

# CLARKE PLANNING PTY LTD



September 2016

Planning Report

170-174 Highbury Rd, Mt Waverley

Section 72 Amendment to add 4th level

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## **SITE AND SURROUNDS**

The site is located on the south-east corner of the Highbury Rd and Huntingdale Rd T-intersection and is regular in shape except for a splay in its north-west corner to allow for a left turn slip lane off Highbury Rd into Huntingdale Rd. The site has a total area of approximately 2585m<sup>2</sup>.

The site is current disused, undeveloped and devoid of vegetation with only temporary security fencing along its road boundaries. The site used to contain a petrol filling station. Existing use rights have long since expired.

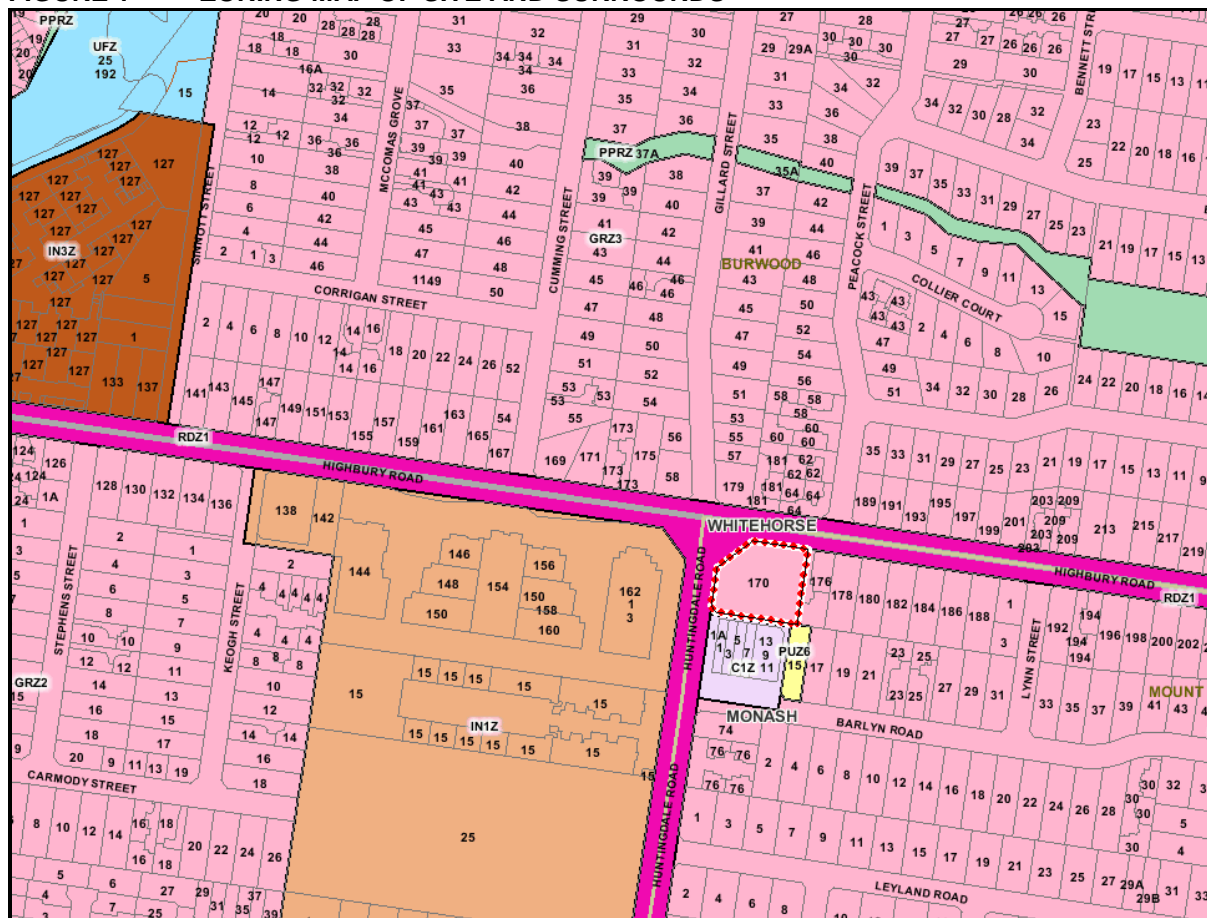
The site does not contain any covenants but there is a 2.1m wide sewerage/drainage easement along its southern boundary. The site contains two wide vehicle crossovers along each of its road frontages that are remnant from its prior petrol station use providing vehicle access onto the site.

A notable feature of the site is its topography with land rising towards its rear south-east corner considerably. A feature survey plan documents how the levels fluctuate throughout the site.

The site is in a General Residential Zone (Schedule 2), despite having never been used for residential purposes and is affected by a Vegetation Protection Overlay (Schedule 1) even though no vegetation exists.

Land to the north of Highbury Rd is within the City of Whitehorse.

**FIGURE 1 ZONING MAP OF SITE AND SURROUNDS**





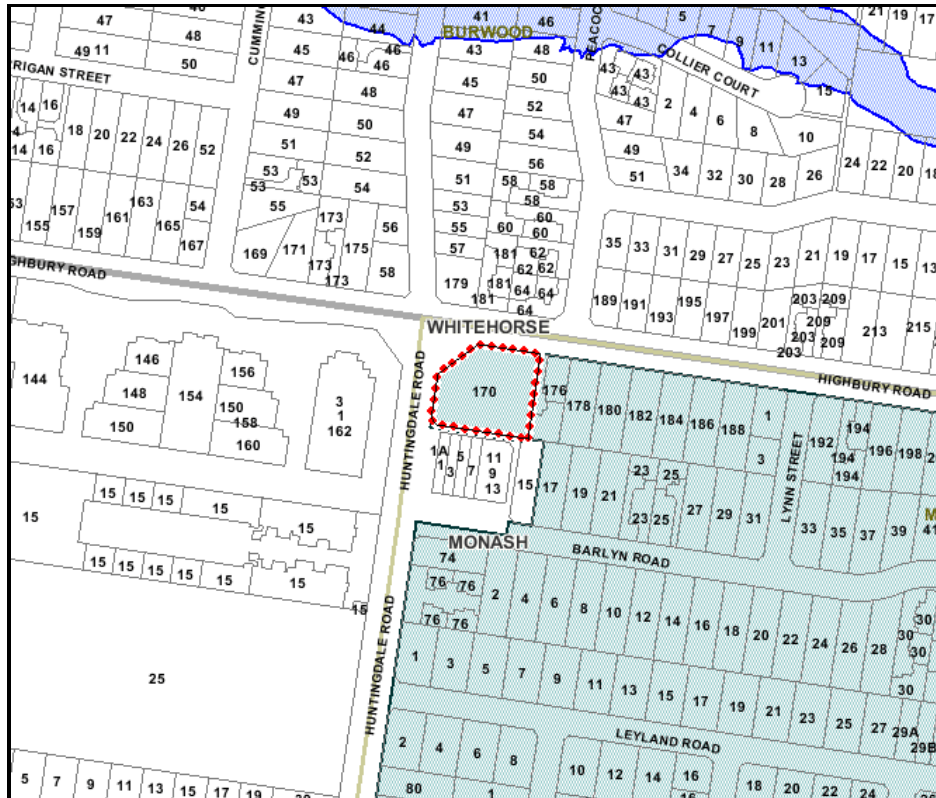
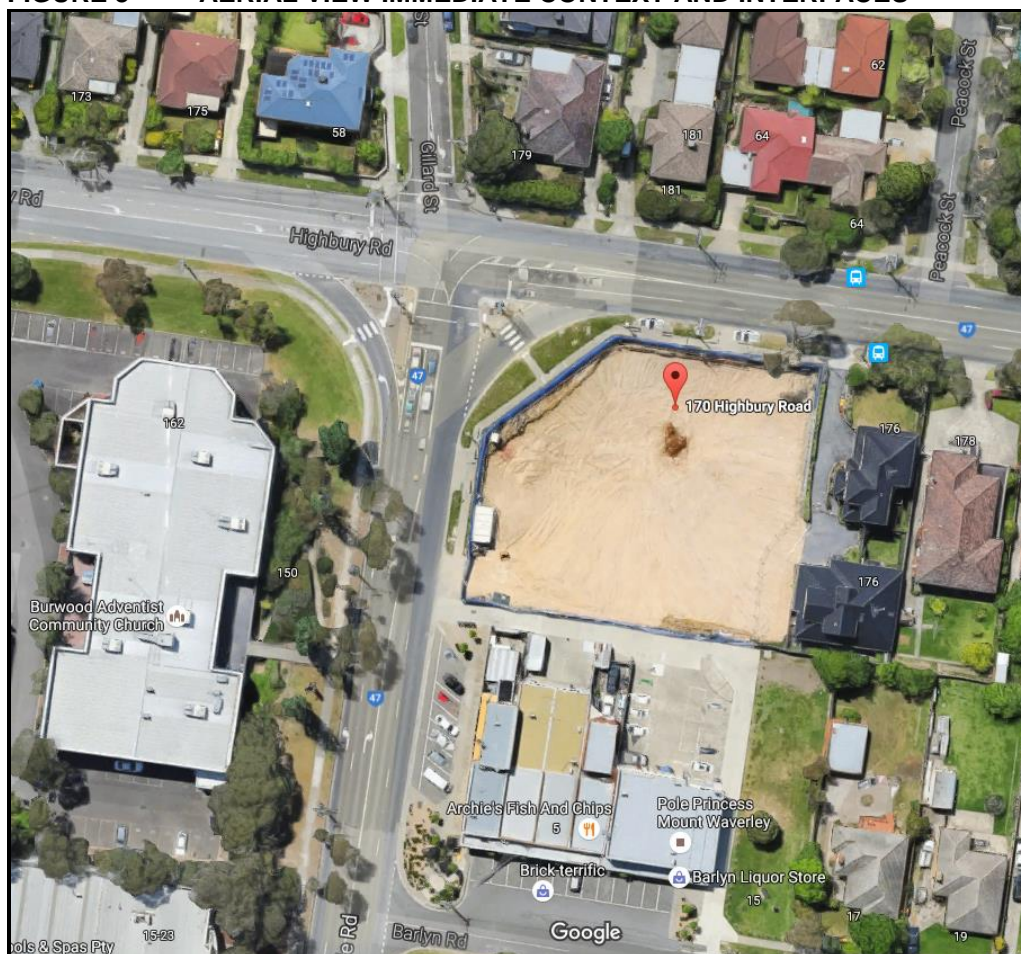
**FIGURE 2 EXTENT OF VPO IN CONTEXT OF SUBJECT SITE LOCATION****FIGURE 3 AERIAL VIEW IMMEDIATE CONTEXT AND INTERFACES**

Figure 1 outlines the zoning of surrounding land which indicates that land on the west side of Huntingdale Rd falls within an Industrial 1 zone, land to the south is in a Commercial 1 zone and land to the north and east is in a General Residential zone, albeit with different Schedules. The manner in which such land is used is consistent with their zoning.

To the east of the site is a dual occupancy development that has been constructed in the last 5-7 years. This site contains a considerable rise to its rear and a largely inert interface with the subject site consisting of a long driveway and garage wall on boundary. The front dwelling is a 2-3 storey form with the rear dwelling being a 2 storey form. The rear dwelling contains a garage on its common boundary with the subject site with a rear door leading to a walkway to its rear open space area. There are no ground level windows facing this walkway from the garage. The rear open space area has its primary outlook and habitable room windows facing towards the south which is partially aligned with a public open space area. The primary private open space for the front dwelling is located in a north facing parcel on its eastern side. The elevated nature of this rear dwelling is notable also.

Further east are a series of two storey detached single dwellings.

**FIGURE 4 176 Highbury Rd to immediate east**



**FIGURE 5 REAR UNIT AT NO.176 INTERFACE TO SUBJECT SITE**





**FIGURE 6 CLOSE UP AERIAL VIEW OF RESIDENTIAL USE TO EAST**

To the south of the site is a 4m wide laneway and a public park reserve in the very eastern edge of this southern interface. This laneway provides back of premises access to the retail strip in a Commercial 1 zone fronting Barlyn Rd and consists of a series of roller doors and hard stand car-parking areas. The collective width of this small retail strip is similar to the width of the southern boundary of the site. The retail strip consists of take away food, office, café and shop land uses in a mix of 1-2 storey buildings. 21 public car-parking spaces are provided around the western and southern edges of this strip with 2P restrictions. The corner lot is used as a café with an outdoor dining area in its rear undeveloped area. There do not appear to be any upper level residential uses existent in this retail strip.

**FIGURE 7 COMMERCIAL INTERFACE TO REAR OF SITE AND ALONG HUNTINGDALE RD**

On the opposite side of Huntingdale Rd are large lots used for commercial purposes. These lots appear to be used as large office areas and present to Highbury Rd in a two storey form with undercroft parking. Additional parking is then provided within the Highbury Rd frontage with minimal landscaping. The side façade of the corner building then presents to Huntingdale Rd in a single storey form due to the topography of the area.

**FIGURE 8 HIGHBURY RD TO WEST OF SITE**



### **PROPOSAL**

The lawful status of the site is as per the text of Planning Permit TPA/40955/A and all associated documents endorsed under this permit. This current version of this permit is as per 21 October 2014. This permit remains valid with construction having commenced. It needs to be completed by 11 October 2017 unless a further extension is granted. The documents endorsed under this permit are:

- Architectural plans of 14 sheets Council stamped 20.2.15 (sheets 13 and 14 are a schedule of material)
- Landscape plan of 1 sheet Council stamped 1.5.15
- Waste Management Plan (WMP) of 24 sheets Council stamped 29.4.15
- Car Park Management Plan of 1 sheet Council stamped 29.4.15
- Construction Management Plan

Documents yet to be endorsed are the Environmental Audit and Drainage Engineering Plan.

The proposal put forward by this amendment request is to effectively modify the scope of what has been approved so as to allow a 4<sup>th</sup> level, a partially reduced setback to Highbury Rd at ground level, a larger basement and modified waste/loading point. The full details of the proposed amendments in terms of built form, logistics and land uses are set out in the 'List of Changes' document prepared by Clarke Planning submitted to the Council with the application.

As a consequence of the amendments proposed the conditions on the permit will need to be updated to ensure consistency across all approved documentation in the following manner:

Condition	Change	Reason
Preamble	Reference 4 storey building. Child care centre to have 144 children Delete occasional child care Delete parking dispensation	To reflect the changes in the proposed plans including that no parking waiver is sought any more.
Condition 1	Delete all alphabetical requirements and reference new architectural plans dated 23.08.16 which become the base plans to reference. Any changes required for these plans to be endorsed should see the creation of a new alphabetical list.	The Condition 1 requirements are redundant as they relate to changes sought to an old set of plans.
Condition 6	Reference 144 children	To reflect the extent of child care use now sought
Condition 17	A new WMP should be endorsed to reflect the proposed amended development	To ensure the WMP remains reflective of the proposal.
Condition 28	A new Car Park Management should be endorsed to reflect the new parking allocations	To ensure consistency across the documentation.
Condition 30	Number of spaces for the child care should be reduced from 38 to 32	To reflect the reduced number of children but maintaining the same ratio of spaces per child
Condition 36	A new landscape plan should be endorsed to reflect the proposed amended development	To ensure the landscape plan is reflective of the proposal
Conditions 38-43	As per discretion of Vic Roads upon referral to them	

### **PLANNING CONTROLS**

The proposal does not generate any new permit triggers or matters of primary consent as a result of the amendments being sought. In fact, Clause 52.06 drops off as a permit trigger given the parking supply provided means no dispensation is sought.

The permit requirements under the current approval are:

- Use of land as a medical centre, child care and café in a GRZ
- Two or more dwellings on a lot in a GRZ
- Buildings and works associated with a Section 2 use in a GRZ
- Alter access to a Road Zone, Category 1

There is no permit trigger under the VPO.

It is notable that the zoning of the land has changed since the latest issue of the planning permit from Residential 1 to GRZ. The permit triggers are the same though. The considerations clearly differ noting the new scope of the project overall.

## **RELEVANT SCHEME CONSIDERATIONS**

### **Clause 9 (Plan Melbourne)**

This Clause requires that Plan Melbourne be considered in every planning application. Plan Melbourne sets out that 1.57 million new dwellings are to be constructed by 2051 with 960,000 of these to go in established areas (Pg 62).

### **Clause 10.02 (State Planning Policy Framework)**

The Goals for the SPPF with the objectives of planning in Victoria as established in this Clause, i.e. to provide for fair, orderly, economic and sustainable use/development of land, protect natural and man-made resources, provide a pleasant, efficient and safe working, living and recreational environment conserve buildings/areas of value and balance the present and future interests of all Victorians. At Clause 10.04 it notes that responsible authorities should integrate policies to balance conflicting objectives in favour of *net community benefit*.

### **Clause 11 (Settlement)**

This Clause requires planning to respond to the needs of existing and future communities through provision of land for housing, employment, recreation and open space, commercial and community facilities and infrastructure. Clause 11 has recently been substantially amended as a result of VC106 to read consistent with the adopted Plan Melbourne Government strategy document. It is notable that the breakdown of hierarchy for activity centres is now removed which caused regular debate at VCAT. Clause 11.04 (Metropolitan Melbourne) is most relevant by way of its strengthened focus on location of new housing, access to employment, affordability and diversity not previously mentioned in Clause 11. A new strategy topic at Clause 11 is 'liveable communities and neighbourhoods' which includes the below strategies:

- *Create a city of 20-minute neighbourhoods.*
- *Protect Melbourne and its suburbs from inappropriate development.*
- *Create neighbourhoods that support safe communities and healthy lifestyles.*
- *Plan for future social infrastructure.*
- *Make the city greener.*
- *Create more great public places throughout Melbourne.*
- *Respect heritage while building for the future.*
- *Achieve and promote design excellence.*

### **Clause 15 (Built Form)**

Clause 15 deals with the concept of urban design and includes directives to achieve 'quality', 'good' and 'high quality' built form within urban areas. The Clause also includes references to 'responding to its context', 'valued built form', 'contribute positively to local urban character' and 'recognise neighbourhood character'. For developments 4 stories in height one is referred to the Guidelines for Higher Density Residential Housing to consider.

### **Clause 16 (Housing)**

This Clause mirrors the messages outlined in Clause 11 about development being focused in and around activity centres and in places with good transport connections. The Clause once again refers back to the need for all developments to be 'well designed' and 'respect the neighbourhood character'. The Clause also sets criteria for identifying strategic redevelopment sites where further support for more housing is outlined. This proposal is a strategic redevelopment site for the purpose of this Clause qualifying as such on several counts. Issues such as housing diversity and affordability arise in Clause 16 also.



#### Clause 21.01 (Municipal Profile)

This Clause notes that Monash is predominantly a residential municipality. It would therefore have a demand for services such as child care and medical centre use from its residents. The number of people living in Monash is forecast to increase and more elderly people will reside in Monash too. There will therefore need to be a parallel increase in supply of such essential community facilities to cater for this change to population and demographics.

#### Clause 21.03 (A Vision for Monash)

This Clause makes reference to Council's current 10 year plan and its 10 major themes and goals. These include economic development, children/youth/family services and aged services. The Strategic Framework notes the boundaries of the VPO and reference is also made to the relative importance of retaining a garden character in Monash. As relevant to this proposal a series of benchmarking criteria for development applications are then set out as follows:

- *Setbacks of buildings and car parks from roads, public spaces and other buildings;*
- *Mass and scale of building envelopes;*
- *Well designed building facades;*
- *Quality of building materials;*
- *Location of car parking and accessways;*
- *Canopy tree and other vegetation used in landscaping;*
- *Location of services;*
- *Street planting;*
- *Front fencing; and*
- *Promotional material and signage*

#### Clause 21.04 (Residential Development)

This Clause acknowledges the need for more housing but seeks to achieve this in a site responsive manner that is sensitive the garden character of the area and residential amenity. This Clause places the site in Character Area C.

#### Clause 21.05 (Economic Development)

This Clause notes that creating local employment opportunities is essential to the well-being of Monash and also in terms of achieving its sustainability goals. This Clause notes Council will foster and assist local businesses.

#### Clause 21.06 (Activity Centres)

This Clause sets out the hierarchy of activity centres in Monash. The strip of shops to the south of this site is not listed.

#### Clause 21.08 (Transport and Traffic)

This Clause contains many broad motherhood objectives about having public transport links and bicycle paths. These are largely site exterior matters for government departments to bring to fruition and monitor. General objectives about ensuring sufficient parking is provided for new developments, safety and avoiding congestion are also documented.

### Clause 22.01 (Residential Development and Character Policy)

It is clear that much of this Clause is written to guide conventional 1-2 storey townhouse style residential development, not a development of this ilk on such a large strategic site. Some general policy directives are still relevant in an overall character sense noting the site does interface with residentially developed land to its north and east as follows:

- *Buildings be set back from street frontages in context with the surrounding environment and to maintain open and spacious streetscapes.*
- *Building design reflect the spacing and rhythm of existing streetscapes.*
- *Development be set back from street frontages to visually unify diverse types of buildings and to enhance the quality of residential areas.*
- *The Garden City Character be maintained by providing front garden space in which upper canopy trees can develop.*
- *The number of vehicle crossings be minimised to maintain existing kerb side parking and green spaces in both front setback areas and in naturestrips*
- *Landscaping in the front setback areas of properties is to be maintained by minimising the number of crossovers provided on larger multi unit sites and placing vehicle parking to the rear on sites accommodating small to medium multi developments.*
- *Garages, carports and associated visitor spaces be designed so that they do not dominate or visually disrupt the streetscape.*
- *The height and scale of existing dwellings in the neighbourhood be respected.*
- *Building spacings and setbacks off side boundaries maintain the spacing and rhythm of existing dwellings to respect the built form character of the streetscape.*
- *Similar building materials to that within the surrounding neighbourhood be utilised.*
- *A high degree of articulation and detailing be exhibited.*
- *Roof heights and pitches of adjoining development be respected.*
- *Creative and quality design solutions be provided, particularly in relation to bulk of buildings having regard to boundary setbacks.*
- *Articulated and graduated elevations avoiding “box-like” designs be provided.*
- *Planting of semi-mature canopy trees with spreading crowns be incorporated in open space areas, along boundaries adjacent to neighbouring open space and in front setback areas to reinforce the Garden City Character of the area.*

It then goes on to note that the site is located within a character area Type C which derives from Post-war to the 1965 era on undulating topography. Upon review of the material about the existing and preferred future character for this Type C it is noted that little of relevance can be applied to this site, noting its atypical historical use and interfaces, except that a reasonable transition to the east should eventuate.

### Clause 22.09 (Non-residential use and development in Residential Areas)

This Clause seeks to build on one of the established purposes of the zone that it is a suitable zone for non-residential uses to exist. This Clause notes the many benefits of having such service based uses occurring in a residential zone to the community overall. The policy notes that built form is to respect the character of any area, precisely what this means and what is required will vary from context to context. It seeks to avoid overspill (often referred to as incremental creep) from large activity centres. Locational criteria for medical centres and child care centres are then explicitly stated as such:

- *Locate discretionary non-residential uses in residential areas adjacent to existing activity centres and on higher order and busier streets and roads, and particularly on corner sites.*
- *Avoid locating in heritage precincts and in lower order residential streets and cul-de-sacs.*
- *Avoid a concentration of non-residential uses in any particular area where the cumulative impact on residential amenity is unacceptable.*
- *Provide appropriate buffers and interface between commercial, residential and industrial land uses.*

### Clause 32.08 General Residential Zone

Regard must be had to the purpose of the zone which includes:

- *To encourage development that respects the neighbourhood character of the area.*
- *To implement neighbourhood character policy and adopted neighbourhood character guidelines.*
- *To provide a diversity of housing types and moderate housing growth in locations offering good access to services and transport.*
- *To allow educational, recreational, religious, community and a limited range of other nonresidential uses to serve local community needs in appropriate locations.*

The Schedule to the zone does not set a maximum building height. The only variation of relevance is that seeking a 7.6m with side setbacks for corner lots as per Clause 55.

### Clause 52.29 (Access to a Road Zone)

This Clause requires a referral to Vic Roads for the proposed alterations to the means by which vehicle access will be obtained onto this land.

### Clause 65 (Decision Guidelines)

This Clause seeks 'acceptable' outcomes. The interpretation of what constitutes an acceptable is the subject of several Supreme Court rulings. For example see, *Knox City Council v Tulcan Pty Ltd* and *Rozen & Anor v Macedon Ranges Shire*.

### Zoning and Overlay Controls on nearby land

Land on the opposite side of Highbury Rd is within the City of Whitehorse. It is subject to a General Residential Zone also. No maximum building height is set. There are various Rescode variations in relation to front setbacks, site coverage, landscaping, open space and fencing. This land is not subject to any Overlays.

The industrial land to the west is subject to a DDO which sets provisions in terms of setbacks, fencing, landscaping and car-parking design when located in the front setback.

### Amendment C125

This Amendment seeks to modify the MSS and change the schedules to residential zones. It goes before a Panel in September 2016. It would meet the moniker of being seriously entertained once the Panel report is published and Council have adopted it. We are well short of this stage at the time authoring this report. Nonetheless, its progress should be monitored as it could come of some relevance during the assessment time-frame of this amendment application.



## **PLANNING MERITS OF THE PERMIT APPLICATION**

### VCAT history

An application to develop this land for a 3 storey residential building was refused by VCAT in 2003. This decision is of very marginal relevance to this proposal given:

- the 13 year time span
- the considerable evolution of policy (of all sorts) in the interim
- the changes to the physical context (notably to the east)
- the fact this site holds a permit now for a 3 storey building
- the vastly different nature of this proposal from that put forward in 2003.

These above go to numerous aspects of the *Reichert* principles.

A permit for a 2 storey building on this land with no residential use was approved in 2013. Council issued an NOD, but a Section 82 appeal was filed. VCAT directed a permit issue in the case of *Caratti v Monash CC [2013] VCAT 1688*. The findings of that case are of marginal relevance to what we consider to be the key considerations in this proposal. Some comments are passed about building form, setbacks and landscaping, but only in the context of determining if the 2 storey proposal was acceptable.

An amendment to this permit was sought in 2014 to add a 3<sup>rd</sup> level containing 10 dwellings. This was supported by Council and an NOD to Amend issued. The same resident filed a Section 82 appeal. This appeal was struck out at a preliminary hearing in the case cited as *Caratti v Monash CC [2014] VCAT 1279* whereby VCAT make brief remarks on the merits as part of what they had to consider in their strike out decision. There is also little to glean from that decision of relevance to the key considerations in this amendment proposal.

### Land Use

The intensity of non-residential uses on the land is not proposed to be increased by this amendment. In fact, the scale of child care services is actually being reduced somewhat. There is no proposed change to any hours of operation.

The addition of 11 apartments is an as of right use in the zone.

This amendment is therefore not determinative of the question of land use.

### Built Form (ground)

When the initial permit application was made the plans submitted to Council sought a front setback to Highbury Rd of the ilk now shown on the plans that comes to within 4m for a point near the stagger at the corner or intersection point. Council imposed a Condition this setback be increased to 7.6m and this is what is currently shown on the endorsed plans. This aspect of the proposal is effectively a challenge against that aspect of the original decision. There is nothing untoward about this in terms of process. It is simply a matter of merit.

It is noted that we have a current endorsed landscaping plan. This plan represents what Council deem an acceptable landscaping outcome for this site. In fact, Council specifically made sure some modification of species occurred from what was submitted before they were willing to endorse it. The reduction of this setback which we now seek does not impact on the landscaping outcome able to be achieved in terms of trees. This can be readily verified by comparing the currently endorsed landscaping plan against the newly updated landscaping plan. It is apparent that the quantity, species and mature height of trees in this front setback remains the same as endorsed under the current approved or now proposed setback.

Further, we have submitted written material from the landscape architect verifying that in their professional opinion the landscaping outcome as depicted on their plan represents one which can be practically achieved having regard to the building envelope, species type and soil volumes available. As such, it is not open to refuse this aspect of the amendment in relation to landscaping.

It is also noted that the basement pushes out closer to the boundary below this landscaping sleeve. However, the cap of the basement is 1.1m below the ground level where the trees will be planted. This creates a soil volume that is supported by our landscape architect and is not a figure arrived at by chance.

This leaves the more subjective question about the reduced setback in broader urban design terms. This reduced setback is supported by in Biles urban design report. We note that this is clearly a unique site that is going to be read in a stand-alone sense. It is not going to be read as trying to look like the residential forms that it sits nearby that are on 15m or wide lots. This site has always been different to those residential lots including back when it was a petrol station and even now in its vacant state. A 4m setback at this point does not somehow disrupt or undermine any appreciation of the residential context and by-play between the residential dwellings. Further, the portion of wall setback 4m is separated from the eastern boundary of the by around 21m, more than the width of entire residential block. As such, to the extent a 'transition' is needed, a 21m wide section of frontage is set aside to help achieve this transition whereby the 7.6m front is retained. The 7.6m figure is derived from the Schedule to the zone. Varying this provision for a width of 14m on a site of these proportions that adjoins an industrial zone to one side and is separated from the next residential lot by over 20m is not considered to undermine the purpose of the 7.6m setback policy.

The remainder of the ground floor envelope is unchanged.

### Built Form (Upper levels)

The first floor envelope is unchanged from that currently approved.

The second floor envelope is essentially the same as currently approved in terms of setbacks from the rear lane, Highbury Rd and Huntingdale Rd. Forensically examined, there are some changes of a metre or so and some balcony adjustments. Whilst there is some give and take, the net result is the same, as opposed to any cribbing or perceptible reduction. The second floor does have reduced setbacks from that currently approved to the east with the setback of walls reduced from 13m to 11m (and 10m at the very southern end) and then at the southern end balconies being setback in the 8m to 9m range. The public realm or urban design implications of this change are marginal and not considered to change the public perception of the building due to this slightly broader width. The critical consideration to emerge from this change is about amenity impacts to the east. The interface is not sensitive being to a driveway, garage and side wall of a dwelling. The setbacks are well and truly in excess of what B17 would require, but this is somewhat academic given the blind nature of the interface. Whilst this is the 3<sup>rd</sup> level of the building, it is effectively a first floor at this point, with this best appreciated via Section 2 on TP06, which also plots in the B17 line. The balcony for Unit 6 with its 8m setback does not cause overlooking and thus does not require screening as window to window aspects are at least 9m apart and fence will block any downward angled views into secluded open space (not the side service yard, although such views are blocked anyway) to a distance of comfortably 9m.

The new level is the 3<sup>rd</sup> floor and the envelope of this is the same as the 2<sup>nd</sup> floor directly below. This obviously changes the way in which the building will be appreciated from the public realm. This is collectively appreciated via the elevations, sectional drawings, 3D views and perspective views which are modelled on surveyed RL's. It is considered that the built form changes do not give rise to any negative impact to the casual passer-by along either of these main roads. This is obviously a subjective analysis to adjudicate on. We consider that this extra height on a site in this location, of these attributes does not somehow serve to undermine the residential context further east, the industrial context to the west or the commercial context to the south. In fact, it is the confluence of these various zones that creates the opportunity for what is proposed. This is a view that is supported by Biles in his Urban Design Report.

This third floor does not give rise to any amenity impacts to the residential land to the east for the reasons as set out in relation to why the second floor is acceptable remaining relevant.



### Internal Amenity

A relevant consideration here is to have regard to the current endorsed plans which show 9 dwellings. Whilst this represents a lawful and acceptable outcome in terms of internal amenity, we have taken the opportunity to somewhat try and raise the bar as part of this amendment package.

Being a 4 storey building in a residential zone the governing provisions of internal amenity are those within Clause 55 with the response of the proposal to each set out below:

Standard	Response
B25 – accessibility	All units are accessible via a lift from ground floor and the basement in a manner unchanged from that currently approved.
B26 – dwelling entry	The dwelling entry from public areas is unchanged from that currently approved.
B27 – daylight to windows	All habitable rooms have a window facing an outdoor area that is atleast 3m <sup>2</sup> in area and 1m in dimension. Several of the living room windows for the apartments on the 2 <sup>nd</sup> floor face a balcony which is roofed over but such balconies are open for atleast 1/3 of their perimeter and thus compliant. The cut-in bedrooms on both the 2 <sup>nd</sup> floor (Units 2, 3, 5, 7, 9) are open to the sky.
B28 – private open space	All balconies are comfortably in excess of 8m <sup>2</sup> with direct access from the living room and more than 1.6m in dimension.
B29 – solar access to open space	This provision only applies to secluded open space. None of the balconies are 'secluded' with all above ground level and not being screened. Perhaps Unit 5 and 15 could be said to have secluded balconies. B29 is not clear on how much open space needs to comply with its formula and its connect or dis-connect with B28 is not clear. Units 5 and 15 have an unimpeded northern aspect for about 12.5m <sup>2</sup> of their balcony, so more than the 8m <sup>2</sup> they require under B28. Units 6 and 16 are not truly secluded given their location near the lane and car-park but comply anyway. These comments are made noting Units 5 and 6 are roofed over. There are clearly imperfections and ambiguities as to how to apply this Standard if one wants to get 'super technical'. What is clear is that it only relates to secluded open space.
B30 - storage	Large storage areas are located within the basement which will easily ensure there is atleast 6m <sup>3</sup> available for each dwelling. The plans could be modified to show how this is specifically sliced up if deemed necessary, even though this was not required under the current approval.

It is noted that other components of Clause 55 are relevant to the question of internal amenity such as energy efficiency, safety, internal overlooking and noise. In this regard it is considered that the proposal:

- maximises its northern aspects as required by B10.
- provides entrances to the building, lift and doorways that are secure as required by B12 and the same as currently approved.
- does not generate any internal overlooking between balconies or windows in a manner consistent with the 50% provision of B23.
- does not lead to any new noise issues in relation to B24 being the same as currently approved.

To the extent one wants to shift the examination beyond Rescode, this must be done with some caution as such tests are arbitrary and outside of the tests set out by the Planning Scheme. It is true that other elements contribute towards internal amenity in an overall sense. It is considered that moving into this subjective performance based realm that the following features are noted:

- 8 dwellings face north, 6 face west, 4 face east and 2 face south, which is considered a good use of the site aspects.
- There are no borrowed light or saddlebag bedrooms.
- Single bedroom units are 63m<sup>2</sup> and two bedroom units are no less than 88m<sup>2</sup>. Well above the NSW requirements which are often used as a guide.
- No screening devices are required that can compromise amenity via reduced daylight but also removing outlook.
- There are no issues with light-wells, in board apartments, or equitable development right considerations that could lead to downgrading of amenity in the future.
- Balcony sizes are very generous in terms of overall area.
- 3m floor to ceiling heights are to be achieved.

These are all indicators of a proposal with very good internal amenity.

#### Access / Loading / Waste

This proposal actually reduces the number of crossovers from not only what currently exist on the site, but also from that currently approved. This is achieved by removing the loading bay area at the southern end of Huntingdale Rd which was supported by Vic Roads. However, one suspects Vic Roads will be pleased to see its removal. No loading bay is required under Clause 52.07. Waste collection is currently via the basement.

A new drive-through style loading bay is proposed accessed from the existing lane abutting the southern boundary. The size of the waste holding areas have all been designed as per advice from our waste expert as set out in their updated WMP. The drive-through area has been designed by our traffic engineer and designed to accommodate the size of waste collection vehicle that will collect the waste. This means no waste collection in the basement or need for waste trucks to go into the basement. It also means no 3 point turns for any loading requirements within the site from Huntingdale Rd. This is considered a vastly superior arrangement in numerous respects for waste collection and provision of a loading point for the site and enables the basement to function more effectively being just for 'cars'.

It is entirely appropriate for this site to utilise the rear lane. It is an opportunity that presents as part of the physical context. Other shops to the south use this lane for similar purposes at present, and this site is entitled to do likewise. The waste truck will be able to navigate the full length of the lane and then turn back onto Huntingdale Rd at the Barlyn Rd intersection with this all occurring within the confines of a Commercial 1 zone.

### Car-Parking

This amendment removes the need for any parking waiver for any part of the proposal. This is undoubtedly a positive feature of the amendment which must be considered and given weight in any integrated decision making approach.

#### Parking allocation as per current approval

Use	Distribution of the total of 102 spaces
Medical centre of 17 practitioners	36 visitors, 17 staff
Café of 40 seats	0 visitors, 2 staff
Child care of 130 children	24 visitors, 14 staff.
+	= rate 0.217 space per child overall
Occasional child care of 45 children	
Total of 175 children	
Dwellings, 8 x 2 bed plus 1 x 1 bed. Total 9	9 resident, 0 visitor

#### Proposed parking allocation

Use	Distribution of the total of 118 spaces
Medical centre of 17 practitioners	36 visitor, 17 staff
Café, 40 seats	0 visitor, 2 staff
Childcare 144 children	20 visitors, 12 staff. = rate of 0.222 spaces per child overall
Dwellings, 18 x 1 bed plus 2 x 1 bed, Total 20	20 resident
Visitor	11
	ADD up to 118

Clause 52.06 requires:

- Medical centre of 17 practitioners, 53 spaces. 53 spaces provided. No dispensation.
- Café is an innominate use see below.
- Child care centre of 144 children, 32 spaces. 32 provided. No dispensation.
- Residents require 20 spaces. 20 provided. No dispensation.
- Residential visitors require 4 spaces. 11 provided. No dispensation.

A café is an innominate use and thus parking needs to be provided to the satisfaction of the Responsible Authority. This amendment does not seek to change the number of seats for the café, or its hours, or its parking supply, all of which Council have already deemed to be to their satisfaction.

In fact, it can be seen the proposal actually has an oversupply of parking with a surplus of 7 visitor spaces that can be put into pool of visitor spaces for any land use.



### Basement Design

The design of the basement in terms of its ramps, width, grades, clearance heights, crossovers, splays, aisles and the like is all unchanged. It continues to comply with what the endorsed plans show in terms of access, which itself is compliant with Clause 52.06.

The majority of the parking spaces are unchanged also. The new parking spaces added are all designed to comply with Clause 52.06-8. This is affirmed in the traffic report.

With the elongation of the basement near the northern end and the removal of waste, there continues to be a large storage area provided. The precise division of this is not recorded on the current endorsed plans and this remains the case. Suffice to say, there is comfortably enough space for each dwelling to get 6m<sup>3</sup> of storage.

Some spaces have been re-allocated to try and put the commercial visitor spaces closer to the lift. The disabled parking space on each level has been adjusted to allow for easier vehicle entry and exit.

### CONCLUSION

The amendment brings about numerous improvements to the proposal that are clear positives being:

- Full compliance with Clause 52.06 rates
- Less crossovers
- Superior waste/loading collection point
- Improved internal amenity for the 2<sup>nd</sup> floor dwellings
- Extra provision of housing to a strategic redevelopment site

Other elements which stay the same or are neutral are:

- Landscaping
- Land uses
- Traffic
- Car-park design
- Built form over the lower 3 levels
- Amenity impacts to the east

We consider that no unreasonable or negative urban design implications emerge from the 4<sup>th</sup> level now sought.

But acknowledging this is subjective, if one holds the view that the 4<sup>th</sup> level is a 'negative' in an urban design sense, this must be considered at an integrated decision making level having regard to the above positive and neutral factors, as to whether the overall outcome is acceptable.

It is therefore considered that if tested in a 'stand-alone' sense or as a 'full package' this amendment application is acceptable and worthy of planning support.