

# MELBOURNE PLANNING PTY. LTD.

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Your Ref.: TPA/45451

**Advertised Copy**

Our Ref.: MP 15/0030

13th May, 2016.

Mr. James Heitmann,  
Principal Planner,  
Statutory Planning Department,  
City of Monash,  
Municipal Offices,  
293 Springvale Road,  
GLEN WAVERLEY. 3150

Dear Mr. Heitmann,

149 Hansworth Street, Mulgrave

Thank you for your gracious extension of time to provide the further information requested.

I now enclose an urban context report, 3 sets of revised A1 and 1 set of A3 plans notated as "Revision B" in response to your queries. Electronic copy of plans and supporting documents will be forwarded to you shortly.

In regard to your "identified design deficiencies", I understand that we cannot see eye to eye on the scale of development, as you seem to ignore the State Policy and the Tribunal's ruling on the previous case.

On your renewed "neighbourhood character" issue, may I remind you that the subject land has no character designation. Therefore it does not offend against any neighbourhood character policy. Based on "first principles", the townhouses that are next to the neighbours have been designed to "respect" their scale and appearance. Whereas the towers have been sited furthest away near the boundary to the Monash Freeway. Through aerial perspective foreshortening, they would not overwhelm the neighbours.

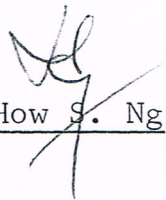
Clause 55 does not apply to the development. May I remind you again of the judgment of the Full Bench of the Supreme Court in National

Trust of Australia (Vic.) v. Australian Temperance and General Mutual Life Assurance Society Limited [1976] V.R. 592, esp. at p.606, (the T & G case).

Car parking for visitors is now plentiful.

If you can see a way out from this impasse, I would like to take counsel from you. If you still have any unanswered questions, please let me know. Thank you for your effort in this application.

Yours sincerely,

  
How S. Ng

Encls.

1. Proposal

As stated at p.10 of the traffic report, the proposal is stated as follows:

3. **PROPOSAL**

The proposed development comprises 17 townhouses and 150 apartments, with the following characteristics:

- 5 residential towers with:
  - 99 two-bedroom apartments.
  - 51 three-bedroom apartments.
  - 239 car parking spaces, comprising 201 occupier spaces, 25 visitor spaces within the lower ground floor of the apartment complex and 13 on the ground level configured as 90-degree angled parking spaces that are accessible from the driveways serving the townhouses. Visitor parking provision of 38 spaces is in excess of the 30-space requirement for 150 apartment dwellings.
- Townhouses:
  - 2 two-bedroom dwellings with single garages.
  - 15 three-bedroom dwellings with double garages.
  - 32 occupier car parking spaces.
  - 3 visitor parking spaces located on the ground level, configured as 90-degree angled parking spaces that are accessible from the driveways serving the townhouses.
- 60 bicycle parking spaces.
- Internal driveways with:
  - Mountable roundabouts.
  - Minimum 5.5m of unobstructed driveway widths for 2-way traffic. Where obstructions exist on one-side (e.g. parallel parked cars), the minimum width will be 5.8m. Where obstructions exist on both sides, the minimum width will be 6.1m.

This represents a total of 167 dwellings (comprising 101 two-bedroom dwellings and 66 three-bedroom dwellings) with 274 car parking spaces (comprising 233 occupier spaces and 41 visitor parking spaces).

2. Neighbourhood and site description

The subject land was previously included in a tri-



angular parcel of land comprising 22,296 square metres. The land was rezoned from Business 1 to Residential 1 by Amendment C22. The south-eastern portion of 5,609 square metres has since been developed for an aged care facility. The remaining 16,693 square metres forms the subject land. It is vacant and unkempt.

The subject land is the link of Hansworth Street from the north-west to the south-east. However, because of improved traffic situation, there will be no through vehicular traffic through the estate.

The subject land abuts the Monash Freeway to the north-east, residential estate to the west and south, and to the south-east. It links up with the Waverley Gardens Neighbourhood Activity Centre. The subject site was previously earmarked for the expansion of this Activity Centre, but because of its detached position, the opportunity was not taken up.

Mulgrave is developed with modern housing of varying styles. Though there are two-storey ones, most of the dwellings are single-storey in height. This applies to the adjacent housing.

The site has a general slope of some 8 metres from the south-east to the north-west. However, because of the distance, the fall is not readily perceptible.

Although there is no train service to the site, there are 7 bus routes terminating at the Waverley Gardens Neighbourhood Activity Centre, and one to the end of Hansworth Street to the north-west. Jacksons Road's entry to the Monash Freeway is just round the corner. As may be seen from Melway Map 80, the site is endowed with good infrastructure, services and amenities.

3. Detailed description of the site context

(1) Site shape, size, orientation and easements

These features are clearly shown on the title and Drawing TP01 - "Existing survey plan & neighbourhood study". The shape is self-evident.



- (2) Levels and contours of the site and the difference in levels between the site and surrounding properties

All the features are shown on Drawing TP01 - Existing survey plan & neighbourhood study, except the difference in levels between the site and surrounding properties as the land surveyor had no access to surrounding properties. However, as the fall of the land is gradual without any abrupt changes, the levels on surrounding properties may be readily extrapolated from the survey plan of the site.

- (3) The location and height of existing buildings on the site and surrounding properties

There is no building on site. As regards the heights of the dwellings to the west and the south, they are marked on Drawing TP01. The aged care facility, known as The Hansworth, is a 2-storey building. Although there is no height shown in metres, the height is the standard height for domestic building of 1-storey and 2-storeys.

- (4) The use of surrounding buildings

Other than The Hansworth aged care facility, the surrounding buildings are detached dwellings.

- (5) The location of private open space of surrounding properties and the location of trees, fences and other landscape elements

The Hansworth has no real private open space as living is all indoors. The dwellings to the west and to the south have their private open space located to their rear facing the subject land. As regards trees on their land, as no access is available to the land surveyor, they have not been surveyed or identified. Suffice it to say that the trees there, if any, are not the result of proper landscape planning and planting. A glimpse of them is available from the aerial photograph shown on the cover sheet of the submitted plans. They may readily be googled by any enquirer. As regards fences, they are the standard paling fences.

(6) Solar access to the site and to surrounding properties

As the development in the neighbourhood is domestic in scale, solar access to the site and to surrounding properties is excellent.

(7) Views to and from the site

Views to the site, if available, are not fantastic at present as the site is just an unkempt and a large undeveloped parcel of land sitting in the winds. As regards views from the site, they comprise only the leaning paling fences of the neighbours: they are not fantastic either.

(8) Street frontage features such as poles, street trees and kerb crossovers

Such features, if any, are shown on Drawing TP01.

(9) The location of local shops, public transport services and public open spaces within walking distance

The Waverley Gardens Neighbourhood Activity Centre is located virtually at the front door of the subject land. As regards public transport services, they are detailed in the traffic report. And on public open spaces within walking distance, one is located between Bertrand Avenue and Grovelands Drive, and one smaller one is located at the end of Locarno Court and Andover Court. All these features are shown on the cover sheet map to the set of submitted plans and on Melway Map 80. It should be noted that a landscaped communal open space is proposed centrally on the subject site for the passive recreation of the residents to the proposed development.

(10) Movement systems through and around the site

At present, because of the vacant nature of the site, the local residents to the north-west use the site as a shortcut to the Waverley Gardens Neighbourhood Activity Centre. As regards movement around the site,



it is well stated in the traffic report. It is readily evidenced by a look at Melway Map 80.

(11) Any other notable feature or characteristic of the site

A field of beautiful grass swaying to the winds.

(12) An assessment of the characteristics of the area including:

Any environmental features such as vegetation, topography and significant views

These features have already been answered above.

The pattern of subdivision

The subdivision in the neighbourhood is a mixture of rectilinear and curvilinear design with end of courts flaring out to get the maximum yield by the land surveyor.

Street design and landscape

The local streets are mostly straight whereas the collector streets which are slightly wider are curvilinear. Standard street trees are planted by the Council.

The pattern of development

The pattern of development is dictated by the form of subdivision.

Building form, scale and rhythm

Dwellings are post-war builder's spec homes typically: single-storey and two-storey brick veneer construction with tiled hipped roof with standard setbacks prescribed by the building regulations. The rhythm is created by the pattern of subdivision.

Connection to the public realm

The accesses are at both ends of the site to Hansworth Street. These are the only connections to the public realm.

Architectural style, building details and materials

As said earlier, the dwellings in the neighbourhood are of brick veneer construction and tiled hipped roofs, typical with new suburbs. One would not ascribe the term "style" to such standard builder's spec homes.

Social and economic activity

All social and economic activities take place at the Waverley Gardens Neighbourhood Activity Centre, and to a lesser extent at the medical centres surrounding the Centre.

Any other notable or cultural characteristics of the area.

The proximity of the Springvale Crematorium & Necropolis.

(13) A written statement that describes:

Any relevant housing, neighbourhood character, urban design and landscape plan, strategy or policy set out in this scheme

Cl.11 Settlement

State Policy is enshrined in cl.11 of the Ordinance. Under cl.11.01-1 the "Strategies" for "Activity centre network" are stated as follows:

**Strategies**

Develop a network of activity centres that:

- Comprises a range of centres that differ in size and function
- Is a focus for business, shopping, working, leisure and community facilities.
- Provides different types of housing, including forms of higher density housing.



- Is connected by public transport and cycling networks.
- Maximises choices in services, employment and social interaction.

Support the role and function of the centre given its classification, the policies for housing intensification, and development of the public transport network.

And the "Strategies" for "Activity centre planning" are stated under cl.11.01-2 as follows:

#### Strategies

Undertake strategic planning for the use and development of land in and around the activity centres.

Give clear direction in relation to preferred locations for investment.

Encourage a diversity of housing types at higher densities in and around activity centres.

Reduce the number of private motorised trips by concentrating activities that generate high numbers of (non-freight) trips in highly accessible activity centres.

Improve access by walking, cycling and public transport to services and facilities for local and regional populations.

Broaden the mix of uses in activity centres to include a range of services over longer hours appropriate to the type of centre and needs of the population served.

Provide a focus for business, shopping, working, leisure and community facilities.

Encourage economic activity and business synergies.

Locate significant new education, justice, community, administrative and health facilities that attract users from large geographic areas in or on the edge of Central Activities Districts. Principal or Major Activity Centres with good public transport.

Locate new small scale education, health and community facilities that meet local needs in or next to Neighbourhood Activity Centres.

Ensure Neighbourhood Activity Centres are located within convenient walking distance in the design of new subdivisions.

Improve the social, economic and environmental performance and amenity of the centre.

And the "Strategies" for "Activity Centre hierachy" under cl.11.04-2 are stated as follows:

#### Neighbourhood Activity Centres

Cluster complementary facilities in Neighbourhood Activity Centres to provide good and easy access, opportunities for co-location and the sharing of resources and support for local economic activity.

Ensure Neighbourhood Activity Centres:

- Have a mix of uses that meet local convenience needs.
- Are accessible to a viable user population by walking and cycling.
- Are accessible by local bus services with public transport links to Principal or Major Activity Centres.
- Are an important community focal point.

- Encourage higher density housing in and around Neighbourhood Activity Centres that is designed to fit the context and enhances the character of the area while providing a variety of housing options for different types of households.
- Provide for new Neighbourhood Activity Centres in the redevelopment of middle and outer suburbs and the development of new growth areas.

In the above, "Melbourne 2030" is the policy guideline. It was enshrined previously in the now superseded cl.12 of the Ordinance.

This State policy finds its most cogent exposition in Golden Ridge Investments Pty. Ltd. v. City of Whitehorse, 17 V.P.R. 251, where at paras.34-41, the Tribunal said as follows:

*Melbourne 2030*

34. In October 2002 the State Government released *Melbourne 2030*, its policy for the sustainable growth of the Melbourne metropolis to the year 2030. In his foreword, the Premier of Victoria stated that *Melbourne 2030* was an action plan to ensure the benefits of growth are shared fairly across the State, and in a sustainable way. The Minister for Planning saw *Melbourne 2030* as a vision for our city.

35. *Melbourne 2030* is not so much a document directed at making Melbourne grow, as a document directed at managing the growth and change which will inevitably occur across metropolitan Melbourne over the next 30 years. In its summary, *Melbourne 2030* states:

*Melbourne 2030* is a plan for the growth and development of the metropolitan area. An important objective is to ensure that Melbourne retains the qualities that people enjoy about it. Despite a slowdown in population growth, Melbourne will grow substantially over the next 30 years. It is appropriate to plan for the capacity to comfortably absorb up to 620,000 extra households over that time while protecting and enhancing our existing suburbs.

*The main thrust is to continue to protect the liveability of the established areas and to increasingly concentrate major change in strategic redevelopment sites such as activity centres and underdeveloped land.* While a good supply of land for development will be maintained in both areas, over time there will be a shift away from growth on the fringe of the city. (*Melbourne 2030*, page 1.) [Our emphasis.]

*Melbourne 2030* identifies nine directions – or desired results – whose achievement over time will depend upon giving effect to specific policies. The first direction is for a more compact city. The second direction is to better manage metropolitan growth, principally by establishing an urban growth boundary beyond which the metropolis will not extend. In the present context, direction 1.3 is particularly relevant. It is to locate a substantial proportion of new housing in or close to activity centres and other strategic redevelopment sites that offer good access to services and transport.

36. Although the main thrust of *Melbourne 2030* is to continue to protect the liveability of the established areas and to increasingly concentrate major change in strategic redevelopment sites, such as activity centres, this thrust is also qualified by other important directions. These include promoting good urban design, recognising and protecting



- neighbourhood character and ensuring that new development responds to its context. Other directions are increasing the supply of well located affordable housing and contributing to sustainability objectives.
37. In elaborating upon the key directions for the planning of the metropolis, *Melbourne 2030* identifies locations for new development. It states:
- More development – housing and employment – will be accommodated in selected parts of established areas to encourage more effective use of infrastructure for human services, public transport and water, power and communications. This will also reduce pressure for inappropriate developments in established areas with valued urban character and streetscapes.
- Existing activity centres (with their substantial local community and business investment) will be the focus of much new development. (*Melbourne 2030*, page 31.)
- Melbourne 2030* identifies that by focusing a substantial proportion of new development at activity centres that have good access to the principal transport network, this will help to reduce car trips and decrease the share of trips that need to be made by car. It will also make the most of convenient access to existing facilities and services, to ensure that such centres remain viable and vibrant, and reduce development pressures on other existing urban areas. (*Melbourne 2030*, page 32.)
38. The various activity centres within the Melbourne metropolis are classified by *Melbourne 2030* into five types, being the Central Activities District, Principal Activity Centres, Major Activity Centres, Specialised Activity Centres and Neighbourhood Activity Centres. This classification is based on the role and function of various centres. In the vicinity of the subject land the Principal Activity Centres are Box Hill, Ringwood, Doncaster, Glen Waverley and Knox City. *Melbourne 2030* identifies Nunawading, Burwood East K-Mart Plaza, Burwood East Tally Ho and Forest Hill Chase as Major Activity Centres.
39. *Melbourne 2030* does not specifically name the activity centres within Melbourne that are to be classified as neighbourhood activity centres. However it provides:
- Higher density housing will be encouraged in and around neighbourhood activity centres. It should be designed to fit the context and enhance the character of the area while providing a variety of housing options for different types of householders. Development of the centres can improve access to local services and accommodate the changing housing needs of those who do not want to break their links with their local community. (*Melbourne 2030*, page 49.)
40. *Melbourne 2030* identifies the desirability of detailed structure planning for each activity centre. It identifies that this process should emphasise the implementation of policies for clustering higher density housing in and around such centres, and improving local and regional public transport. (*Melbourne 2030*, page 52.) A structure plan is not intended to be a statutory document, but a document which will provide guidance to investors and the community. *Melbourne 2030* envisages that careful structure planning will provide a basis for supporting more intensive and varied development without compromising the amenity of surrounding land uses. (*Melbourne 2030*, page 52.)
41. We have previously identified policy 1.3 of *Melbourne 2030*, which is a policy of locating a substantial proportion of new housing in or close to activity centres and other strategic redevelopment sites that offer good access to services and transport. In support of this specific policy *Melbourne 2030* states:
- Encouraging higher density development on sites that are well located in relation to activity centres and public transport will:

- provide for the forecast increase in population and households
- ensure the available housing stock better matches changing demand by widening housing choice, particularly in middle and outer suburbs
- support opportunities for a wide range of income groups to choose housing in well serviced locations
- increase the local population base that supports activity centres and local businesses
- encourage walking, cycling and public transport as viable transport alternatives. (*Melbourne 2030*, page 57.)

The policy identifies the types of locations which could be regarded as strategic redevelopment sites. Suitable locations include locations:

*in or beside neighbourhood activity centres that are served by local public transport*

abutting tram, train, light rail and bus routes that are part of the principal public transport network and close to principal or major activity centres

in or near major modal public transport interchanges that are not in principal or major activity centres

*major redevelopment sites – that is, able to provide ten or more dwelling units, close to activity centres and well served by public transport. (Melbourne 2030, page 57.)* [Our emphasis.]

And for Local Policy, the Tribunal in paras.29-33 said as follows:

*Local Policy*

29. The Municipal Strategic Statement ("the MSS"), which is set out in clause 21 of the scheme, provides a useful background to the City of Whitehorse. For example, clause 21.01-2 explains that the population of the municipality is aging and contains more people over the age of 50 compared to the Melbourne average. This, in conjunction with the household size falling from 2.8 people in 1991 to an estimated 2.42 in 2011, is resulting in population decline. Indeed, the latest statistics released by the Department of Sustainability and Environment ("DSE") indicate that the City of Whitehorse had a growth rate of minus 0.6% for the 2002-03 year compared with an overall growth rate for metropolitan Melbourne of 1.3%.
30. As the MSS explains, Whitehorse is a typical middle ring Melbourne suburban area. It is dominated by detached dwellings: in 1996 around 81% of the housing stock was detached housing. Clause 21.01-3 of the MSS states:
- Medium density development in the City has been strong. Reductions in household size, greater numbers of single parent families and older single person households will most likely mean that demand for smaller dwelling sites with less garden maintenance will increase over the next decade.
31. Clause 21.03 of the scheme sets out a number of key challenges for the municipality. One such challenge is in relation to residential amenity. The MSS explains:
- The characteristics that make *the residential areas* attractive, particularly to families, are under extreme pressure for redevelopment. In some areas houses on large allotments lend themselves to medium density development. It is therefore vital that the essential elements that underpin the character of an area are maintained and enhanced, whilst achieving urban consolidation to



more effectively use existing infrastructure and provide for appropriate housing for the changing population. This is perhaps the biggest challenge facing the City. [Our emphasis.]

Another challenge concerns meeting future housing needs. The MSS explains:

The City's population is aging and household size declining. Whitehorse contains more people over the age of 50 than the metropolitan average, which will only increase over the next decade. The existing housing stock fails to reflect the characteristics of its population given the predominance of detached dwellings on large allotments. *It is therefore essential that there is a greater range of housing choice to meet the future housing needs of the population, whilst achieving sustainable development objectives.* [Our emphasis.]

Another challenge is in relation to sustainable development. The MSS explains:

It is essential that new development is constructed and located in a way that reduces dependency on fossil fuels, maintains biodiversity and is sensitive to its environment. *Development should, therefore, be targeted into areas with excellent public transport access, shopping, entertainment and employment opportunities.* Designers must respond to the particular constraints and opportunities of a site and make full use of natural resources such as northern sunlight, retention of existing vegetation and use of landscaping for shading. [Our emphasis.]

Another challenge relates to redevelopment of key sites. The MSS explains:

There is little surplus land available for redevelopment. *This means that any large parcels of land that become available must be put to the use that achieves the optimum benefit for the whole community.* Council will ensure that a clear strategic direction is provided for the sites and provide clear guidance in the event that other sites unexpectedly become available. [Our emphasis.]

32. Council's vision is set out in clause 21.04 of the scheme. This vision identifies that council will:
- endorse the provision of a wider range of housing types to meet the changing needs of the population;
  - ensure medium density housing is integrated with existing residential areas in a form consistent with the character of neighbourhoods, *with higher density housing being located in specific areas with excellent public transport and shopping access.* [Our emphasis.]
33. Clause 21.06 of the scheme sets out strategic directions in relation to sustainable residential and urban development. Clause 21.06-1 of the scheme states:

A housing study will be prepared to ensure that future housing stock is able to respond positively to the population and social trends that will shape the future housing needs within the City. It will identify areas that are well served by public transport, close to employment centres, shopping, recreation, community and entertainment facilities and can accommodate higher density housing. Areas that cannot sustain further development will also be identified. This is based on the concept of sustainable growth by promoting growth on major public transport routes, grouping compatible land uses to facilitate multi-purpose trips and being aware of the impact intense development can have on sensitive areas.

Various strategies are identified in the MSS to achieve the objective of urban consolidation, "by accommodating medium and high density housing in appropriate locations within the City". These strategies include:

Encouraging site responsive higher density housing development in appropriate areas close to fixed rail public transport nodes, a range of shopping, recreation and community facilities and higher education facilities.

The planning scheme envisages that this strategy will be implemented by the exercise of discretion, such as when dealing with permit applications: see clause 21.06-3.

As may be seen from the above, the subject land, being on the edge of a Neighbourhood Activity Centre, has strategic policy support for an intense residential development - the very reason that led to the Tribunal's rejection of the previous proposal for being an underdevelopment, a squander of a precious unrenewable resource.

## Cl.16 Housing

### 16.01-1 Integrated housing

#### Objective

To promote a housing market that meets community needs.

#### Strategies

Increase the supply of housing in existing urban areas by facilitating increased housing yield in appropriate locations, including under-utilised urban land.

Ensure that the planning system supports the appropriate quantity, quality and type of housing, including the provision of aged care facilities.

Ensure housing developments are integrated with infrastructure and services, whether they are located in existing suburbs, growth areas or regional towns.

Encourage housing that is both water efficient and energy efficient.

Facilitate the delivery of high quality social housing to meet the needs of Victorians.

### 16.01-2 Location of residential development

#### Objective

To locate new housing in or close to activity centres and employment corridors and at other strategic redevelopment sites that offer good access to services and transport.

#### Strategies

Increase the proportion of housing in Metropolitan Melbourne to be developed within the established urban area, particularly at activity centres, employment corridors and at other strategic sites, and reduce the share of new dwellings in greenfield and dispersed development areas.



Encourage higher density housing development on sites that are well located in relation to activity centres, employment corridors and public transport.

Ensure an adequate supply of redevelopment opportunities within the established urban area to reduce the pressure for fringe development.

Facilitate residential development that is cost-effective in infrastructure provision and use, energy efficient, incorporates water efficient design principles and encourages public transport use.

Identify opportunities for increased residential densities to help consolidate urban areas.

#### 16.01-3 Strategic redevelopment sites

##### Objective

To identify strategic redevelopment sites for large residential development in Metropolitan Melbourne.

##### Strategies

Identify strategic redevelopment sites that are:

- In and around Central Activities Districts.
- In or within easy walking distance of Principal or Major Activity Centres.
- In or beside Neighbourhood Activity Centres that are served by public transport.
- On or abutting tram, train, light rail and bus routes that are part of the Principal Public Transport Network and close to employment corridors, Central Activities Districts, Principal or Major Activity Centres.
- In or near major modal public transport interchanges that are not in Principal or Major Activity Centres.
- Able to provide 10 or more dwelling units, close to activity centres and well served by public transport.

#### 16.01-4 Housing diversity

##### Objective

To provide for a range of housing types to meet increasingly diverse needs.

##### Strategies

Ensure housing stock matches changing demand by widening housing choice, particularly in the middle and outer suburbs.

Encourage the development of well-designed medium-density housing which:

- Respects the neighbourhood character.
- Improves housing choice.
- Makes better use of existing infrastructure.
- Improves energy efficiency of housing.

Support opportunities for a wide range of income groups to choose housing in well-serviced locations.

Cl.21.04 Residential development

In so far as the "neighbourhood character" of the land is concerned, it is "characterless" - it is not included in any character type. It is obviously so as the land was old farm land and has been vacant for years without any building nor tree on it.

Cl.15.01-1 Urban design

Context

The subject land is quite large in an urban area. It has been vacant for years. It is bounded by lower-rise residential development to the west and south and the Monash Freeway and the aged care facility to its north-east. It is a stone's throw from the Waverley Gardens Neighbourhood Activity Centre with excellent public transport accessibility.

At present, the area may be of low-rise character, but "context" does not mean its current physical characteristics of the site and its surrounding. Planning is in a constant state of flux. It implies more than what is there now: it embraces its planning context - the direction planning policies are driving to.

In this regard, the Tribunal in Uturn Developments Pty. Ltd. v. City of Bayside, 16 V.P.R. 275 rightly held at paras.12 and 27 as follows:

12. Discussion therefore about urban design and character are a bit irrelevant if they are to be referred to a point in time which is likely to be soon overtaken by the inevitable consequences of the strategies in the planning scheme. I find that, without a structure plan, I have a vacuum within which to assess the design and character considerations except to say that it seems a bit of a nonsense to reference the proposal to what is there now when the scheme is openly inviting change.
27. I note the reference to directing new medium density housing to areas in and around activity centres. Inevitably the consequence of such a strategy must call into question Council's reliance, in this case, of the need for the building to better reflect "... *the prevailing character of the streetscapes*". Why reflect the "prevailing character" if you are inviting a change to that character? Reference to what is prevailing in the context of an area about to change seems to be a planning oxymoron.



This decision has been posted on VCAT website as a significant decision which sets a principle.

The tower building has been broken up into 5 sections or rather 5 separated towers sitting on a common base. There are gaps between them and the tallest one is centrally located allowing the lower sections to provide the graduated rise. Through aerial perspective foreshortening, the scale and height is largely diminished from the station points at the residential neighbours' properties. In urban design terms, the proposal fits well in the physical and statutory context of the area.

#### The public realm

The proposal, not being a commercial development, will have little connectivity with the public realm.

#### Safety

The buildings are sited along the perimeter (but with good setbacks from the residential interface). This leaves the central area an open parkland allowing ample passive surveillance. In this light, there is no reason to believe that the proposal will not create an urban environment with an ability to enhance personal safety and property security.

#### Landmarks, views and vistas

There is no landmark, view nor vista to be protected. If anything, the proposal will create a parkland setting with a central passive recreational area for the residents to enjoy.

#### Pedestrian spaces

There is no through traffic as the previous vehicular access to Hansworth Street at the north-western end is closed. The central recreational area will be communal space. It allows pedestrian access and visual and social experience of the user.

### Heritage

The site and the surrounding area are not heritage-listed. This design principle is irrelevant.

### Consolidation of sites and empty sites

As there is no site consolidation, this design principle does not really apply. If anything, the proposal will be consistent with its first objective: New development should contribute to the "complexity" and diversity of the built environment.

### Light and shade

The fenestration treatment to the buildings, particularly the towers highly articulates them and as a result, provides light and shade and the third dimension to the architecture.

### Energy and resource efficiency

This is being investigated by the architect towards a more environmentally sustainable building. Some of the initiatives are noted on the drawings. This will be implemented at the building permit stage. As far as town planning is concerned, it has been taken out of the town planning equation by the Tribunal in Hasan v. City of Moreland, 21 V.P.R. 9. We invite you to read the concluding remarks of the Tribunal. We therefore should not flog a dead horse here on this issue.

### Architectural quality

As you may see from the elevational treatments, the design of the dwellings and the towers is contemporary and highly articulated. It incorporates the good design elements of harmony, repetition, rhythm, solid and void, contrast, and of course unity. It reads well and the architectural quality is apparent.



### Landscape architecture

Ample room has been allowed for a meaningful landscape design, as demonstrated by the submitted landscape plan.

### Cl.22.05 Tree conservation policy

This policy is irrelevant as there is no single tree on site to be conserved. However, on the development of the site, many local trees will be planted to enhance the development and the site.

### The strategic and local suitability of the site for residential development of four or more storeys

An assessment of the proposal against the guidelines for higher residential development is provided as follows:

#### Element 1: Urban Context

Objective 1.1: To ensure that buildings respond creatively to their existing context and to agreed aspirations for the future development of the area.

This has been achieved through the architectural response to a built form that is higher than adjacent structures in light of the strategic location of the site - a site that is driven by the principles that encourage higher density residential developments close to Neighbourhood Activity Centres.

As far as creativity is concerned, it is amply demonstrated in the highly articulated building form.

Objective 1.2: To provide a creative design response that is based on a clear understanding of the urban context and neighbourhood character.

The urban context is that the land is bounded on two sides by lower-rise residential development

but abuts a non-sensitive Monash Freeway at its north-east. As higher density residential development is demanded by the strategic policy and highlighted by the Tribunal, because of the land's adjacency to the Waverley Gardens Neighbourhood Activity Centre, the logical location for the more intense component is next to the freeway to "cascade" down to the west and south side of the site to two-storeys, a transitional height in the domestic scale.

## Element 2: Building Envelope

Objective 2.1: To ensure that the height of new development responds to existing urban context and neighbourhood character objectives of the area.

"Existing urban context" does not mean existing physical conditions. It embraces the statutory and strategic context. In this regard, the proposal has properly responded to it by having a denser residential development proximate to a Neighbourhood Activity Centre. It also responds well to its physical context by locating the taller buildings farthest from the sensitive residential interface. The two-storey dwellings act as transition. This is consistent with the anticipated neighbourhood character adjacent to a Neighbourhood Activity Centre.

Objective 2.2: To ensure new development is appropriate to the scale of nearby streets, other public spaces, and buildings.

The taller buildings are sited away from the more sensitive lower-scale domestic dwellings of the neighbours. Whilst they may be closer to the freeway, but the freeway is quite wide. In both instances, as said earlier, through aerial perspective foreshortening, they would be seen lower in scale in the neighbourhood and in their setting.

Objective 2.3: To protect sunlight access to public spaces.



There is no public open space nearby to be protected. Even if the central garden could be considered one as such, it would only be partially overshadowed in the morning for a short period without affecting the sunlight access substantially.

Objective 2.4: To respond to existing or preferred street character.

This objective is not really applicable in view of the sole vehicular access from the south-east.

Objective 2.5: To ensure building separation

supports private and reinforce neighbourhood character.

The subject taller buildings are adequately set back from the lower-rise neighbouring dwellings to the west and the south with the single dwellings acting as transitions. The private amenity of the neighbours is protected. In so far as the neighbourhood character is concerned, the proposal will reinforce the character consequent upon the compliance with the objectives for the Neighbourhood Activity Centre policy.

Objective 2.6: To ensure areas can develop with an equitable access to outlook and sunlight.

The taller buildings' setbacks from the west and the south allow an equitable access to outlook and sunlight to the western and southern neighbours.

Objective 2.7: To ensure visual impacts to dwellings at the rear are appropriate to the context.

This objective is inapplicable as it is intended for a typical suburban block bounded on three sides by the adjoining neighbours.

Objective 2.8: To maximise informal or passive surveillance of streets and other public open spaces.

As you may see from the submitted plans, the proposal provides more than ample passive surveillance.

Objective 2.9: To maximise residential amenity through the provision of views and protection of privacy within the subject site and on neighbouring properties.

This has been achieved through the painstaking design of the proposal by the architect.

Objective 2.10: To ensure new tall buildings do not create adverse wind effects.

The tall buildings are highly articulated without any "sheer wall". Wind effect is unlikely.

Objective 2.11: To treat roof spaces and forms as a considered aspect of the overall building design.

Flat roof is adopted throughout and any services projections will be behind the parapets.

### Element 3: Street Pattern and Street-edge Quality

Objective 3.1: To create walkable areas within a safe and interesting public setting.

The dedication of the central parkland with ample public surveillance has satisfied this objective.

Objective 3.2: To closely integrate the layout and occupation of new development with the street.

There is little connection between the layout of the proposal and the street. This objective is therefore inapplicable.

Objective 3.3: To ensure car parking does not dominate the street frontage.

For the towers, all parking is under the buildings.



Whereas for the detached dwellings, it is on site. Only the visitors' car spaces which are not too many are on the internal street. They do not dominate the street frontage as they are hardly visible from outside the site.

Objective 3.4: To create street entrances with a strong identity that provide a transition from the street to residential interiors.

This objective does not really apply as it is intended for a single tall building on a typical suburban building block that has a direct street frontage.

In any event, for the taller buildings, this is satisfied by a grand entrance from the internal street.

Objective 3.5: To ensure car park entries do not detract from the street.

Car park entries are separated from the main entrance to the taller buildings whereas the double garages to the detached dwellings are made recessive relative to the facades. This objective is met.

Objective 3.6: To avoid creating inactive frontages as a result of fencing private open spaces.

This is inapplicable for the towers. Whereas for the detached dwellings, the secluded private open spaces are at the rear. There is no need to fence off private open spaces.

Objective 3.7: To ensure that front fences respect and contribute to the neighbourhood character.

This is not applicable.

Element 4: Circulation and Services

Objective 4.1: To provide adequate, safe and efficiently designed parking layouts.

The plans speak for themselves.

Objective 4.2: To provide safe and convenient access between car parking and bicycle areas and the pedestrian entry to buildings.

This is achieved by the layout of the car park, bicycle parks and pedestrian entry as shown on the plans.

Objective 4.3: To create shared internal spaces that contribute positively to the experience of living in higher density development.

The proposal provides a large entry foyer to the apartments. Upper floor shared spaces are limited to the efficiently laid out corridors.

Objective 4.4: To minimise running and maintenance costs.

This will be achieved at the building stage.

Objective 4.5: To minimise water use.

Rain water will be harvested. Recycled water will be used. Good selection of water fittings will also help. All this will be achieved at the building stage.

Objective 4.6: To incorporate provision for site services in the building design to ensure function and ease of service and maintenance.

This is achievable at the building development stage - we are now only at the "conceptual architectural sketch design" stage!

Element 5: Building Layout and Design



Objective 5.1: To provide a range of dwelling sizes and types in higher density residential developments.

There is a mixture of two-bedders and three-bedders, the commonly sought after apartment and detached dwelling type.

Objective 5.2: To optimise the layout of buildings in response to occupants' needs as well as identified external influences and characteristics of a site.

When you study the layout of the proposal, you will have to give credit to the architect for his site-responsive design.

Objective 5.3: To create functional, flexible, efficient and comfortable residential apartments.

The layout of the apartments speaks for itself.

Objective 5.4: To ensure that a good standard of natural lighting and ventilation is provided to internal building spaces.

All habitable rooms of the apartments have access to direct daylight and ventilation is provided through all the openings onto the outside air.

Objective 5.5: To provide adequate storage space for household items.

Although the ResCode does not apply, we have provided each apartment with 6 cubic metres of storage space.

Objective 5.6: To promote buildings of high architectural quality and visual interest.

When you read the floor plans in conjunction with the 3D images on Drawing TP24, you can readily feel the architectural quality of the towers.

Element 6: Open Space and Landscape Design

Objective 6.1: To ensure access to adequate open space for all residents.

Again, although the ResCode does not apply, all dwellings' and apartments' open spaces comply with Standard B28.

Objective 6.2: To ensure common or shared spaces are functional and attractive for their intended users.

The common foyer will be designed and presented like a hotel's foyer and maintained by the owners corporation.

Whereas all outdoor spaces will be landscaped by a landscape architect and also maintained by the owners corporation, if they are not taken over by the Council.

Objective 6.3: To allow solar access to the private and shared open spaces of new high density residential units.

All balconies have access to the sun.

Objective 6.4: To integrate the design of shared and private open space into the overall building design and facade composition.

The drawings speak for themselves on the achievement of this objective.

Objective 6.5: To provide for greenery within open spaces.

Adequate perimeter space and the central communal garden have allow room for landscaping which will be designed and executed by a landscape architect.

Objective 6.6: To create public open space appropriate to its context.

The central communal garden provides the public



open space for the passive recreation of the residents.

The strategic suitability of the proposal was pointed by the Tribunal as a site for much more intense development, being next to a Neighbourhood Activity Centre. As form follows function, the scale of development is the logical manifestation of the policy encouraging higher density residential development at such a strategic location, especially when off-site impact is negligible other than the perceived kind.

This urban context report should be read in light of all the materials and plans submitted.

How S. Ng  
13th May, 2016.