Victoria. The Traffic Management Plan must provide for:

- (a) how public transport operations, traffic, walking and cycling movements will be managed during demolition and construction;
- (b) how any traffic impact to the railway land and associated infrastructure will be mitigated during demolition and construction.
- (c) how car parking will be managed to ensure development traffic associated with demolition and construction will not use Rosanna Station commuter parking during any stage of demolition and construction unless otherwise agreed in writing with the Head, Transport for Victoria and the Rail Operator.

The Traffic Management Plan must be implemented and complied with to the satisfaction of the Head, Transport for Victoria. All costs associated with the preparation and implementation of the Traffic Management Plan will be at a cost borne by the permit holder. The endorsed Traffic Management Plan must not be modified without the prior written consent of the Head, Transport for Victoria.

50. Before the development starts (including demolition and bulk excavation), a Demolition and Construction Management Plan must be submitted to and approved by the Head, Transport for Victoria, Victorian Rail Track and the Rail Operator. When approved, the Demolition and Construction Management Plan will form a part of this permit. The Demolition and Construction Management Plan must include (but not be limited to) details of:

- (a) the buildings, works and other measures necessary to:
 - i. protect railway land, track, overhead power and associated infrastructure.
 - ii. prevent and minimise disruption to the operation of the railway.
- (b) the remediation of any damage to railway land, track, overhead and underground power and communication assets, and associated infrastructure.
- (c) details of required access to the railway land during demolition and construction of the development with appropriate durations and schedules.
- (d) arrangements for:
 - i. any hoarding associated with the construction of the development at the railway boundary or that encroaches onto or overhangs railway land.
 - ii. piling, excavation, shoring, stabilising, anchoring, filling, earthworks or construction associated with the development occurring on or next to the boundary of the railway land.
 - iii. the deposit or store of waste, fill or other materials associated with the development on the railway land.
 - iv. air and dust management.

- v. operating hours.
 - vi. noise and vibration controls.
 - vii. the management of site drainage, effluent and waste.
 - viii. the security of the railway land and associated infrastructure.
51. All demolition and construction works must be carried out in accordance with the approved Demolition and Construction Management Plan unless with the prior written consent of the Head, Transport for Victoria. The Demolition and Construction Management Plan must be prepared, implemented and monitored at no cost to the Head, Transport for Victoria. The Demolition and Construction Plan must be consistent with any Construction Management Plan required by the Responsible Authority.
52. Prior to the commencement of any demolition or construction works, the Rail Operator must be contacted through the email address metrositeaccess@metrotrains.com.au to obtain the Rail Operator's conditions and safety requirements for works on, over or adjacent to railway land which must be complied with by the permit applicant during the construction of the development. The permit applicant must enter into a construction control indemnity agreement on terms that are to its satisfaction in respect of the development prior to the construction commencing (including demolition and bulk excavation).
- ~~52. Unless otherwise agreed in writing with the Head, Transport for Victoria and Victorian Rail Track, prior to construction commencing (including demolition and bulk excavation), a construction control agreement and/or indemnity agreement which the Head, Transport for Victoria advises are reasonably necessary, must be prepared and entered into with the Head, Transport for Victoria and Victorian Rail Track, on terms that are to its satisfaction at the full cost to the permit holder. Any costs required to review documents for the construction control and/or indemnity agreement must be met by the permit holder.~~
- ~~53. Prior to the commencement of any demolition or construction works, the Rail Operator must be contacted through the email address metrositeaccess@metrotrains.com.au to obtain the Rail Operator's conditions and safety requirements for works on, over or adjacent to railway land which must be complied with by the permit applicant during the construction of the development.~~
55. No drainage, effluent, waste soil or other materials must enter or be directed to railway land from the development site or be stored or deposited on railway land by the proponent.
56. Access to railway assets by rail staff for the purposes of inspection, cleaning, maintenance and repair shall be maintained at all times during the development. Existing access routes to railway land shall not be closed, diverted or modified without prior agreement with the Head, Transport for Victoria and the relevant transport operator(s).
57. Unless otherwise agreed in writing with the Head, Transport for Victoria, prior to the commencement of works, the permit holder must prepare a report, to the satisfaction of the Head, transport for Victoria and the Rail Operator, by a suitable qualified consultant, which demonstrates that all building materials (including glass / window treatments) visible from the rail corridor are non-reflective such that it will not adversely impact on rail operations and driver safety. The development must

avoid using red, green or yellow colour schemes that may interfere with driver operations.

58. The permit holder must ensure that the operating of lights is directed away from the rail corridor to ensure no disruption to the operation of trains and visibility of train drivers to the satisfaction of the Head, Transport for Victoria.

Notes:

Minor editorial changes not tracked.

Conditions 43 and 44 were deleted in an earlier version

Final cross checking of condition numbers (especially within conditions) will need to be undertaken once conditions are resolved.