

## **6-10 Shipley Street, Box Hill**

Date of Inspection: various (most recent **30 June 2017**)

Date of Report: **July 2017**

Report prepared for **Victor Tadros**

Report prepared by **Tim McBride-Burgess**



**Planning Panel Victoria  
Amendment C175  
Whitehorse Planning Scheme**

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# 1 Introduction

- 1 I have been requested by Best Hooper Lawyers, on behalf of the owner of the land at 6-10 Shipley Street, Box Hill to prepare a statement of evidence in relation to Amendment C175 to the Whitehorse Planning Scheme.
- 2 In particular, I have been requested to review the future development potential of the land at 6-10 Shipley Street, Box Hill and consider the implications of Amendment C175.
- 3 Attachment 1 provides a statement in respect of the Panels Victoria Guide to Expert Evidence (G2).
- 4 In preparing this statement, I have:
  - Reviewed the exhibited documents relating to Amendment C175;
  - Reviewed the relevant planning controls and policies of the Whitehorse Planning Scheme that currently apply to the land;
  - Inspected the subject land and surrounds, including the wider Box Hill Activity Centre multiple times;
  - Reviewed the various background documents and consultant reports;
  - Reviewed the adopted 'Box Hill Transit City Activity Centre Structure Plan (2007)';
  - Reviewed the draft Box Hill Metropolitan Activity Centre Built Form Guidelines (2017) prepared by Hansen Partnership;
  - Reviewed the proposed Design and Development Overlay (Schedule 6) ;
  - Reviewed multiple VCAT decision relating to developments within the Box Hill Activity Centre;
  - Reviewed documentation relating to Whitehorse Amendment C186 which recently rezoned the subject land;
  - Read the Council Officer Report in relation to Planning Permit No. WH/2015/715 (12-14 Nelson Road, Box Hill); and
  - Review the submission prepared by Best Hooper Lawyers and submitted on behalf of the owner of the subject land.
- 5 The following report outlines my views in relation to these matters.

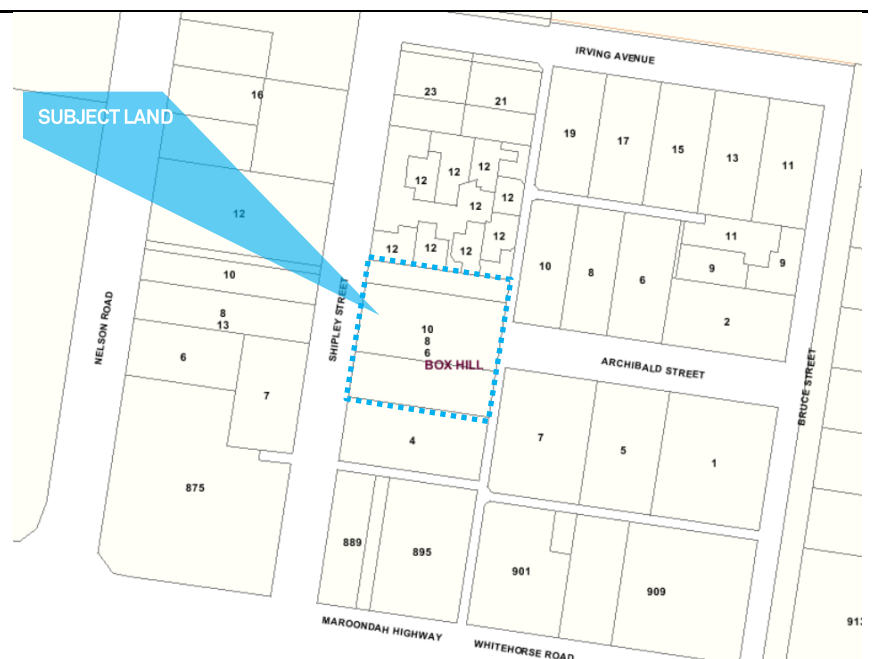


## 2 Subject land and Surrounds

### 2.1 Subject Site

- 6 The subject land is located on the east side of Shipley Street in Box Hill. It is approximately 65 metres north of Maroondah Highway/Whitehorse Road.
- 7 The land is regular in shape and comprises the consolidation of three allotments, Lot 2 TP667960, Lot 1 TP667960 and Lot 3 TP667960.
- 8 The land has a frontage to Shipley Street of approximately 45 metres, a depth of approximately 46 metres and a total site area of approximately 2,144sqm.
- 9 To the east, the site abuts an existing unnamed laneway which extends between Whitehorse Road and Box Hill Gardens. Archibald Street also terminates at the subject site.
- 10 The topography of the land falls from south to north approximately 3.00 metres, from RL83.02 to RL80.33 along the Shipley Street frontage.
- 11 The site currently contains a single storey shed built to the eastern boundary and part of the northern and southern boundaries. A two storey brick building is situated in the south-west portion of the land.
- 12 The remainder of the land is an open paved area used for the storing of motor vehicles in association with the existing towing company that occupies the land.
- 13 Two existing crossovers along Shipley Street provide vehicle access to the site. No access is provided via Archibald Street.

Figure 2.1  
CADASTRAL PLAN



# 2

## 2 Subject land and Surrounds

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### 2.2 Surrounds

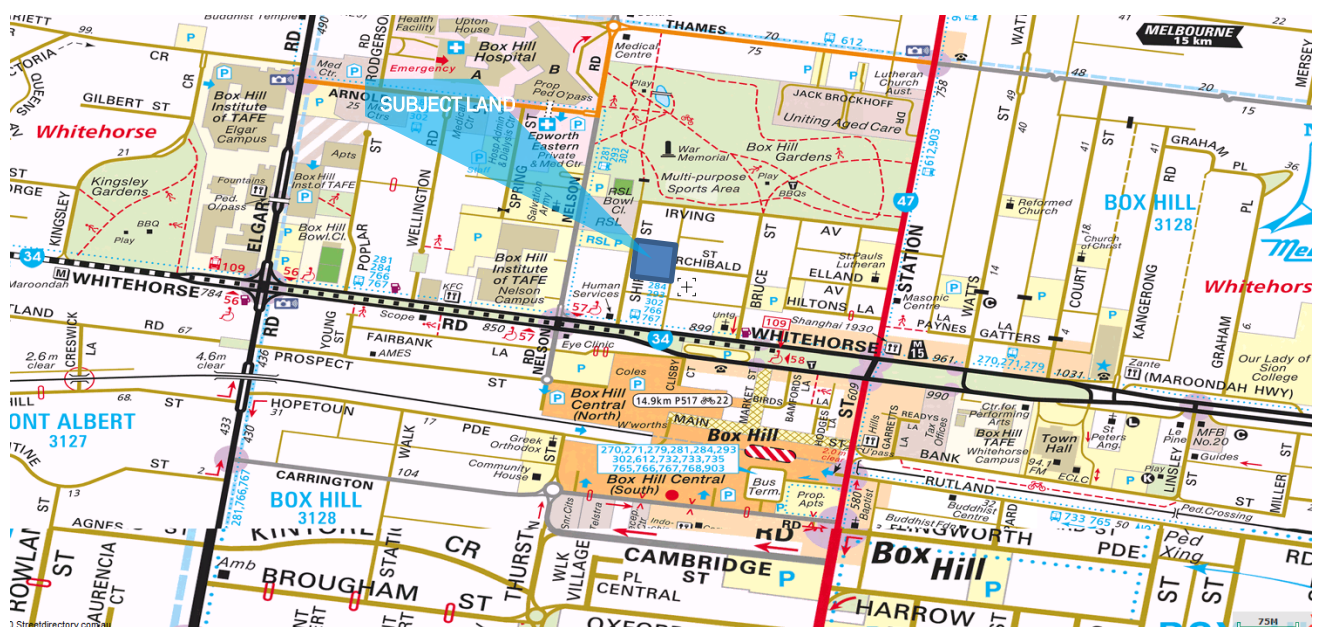
- 14 The site is located within the Box Hill Activity Centre and enjoys good access to shops, services and urban infrastructure.
- 15 The site is well serviced by public transport, with the Route 109 Tram operating along Whitehorse Road, bus services along Nelson Road to the west (approximately 100 metres) and the Box Hill Central Railway Station (servicing the Belgrave and Lilydale Lines) located less than 280 metres to the south.
- 16 The site is also well situated with respect to public open space including Box Hill Gardens which is located approximately 80 metres to the north of the subject land.
- 17 The area is otherwise characterised by warehouses used for commercial and automotive relative industries whilst the land towards the north-eastern end of Shipley Street is residential in nature.
- 18 In terms of the site's immediate interfaces, the neighbouring properties are described as follows:
  - To the south, the subject land has an abuttal to a single storey building occupied by an automotive repairs business (Box Hill Panels). Further to the south is the Bob Jane T-Marts Box Hill store which has frontages to both Whitehorse Road and Shipley Street. The property immediately to the south is currently included in the MUZ. The properties fronting Whitehorse Road are included in the C1Z.
  - To the west, on the opposite of Shipley Street, is a two storey brick building occupied by an Automatic Transmission Service Centre which has its primary frontage to Nelson Road. The land at 12-14 Nelson Road has planning approval for a 20 storey mixed use building including a ground level pedestrian thoroughfare between Shipley Street and Nelson Street (refer Planning Permit No. WH/2015/715). The land is currently being used in part for a sales office. That land is included in the MUZ.
  - To the east the site adjoins the abovementioned unnamed laneway and Archibald Street. The land to the north-east at 10 Archibald Street contains a single storey brick dwelling, whilst the land to the south-east at 7-9 Archibald Street contains a four storey apartment building. These properties are included in the Residential Growth Zone (RGZ3).
  - To the north, the subject land adjoins the dwellings at 12-16 Shipley Street. The multi dwelling development comprises 8 dwellings of 1 and 2 storey scale. These properties are currently included within the Residential Growth Zone (RGZ3).

## 6

**Figure 2.2**  
**SURVEY PLAN**



Figure 2.3  
LOCALITY MAP





## 2 Subject land and Surrounds

Figure 2.4  
AERIAL PHOTOGRAPH—MACRO

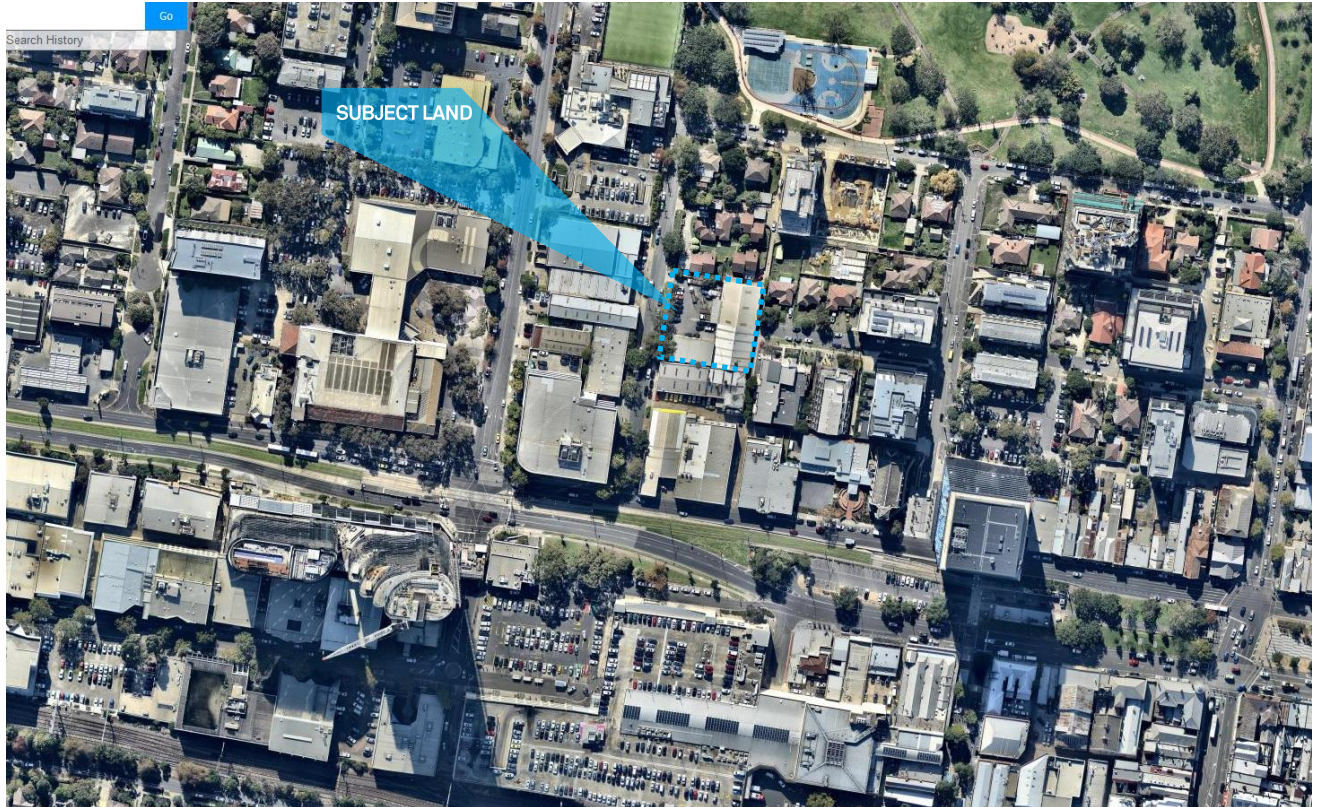


Figure 2.5  
AERIAL PHOTOGRAPH





## 2 Subject land and Surrounds

Figure 2.6  
SUBJECT LAND

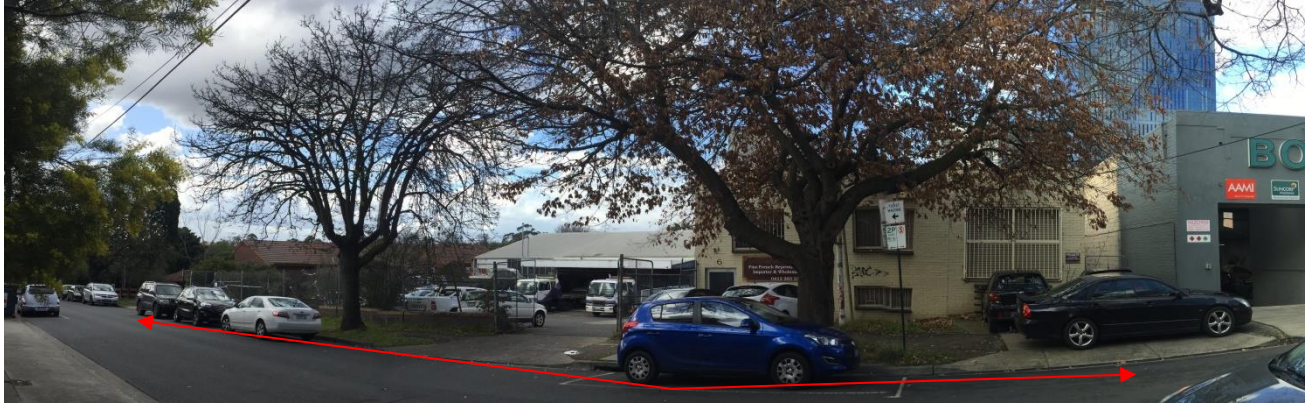


Figure 2.7  
SUBJECT LAND



Figure 2.8  
VIEW LOOKING SOUTH TOWARDS WHITEHORSE ROAD & ADJOINING LANEWAY TO THE EAST FROM WHITEHORSE ROAD





## 2 Subject land and Surrounds

**Figure 2.9**  
VIEW LOOKING WEST ALONG ARCHIBALD STREET & EXISTING LANEWAY TO THE EAST OF THE SUBJECT LAND (LOOKING SOUTH)



**Figure 2.10**  
VIEW LOOKING SOUTH TOWARD SHIPLEY STREET FROM BOX HILL GARDENS



**Figure 2.11**  
VIEW TOWARDS EXISTING DEVELOPMENTS BETWEEN WHITEHORSE ROAD AND BOX HILL GARDENS



# 3 Existing Statutory Planning Framework

## 3.1 State Planning Policy Framework

19 The following clauses within the State Planning Policy Framework are relevant :

- Clause 9 Plan Melbourne
- Clause 10 Operation of the State Planning Policy Framework
- Clause 11 Settlement
- Clause 11.06 Metropolitan Melbourne
- Clause 15 Built Environment and Heritage
- Clause 16 Housing
- Clause 18 Transport
- Clause 19 Infrastructure

## 3.2 Local Planning Policy Framework

20 The following clauses within the Local Planning Policy Framework are relevant to the assessment of this application:

- Clause 21.01 Municipal Prolife
- Clause 21.02 Key Issues
- Clause 21.03 A Vision for the City of Whitehorse
- Clause 21.04 Strategic Directions
- Clause 21.05 Environment
- Clause 21.06 Housing
  - Clause 21.06-3 Housing Location
  - Clause 21.06-4 Housing Diversity
- Clause 21.07 Economic Development
- Clause 21.08 Infrastructure
- Clause 22.03 Activity Centres
- Clause 22.07 Box Hill Metropolitan Activity Centre
- Clause 22.10 Environmentally Sustainable Development
- Clause 22.15 Public Open Space Contribution

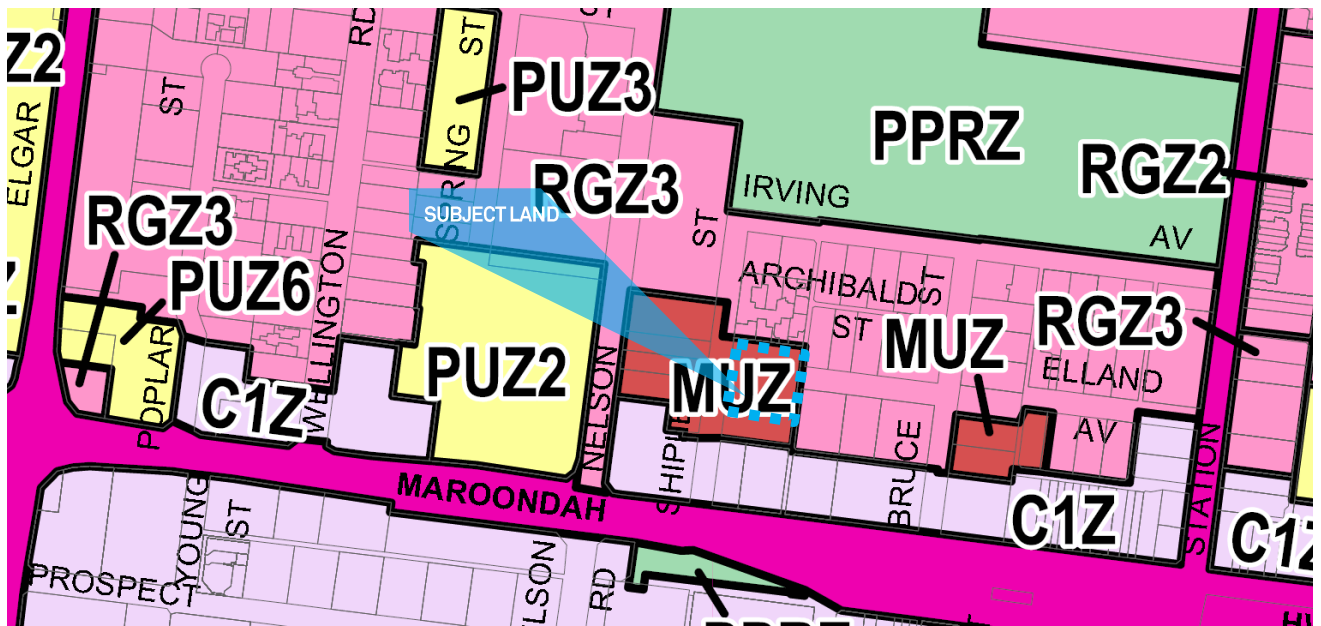


### 3 Existing Statutory Planning Framework

#### 3.3 Zone

- 21 The subject land is included in the Mixed Use Zone pursuant to the provisions of the Whitehorse Planning Scheme.
- 22 The purpose of the Mixed Use Zone is
  - To implement the State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
  - To provide for a range of residential, commercial, industrial and other uses which complement the mixed-use function of the locality.
  - To provide for housing at higher densities.
  - To encourage development that responds to the existing or preferred neighbourhood character of the area
  - To facilitate the use, development and redevelopment of land in accordance with the objectives specified in a schedule to this zone.
- 23 The Subject land was recently rezoned from the Commercial 2 Zone (C2Z) to Mixed Use Zone (MUZ) as part of Whitehorse Planning Scheme Amendment C186. Amendment C186 was gazetted on 20 October 2016.

Figure 3.1  
ZONING MAP





### 3 Existing Statutory Planning Framework

#### 3.4 Overlays

24 The subject land is affected by the following Overlays:

##### Environmental Audit Overlay

25 Clause 45.03 seeks to 'ensure that potentially contaminated land is suitable for a use which could be significantly adversely affected by any contamination'.

##### Parking Overlay Schedule 1

26 Schedule 1 to the Parking Overlay applies to the Box Hill Activity Centre and the following car parking objectives are to be achieved:

- Manage car parking demand and supply to satisfy user needs (with a focus on maintaining/increasing the viability of Box Hill).
- Locate and manage car parking so as to minimise traffic generated by the search for a parking space.
- Reduce vehicle trips through minimising parking provision where appropriate.
- Encourage the use of active and sustainable travel modes rather than increased private vehicle travel.
- Improve general amenity for pedestrians within Box Hill to increase the willingness for visitors and staff to walk to and within the Centre to their destination.

Figure 3.2  
ENVIRONMENTAL AUDIT OVERLAY

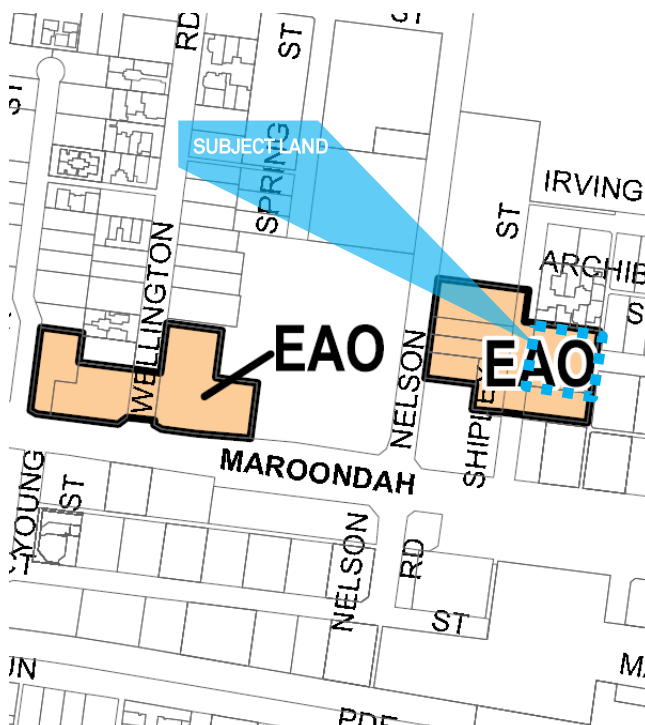
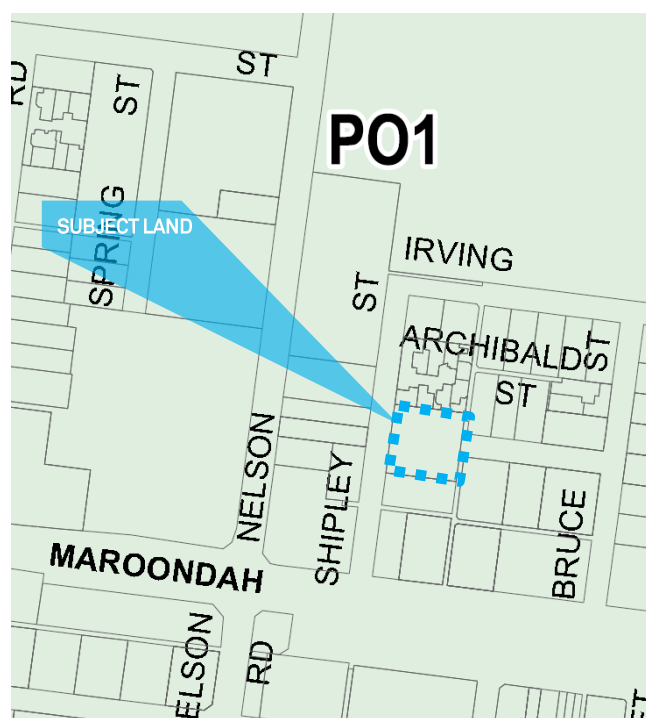


Figure 3.3  
ENVIRONMENTAL AUDIT OVERLAY



## 4 Proposed Whitehorse Amendment C175

### 4.1 Summary of Amendment C175

27 Amendment C175 seeks to implement the adopted Box Hill Transit City Structure Plan (2007) (the “**Structure Plan**”) and the draft Box Hill Metropolitan Activity Centre Built Form Guidelines (2016) (the “**draft Built Form Guidelines**”).

28 More specifically, the Amendment as exhibited proposes to:

- Rezone various parcels of land to either the Mixed Use Zone or the Commercial 1 Zone, in line with the recommendations of the “**Structure Plan**”
- Amend Clause 21.07 Economic Development
- Amend Clause 22.07 Box Hill Metropolitan Activity Centre
- Proposes a new Schedule 6 to Clause 43.02 Design and Development Overlay.

### 4.2 Box Hill Transit City Structure Plan (2007)

29 The Box Hill Transit City Activity Centre Structure Plan was unanimously adopted by Whitehorse Council on 18 June 2007.

30 The “**Structure Plan**” builds on the earlier strategic work undertaken by Council to date (The Box Hill Transport Interchange Study and the Box Hill Urban Design Framework).

31 The “**Structure Plan**” includes the following vision for Box Hill:

- *Box Hill will continue to develop as the most significant urban centre in Melbourne’s eastern suburbs.*
- *Box Hill will be a place where people can live, work, shop and access social networks and personal services.*
- *Box Hill will be a focus for regional health care, educational and community services.*
- *Box Hill will support a diverse, inclusive, participatory, caring and healthy community.*
- *Box Hill will be a distinctive, vibrant and enjoyable place – day and night.*
- *Box Hill will be sustainable.*
- *Box Hill will be accessible to all.*

32 Having regard to the “**Structure Plan**” the subject land is included within Precinct E on the Activity Centre Precincts Map. Precinct E is the ‘Box Hill Gardens Precinct.’ The precinct extends east from Nelson Street to the east side of Station Street. The northern border is the Box Hill Gardens and it generally abuts the rear of properties fronting Whitehorse Road. Refer Figure 4.1 below.







## 4 Proposed Whitehorse Amendment C175

**Figure 4.2**  
**PUBLIC SPACE FRAMEWORK AND ACCESS FRAMEWORK MAPS**  
Source: Box Hill Transit City Activity Centre Structure Plan

Figure 2: PUBLIC SPACE FRAMEWORK



Figure 3: ACCESS FRAMEWORK



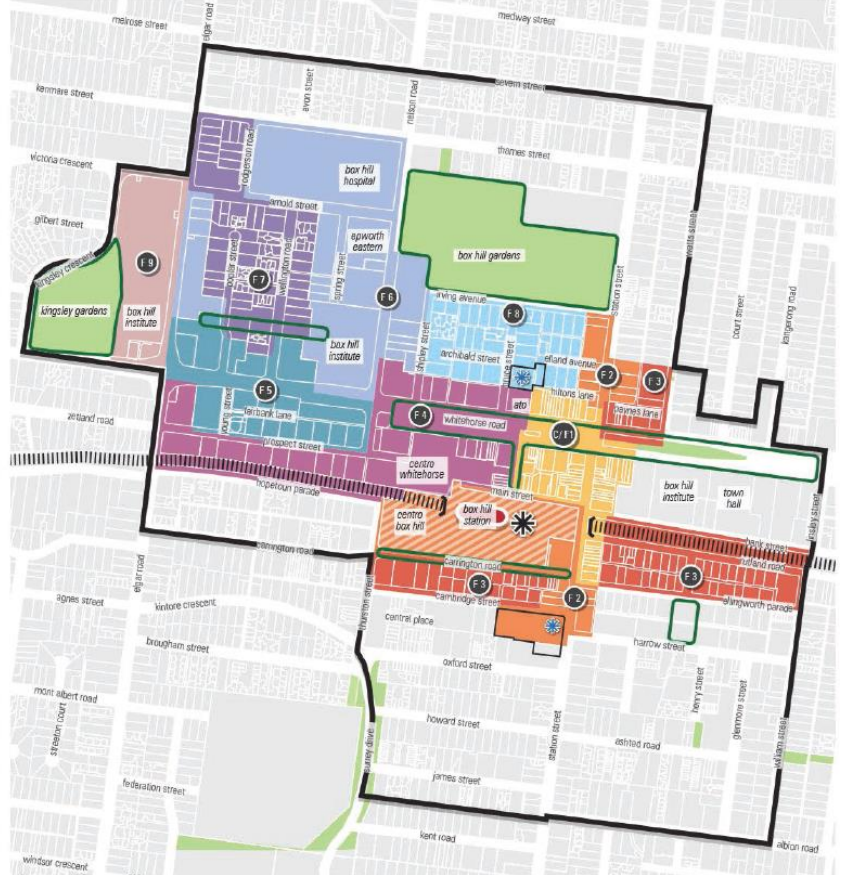
### 4.3 Draft Box Hill Metropolitan Activity Centre Built Form Guidelines (2017)

- 37 The draft Box Hill Metropolitan Activity Centre Built Form Guidelines (the “draft Built Form Guidelines”) were prepared by Hansen Partnership for the City of Whitehorse.
- 38 The “draft Built Form Guidelines” relate to Built Form Precincts F and C within the “Structure Plan” (refer Figure 5 with the “Structure Plan”), and have been prepared to make recommendations on development scale and typology for land within these sub-precincts.
- 39 The “draft Built Form Guidelines” include ‘General Built Form Guidelines’ and ‘Sub Precinct Built Form Guidelines’.
- 40 Within the ‘Sub Precinct Built Form Guidelines’ the subject land is included within Precinct F8 (Box Hill Gardens). Precinct F8 extends east from Shipley Street to the rear of properties fronting Station Street, and south from Box Hill Gardens to the rear of properties fronting Whitehorse Road.
- 41 The preferred maximum building height is Precinct F8 is 10 storeys, including a preferred street wall height of 4 storeys.
- 42 Land on the western site of Shipley Street is included in Precinct F6 (TAFE and Hospital), and includes a preferred maximum building height of 15 storeys.
- 43 Land to the south, fronting Whitehorse Road is included within Precinct F4 (Whitehorse Road, Centro and Prospect Street) and includes a preferred maximum building height of 20 storeys, including a preferred street wall height of 5 metres.
- 44 Figure 5.3 below illustrates the abovementioned precinct boundaries.

## 4 Proposed Whitehorse Amendment C175

**Figure 4.3**  
**SUB-PRECINCTS MAP**

Source: The draft Box Hill Metropolitan Activity Centre Built Form Guidelines



45 Specific to the subject land, the “draft Built Form Guidelines” acknowledged the following:

- The subject land is a ‘large allotment’ between 1,500 sqm -2,500 sqm (refer Figure 5: Existing Allotment Sizes)
- The subject land has an ‘extra-large frontage’ in excess of 25 metres (refer Figure 6: Existing Allotment Frontage Widths)
- The proposed extension of Archibald Street is illustrated through the site to provide the pedestrian link between Elland Avenue and Kingsley Gardens.

### 4.4 Proposed Design and Development Overlay, Schedule 6 (DDO6)

46 Amendment C175 proposes to implement the “draft Built Form Guidelines” in the form of the new Design and Development Overlay (“DDO6”). The Overlay is structured to include general design objectives, buildings and works requirements and precinct specific requirements.

47 Within “DDO6”, the subject land is located in Precinct F8 (Box Hill Gardens) and specifies the following:

- A preferred maximum building height of up to 10 storeys;
- A 4 storey podium height ; and

## 4 Proposed Whitehorse Amendment C175

- A 3 metre setback above the podium to Shipley Street.
- 48 A 5 metre side setback is recommended from side and rear boundaries above the podium.
- 49 The Precinct Objectives and Built Form Response guidelines included within “DDO6” are unchanged from those included in the “draft Built Form Guidelines.”
- 50 The relevant objectives for Precinct F8 include:

### Subdivision Pattern

- To support medium density development.
- To encourage lot consolidation to support development potential and minimise offsite impacts

### Street walls and preferred maximum heights

- To establish a pedestrian scale urban environment.
- To retain a sense of openness with local streets.
- To ensure future amenity is provided for on site.

### Additional street/laneway address

- To maximise opportunities for outlook onto the public realm.
- To ensure future amenity is provided for on site.

### Amenity/access to daylight

- Refer to objectives and requirements under Clauses 1 and 2.

### Landscape

- To encourage positive landscape contributions to the public realm.

**Figure 4.4**

**Sub-Precinct F8 Illustrative Cross Section**

Source: Proposed Design and Development Overlay – Schedule 6

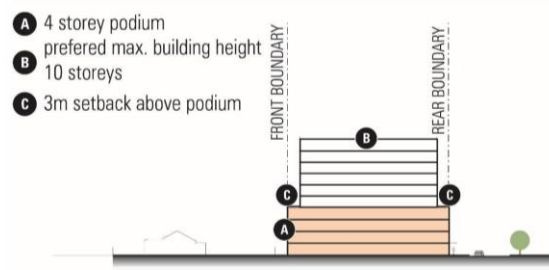


Figure 7 - Sub-precinct F8 Illustrative Cross-Section



# 5 Planning Considerations

## 5.1 Preamble

- 51 Amendment C175 specifically seeks to implement the adopted Box Hill Transit City Structure Plan (2007). To achieve this outcome the draft Box Hill Metropolitan Activity Centre Built Form Guidelines were prepared by Hansen Partnership, and this document was then translated in draft Design and Development Overlay Schedule 6.
- 52 The strategic principles underpinning the Amendment are generally sound. It will advance the objectives of the Metropolitan Strategy – Plan Melbourne and State Planning Policy Provisions which seek to encourage additional housing in activity centres; promote high quality development; and promote the concentration of activities close to public transport.
- 53 The selected tools within the Victorian Planning Provisions are appropriate including the application of the MUZ and C1Z and the introduction of the new Design and Development Overlay (DDO6). The design objectives seek to facilitate high quality streetscapes and buildings, and this is supported.
- 54 However, the application of the proposed maximum building height of 10 storeys to the subject land is unnecessarily constraining having regard to the strategic context, site attributes and the scale of the approved development across the road and elsewhere in the immediate surrounds.
- 55 Having regard to the above, my assessment considers the following matters in the remaining sections of this report:
- *What are the proposed implications of Amendment C175 on Subject Land?*
  - *What height can the subject land accommodate?*
  - *Would the equitable and amenity outcomes of a taller building be acceptable?*
  - *Will the visual implications of a taller building be acceptable?*
  - *What changes to Amendment C175 are recommended?*



## 5 Planning Considerations

### 5.2 What are the proposed implications of Amendment C175 on Subject Land?

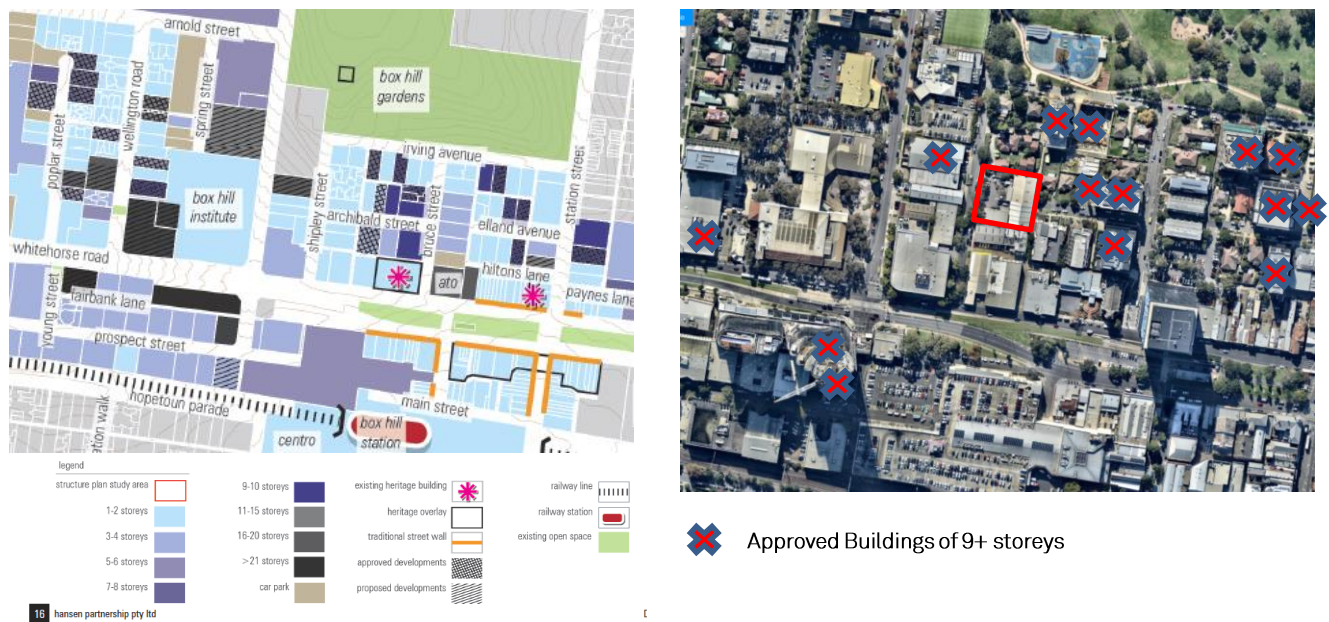
- 56 My observations of the Amendment as it specifically relates to the subject land are as follows:
- The subject land is included within a broad built form precinct within the **“Structure Plan”** nominated for Major Development (Precinct F)
  - The built form area is reduced to a more localised ‘Activity Precinct’ in the **“Structure Plan”** (Precinct E – ‘Box Hill Gardens Precinct’). Precinct E extends from Nelson Street to the east side of Station Street.
  - The western side of Nelson Street is included within Precinct D (‘Hospital and Western TAFE Precinct’).
  - The **“draft Built Form Guidelines”** extend the ‘TAFE and Hospital Precinct’ as identified in the **“Structure Plan”** east to the western side of Shipley Street;
  - Land to the south fronting Whitehorse Road is included within Precinct F4 (Whitehorse Road, Centro and Prospect Street);
  - The subject land and the properties immediately to the south and west (on the opposite side of Shipley Street) are all currently included within a localised Mixed Use Zone area.
  - The MUZ was only recently introduced as part of the Amendment C186 to the Whitehorse Planning Scheme.
  - The subject land is proposed to be included with **“DD06”** and more specifically with Sub Precinct F8.
  - The preferred maximum building height nominated for Sub Precinct F8 is 10 storeys.
  - The preferred maximum building height nominated for the two immediately adjoining Sub Precincts as follows:
    - Precinct F4: 20 Storeys
    - Precinct F8: 15 Storeys
  - There are multiple approved developments within these precincts which already exceed the preferred maximum building heights. The existing buildings and approvals are illustrated at Figure 4 (Existing and Anticipated Building Heights) within the **“draft Built Form Guidelines.”** Refer Figure 5.1 below.
  - These buildings include the approved 20 storey building immediately opposite the subject land at 12-14 Nelson Street.

## 5 Planning Considerations

**Figure 5.1**

### EXISTING AND APPROVED BUILDING HEIGHTS

Source: The draft Box Hill Metropolitan Activity Centre Built Form Guidelines



### 5.3 What height can the subject land accommodate?

- 57 In my view, the subject land can comfortably accommodate a greater overall building height than 10 storeys.
- 58 The site is acknowledged with the “draft Built Form Guidelines” as being a ‘large allotment’ with a ‘very large frontage’ to Shipley Street. It is also expected to accommodate the new nominated pedestrian connection between Elland Street and Kingsley Gardens.
- 59 The subject land was recently rezoned from the C2Z to the MUZ as part of Whitehorse Planning Scheme Amendment C186. In support of Amendment C186, the Explanatory Report stated the following:

*The amendment proposes to rezone land which will assist in providing for retail and commercial development. The rezoning will also allow the consideration of residential development on the subject sites which would contribute to the housing stock of the municipality and broader region...*

*...The rezoning will facilitate development that current landowners have indicated that they wish to pursue. The rezoning will also ensure that the sites are ready for redevelopment and investment in line with the Structure Plan if redevelopment is not pursued in the short term.*

- 60 In my view, the strategic context and immediate site attributes suggest that the site has capacity to accommodate a height of approximately double the current nominated preferred maximum building height. I have formed this view having regard to:



## 5 Planning Considerations

- The strategic location within an activity centre and proximity to public transport, shop, services and open space.
- The overall site area of the subject land.
- The orientation of the subject land.
- The immediately adjoining site interfaces.
- The existing use and development potential of the adjoining properties having regard to the strategic location and “Structure Plan” guidance.
- The height of existing approvals within the surrounding context; the location of those approvals; the size of those sites; and their interface relationships.
- The limited off site and visual impacts resulting from increased building heights.
- The ability to deliver public realm benefits in the form of the new pedestrian connection through the site and an active interface to the existing unnamed laneway to the east.

61 I consider that these attributes establish a strategic expectation commensurate with that already determined to be appropriate immediately across the road at 12-14 Nelson Street (Planning Permit No. WH/2015/715).

62 In determining to support the proposed development at 12-14 Nelson Street, the Council Delegate Report stated the following (inter alia) in relation to ‘Height and Scale’:

*The Box Hill Transit City Activity Centre Structure Plan does not provide specific guidance with regards to overall height and the proposed height of 19-20 storeys has been negotiated as a result of extensive Urban Design investigation on both the applicant and Council’s side. Council’s general approach is that taller buildings are sited along Whitehorse Road and the height is graduated down as sites progress further north. Existing approvals in the general area include 36 storeys at 850 Whitehorse Road, 19 Storeys (Commercial) for the ATO building on Whitehorse Road and 10 storey residential buildings on Archibald / Bruce Street, Station Street, Elland Avenue, and Irving Avenue (to the east and north east of the subject site).*

*It is acknowledged that at 19 storeys the building will be visually prominent in the short term, however it is envisioned that over the short to medium term as existing approvals are acted upon that the proposal will blend in with the emerging built form character. Additionally a number of surrounding land owners have been in discussions with Council Officers about further development... (my emphasis)*

## 5 Planning Considerations

*...The proposal is designed to activate the Nelson Road frontage, and provides for passive surveillance to the Shipley Street frontage. In terms of community benefit the proposal will see seven dwellings donated to a registered housing association / provider, and provides for a publically accessible pedestrian link between Nelson Street and Shipley Street between the hours of 7.30am to 7.30pm seven days a week. The proposal also includes 1,100sqm of floor space for commercial office (potentially medical suites).*

- 63 The subject land represents a larger parcel of land than the Nelson Street property, both in terms of frontage width and overall site area.
- 64 It can include active frontages, passive surveillance, provide for affordable housing and introduce a mix of uses consistent with the purpose of the zone.
- 65 The site has the ability to create the ‘missing link’ to the pedestrian link between Archibald Street and Shipley Street which can connect into the approved pedestrian link at 12-14 Nelson Street. This will deliver the majority of the east-west pedestrian link envisioned in the “Structure Plan.” This potential link is illustrated below.

**Figure 5.2**  
**POTENTIAL PEDESTRIAN LINK**  
Source: ITN Architects



- 66 Having regard to these observations, it is my view that the subject site can reasonably accommodate a greater overall building height than the 10 storeys maximum build height proposed with the “draft Built Form Guidelines” and DDO6.
- 67 A building of approximately 20 storeys, commensurate with the approved building height at 12-14 Nelson Street would strategically represent a more appropriate height for the subject land.

## 5 Planning Considerations

### 5.4

#### Would the equitable and amenity outcomes of a taller building be acceptable?

- 68 As mentioned above, the subject land is acknowledged within the “draft Built Form Guidelines” as being a ‘large allotment’ with a ‘very large frontage’ to Shipley Street. More particularly, the subject land includes a frontage to Shipley Street of approximately 45 metres, a depth of 46 metres and an overall site area of approximately 2,144 sqm.
- 69 The site dimensions are regular in shape and can easily accommodate appropriate setbacks to ensure equitable development outcomes from all sides.
- 70 The proposed Building Envelope Guidelines for Precinct F8 recommend minimum setbacks of 5 metres above a 4 storey street wall. In my view, these setbacks continue to be appropriate if the preferred building height increases. I note that similar requirements are proposed in other sub precincts envisioned for up to 20 storeys (refer Precinct F4).
- 71 Having regard to the potential amenity impacts of redeveloping the subject land, the properties immediately to the south are all currently commercial in nature. There are no existing sensitivities in terms of shadow impacts.
- 72 The “Structure Plan” requires that new buildings within the ‘Major Development Precinct (Precinct F)’ *“must not cause overshadowing of Key Open Spaces, residential Precincts A or B or residential areas beyond the study area. Transitional heights to be provided at edges of the precinct to respect the scale of neighbouring precincts.”*
- 73 These outcomes would still be satisfied if the preferred height is increased.
- 74 The MUZ and C1Z which apply to the land to the south allow these properties to be developed for residential purposes. However, the topography of the land rises sharply from the subject land towards Whitehorse Road and this will assist to reduce shadow impacts.
- 75 I have reviewed the shadow outcomes for both a 10 storey building mass and a 20 storey building mass on the subject land and in my view the differences, in terms of impact, are limited.
- 76 In both circumstances, the immediately adjoining property to the south will be in shadow throughout the middle of the day. The shadows from a 20 storey building would also impact the lower levels of any new building on the Bob Jane T-Mart site between 10:00am – 1:00pm and properties to the south-east from 2:00pm. The “Structure Plan” recommends 100% site coverage and 4-5 storey podiums to those properties and this will assist to mitigate these shadow impacts.
- 77 The taller building form would not substantially increase shadow impacts to the public realm and the shadows would not extend to Whitehorse Road.
- 78 A copy of the shadow assessment prepared by ITN Architects is included at Attachment 2.

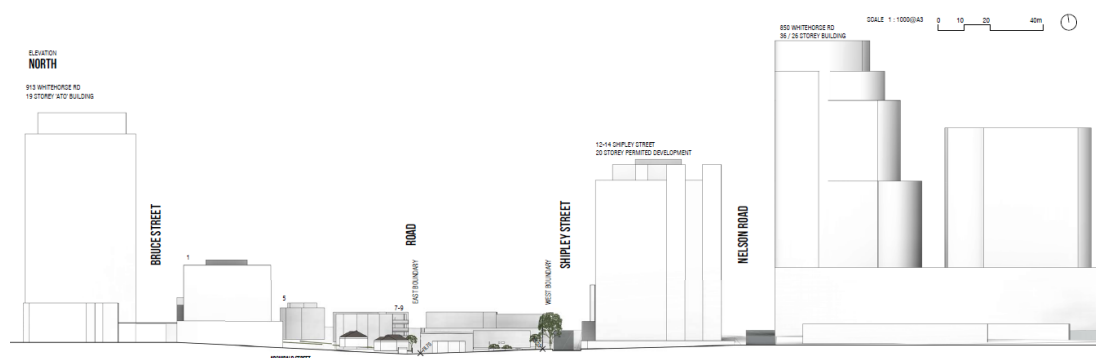


## 5 Planning Considerations

### 5.5 Will the visual implications of a taller building be acceptable?

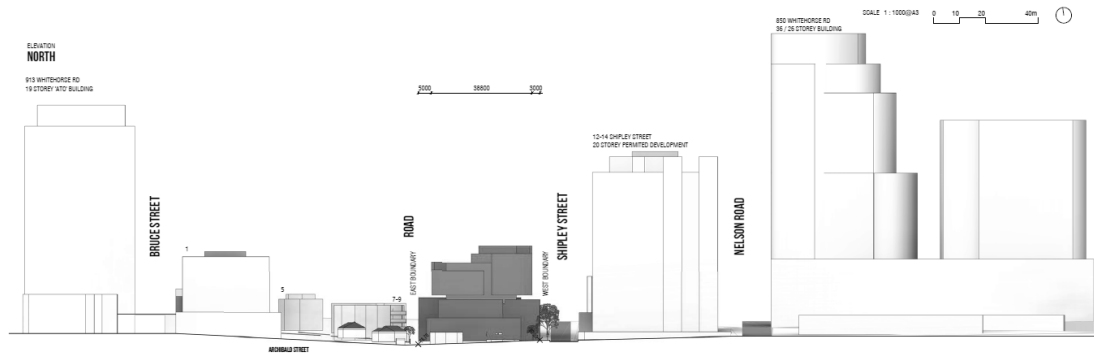
- 79 The principle for graduating building height south from Box Hill Gardens has merit and is an outcome I support.
- 80 However, in my view the starting point for this height is higher than acknowledged in the “draft Built Form Guidelines”. In particular, the existing, approved and under construction buildings fronting Box Hill Gardens on Irving Avenue already range between approx. 9-15 storeys (refer Figure 5.1).
- 81 Furthermore, the approved 20 storey building immediately across the road from the subject land sets an existing height benchmark for this location.
- 82 The land rises sharply from the gardens to Whitehorse Road and this will assist to create a natural “graduation” of building heights when view from the gardens.
- 83 Views from Box Hill Gardens are also already characterised by tall buildings (refer Figures 2.09 & 2.10), and the addition of a taller building in the order of 20 storeys on the subject land will not adversely impact these views as illustrated in the massing diagrams below Figure 5.3-5.5.
- 84 Buildings of this scale would have limited presence from Whitehorse Road given the natural fall in the land and the built form scale envisioned along both sides of Whitehorse Road.
- 85 In my view, a 20 storey building on the subject land could be comfortably absorbed into the surrounding area and skyline.

**Figure 5.3**  
**MASSING DIAGRAMS—Existing / Approved Conditions**  
Source: ITN Architects

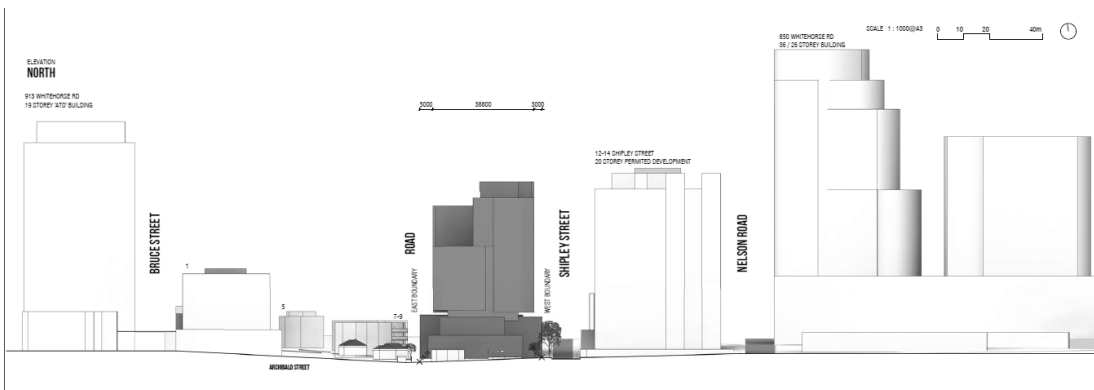


## 5 Planning Considerations

**Figure 5.4**  
**MASSING DIAGRAMS – 10 Storey Outcome**  
Source: ITN Architects (Indicative massing only)



**Figure 5.5**  
**MASSING DIAGRAMS – 20 Storey Outcome**  
Source: ITN Architects (Indicative massing only)



### 5.6 What changes to Amendment C175 are recommended?

86 In my view, the principle of graduating building heights down to Box Hill Gardens from Whitehorse Road is supported. This outcome should be more clearly evident in the “draft Built Form Guidelines” and draft DDO6.

87 This outcome could be achieved as follows:

- Building heights for properties fronting Box Hill Gardens to be lower than the properties behind. Having regard to the existing approvals along Irving Avenue, I recommend that preferred maximum building height for these properties should remain as 10 storeys.
- Properties fronting the north side of the Whitehorse Road should retain the preferred building height of 20 storeys.

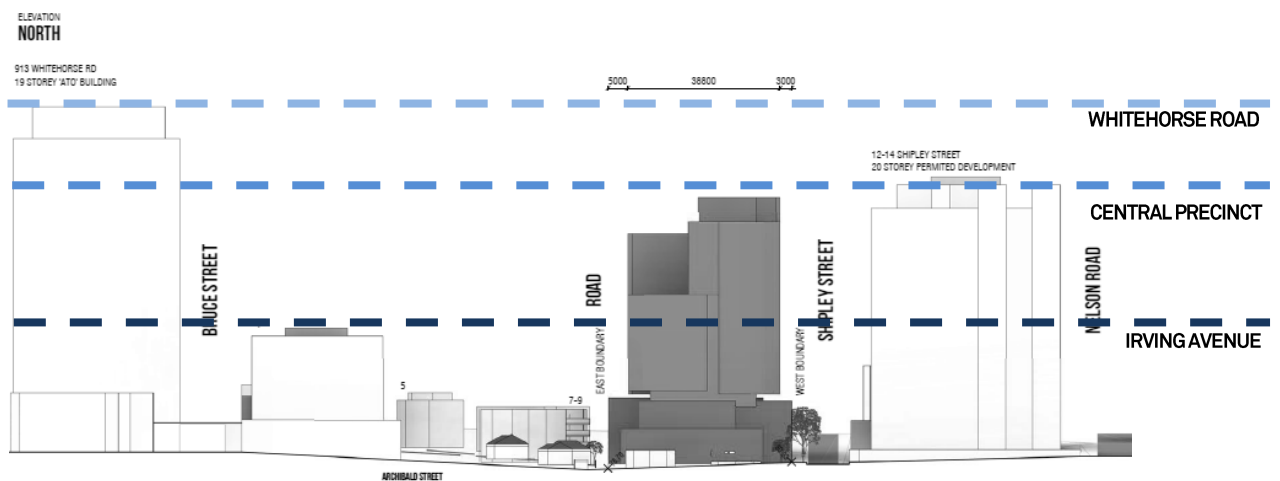
## 5 Planning Considerations

- The properties in-between should be included in a new precinct which extends east-west from Nelson Street to Station Street. Refer Figure 5.6 below.
- These properties should be subject to a preferred maximum building height of 20 storeys. This recommended height is consistent with the existing approval at 12-14 Shipley Street, but given the natural topography of the land will still provide for a recognisable transition when viewed from Box Hill Gardens (as illustrated in Figure 5.7).

**Figure 5.6**  
**NEW PRECINCTS PLAN**



**Figure 5.7**  
**GRADUATED BUILDING HEIGHTS**





## 6 Conclusion

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- 88 Amendment C175 specifically seeks to implement the adopted Box Hill Transit City Structure Plan (2007). The strategic principles underpinning the Amendment are sound and the selected tools, including the proposed new Design and Development Overlay (DDO6) are appropriate.
- 89 However, the application of a maximum building height of 10 storeys on the subject land would represent a lost opportunity.
- 90 The subject land currently represents a large underutilised parcel of undeveloped land within the Box Hill Activity Centre, and has the potential to deliver a key public realm benefit, being the east-west pedestrian link.
- 91 In order to facilitate this outcome I consider that the subject land should be encouraged to deliver a commensurate building height to that recently approved across the road at 12-14 Nelson Street, which also provides a pedestrian link.
- 92 I consider that Nelson Street approval sets a benchmark for the subject land and the properties between Irving Avenue and Whitehorse Road. Lower building heights along Irving Avenue (10 storeys) are appropriate giving the park interface. The proposed 20 storey scale for the properties fronting Whitehorse is also appropriate. In between, the topography of the land will provide for a natural graduation of building heights down from Whitehorse Road. These properties should be subject to a preferred maximum building height of 20 storeys.
- 93 In my view a 20 storey outcome on the subject land can be delivered without physical or visual detriment, or compromising the fundamental design or built form objectives of the “Structure Plan.”
- 94 Having regard to DDO6, the Sub Precincts and Precinct Built Form Guidelines should be updated to reflect these recommendations.



TIM MCBRIDE-BURGESS  
DIRECTOR  
CONTOUR CONSULTANTS AUST PTY LTD

# Attachment 1

## Panels Victoria

### Guide to Expert Evidence

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## Attachment 1 - Panels Victoria

### Guide to Expert Evidence

<b>Name and Address</b>	Tim McBride-Burgess is a Director of Contour Consultants Australia Pty Ltd, Town Planners and Practices from Level 1, 283 Drummond Street, Carlton, in Victoria.
<b>Professional Qualifications</b>	<ul style="list-style-type: none"> <li>→ Bachelor of Applied Science (Planning)</li> <li>→ Bachelor of Social Science (Environment)</li> <li>→ Member of the Victorian Planning &amp; Environmental Law Association</li> </ul>
<b>Professional Experience</b>	<p>I am a Director at Contour Consultants Aust Pty Ltd.</p> <p>I was first employed as a Student Town Planner at Hansen Partnership Pty Ltd in 2003. I continued that employment until August 2005 when I accepted a role as a Statutory Planner at the City of Port Phillip.</p> <p>In 2006 I moved to London and was employed on a three month contract at the London Borough of Brent as a Development Control Officer. At the completion of that contract I was employed as a Senior Town Planner at Planning Potential Ltd, a London based private town planning practice. I continued my employment with Planning Potential until my return to Melbourne in December 2007.</p> <p>I was employed by Contour Consultants in January 2008 and became a Director of the firm in July 2016.</p>
<b>Areas of Expertise</b>	<ul style="list-style-type: none"> <li>→ Statutory and strategic planning.</li> <li>→ Advice and assessment of land use and development proposals in metropolitan and regional Victoria and the United Kingdom for developers and private clients (including residential, retail, commercial, industrial, signage and mixed use projects), planning authorities and objectors.</li> </ul>
<b>Expertise to Prepare this Report</b>	My training and experience including involvement with a diverse variety of planning permit application proposals qualifies me to comment on the statutory planning implications and the impacts of the proposal.
<b>Instructions which Define the Scope of this Report</b>	I have received instructions from Best Hooper Lawyers, on behalf of the owner of the land to review the future development potential of the land at 6-10 Shipley Street, Box Hill and consider the implications of Amendment C175.
<b>Facts, Matters and Assumptions Relied Upon</b>	<ul style="list-style-type: none"> <li>→ Reviewed the exhibited documents relating to Amendment C175;</li> <li>→ Reviewed the relevant planning controls and policies of the Whitehorse Planning Scheme that currently apply to the land;</li> <li>→ Inspected the subject land and surrounds, including the wider Box Hill precinct multiple times;</li> <li>→ Reviewed the various background documents and consultant reports;</li> <li>→ Reviewed the adopted 'Box Hill Transit City Activity Centre Structure Plan (2007)';</li> <li>→ Reviewed the draft Box Hill Metropolitan Activity Centre Built Form Guidelines (2017) prepared by Hansen Partnership;</li> <li>→ Reviewed the proposed Design and Development Overlay (Schedule 6) ;</li> <li>→ Reviewed multiple VCAT decision relating to developments within the Box Hill Activity Centre;</li> <li>→ Reviewed documentation relating to Whitehorse Amendment C186 which recently rezoned the subject land;</li> </ul>



**Attachment 1** - Panels Victoria  
Guide to Expert Evidence

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- Read the Council Officer Report in relation to Planning Permit No. WH/2015/715 (12-14 Nelson Road, Box Hill); and
  - Review the submission prepared by Best Hooper Lawyers and submitted on behalf of the owner of the subject land.
- 

**Documents Taken into Account**

Refer to documents described above and in report.

**Identity of Persons Undertaking the Work**

I prepared this report with the assistance of Danielle Di Petro, a Senior Town Planner at Contour Consultants.

**Relationship with Applicant**

I have no private or business relationship with the applicant, other than being engaged to prepare this report.

**Summary of Opinions**

Refer to the conclusions in my report.

*I have made all the inquiries that I believe are desirable and appropriate and that no matters of significance which I regard as relevant have to my knowledge been withheld from the Tribunal.*

TIM MCBRIDE-BURGESS  
DIRECTOR  
CONTOUR CONSULTANTS AUST PTY LTD

# Attachment 2

## Shadow Diagrams

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## 6 Conclusion

Figure6.1  
EXAMPLE SHADOW DIAGRAMS (10 STOREY BUILDING)

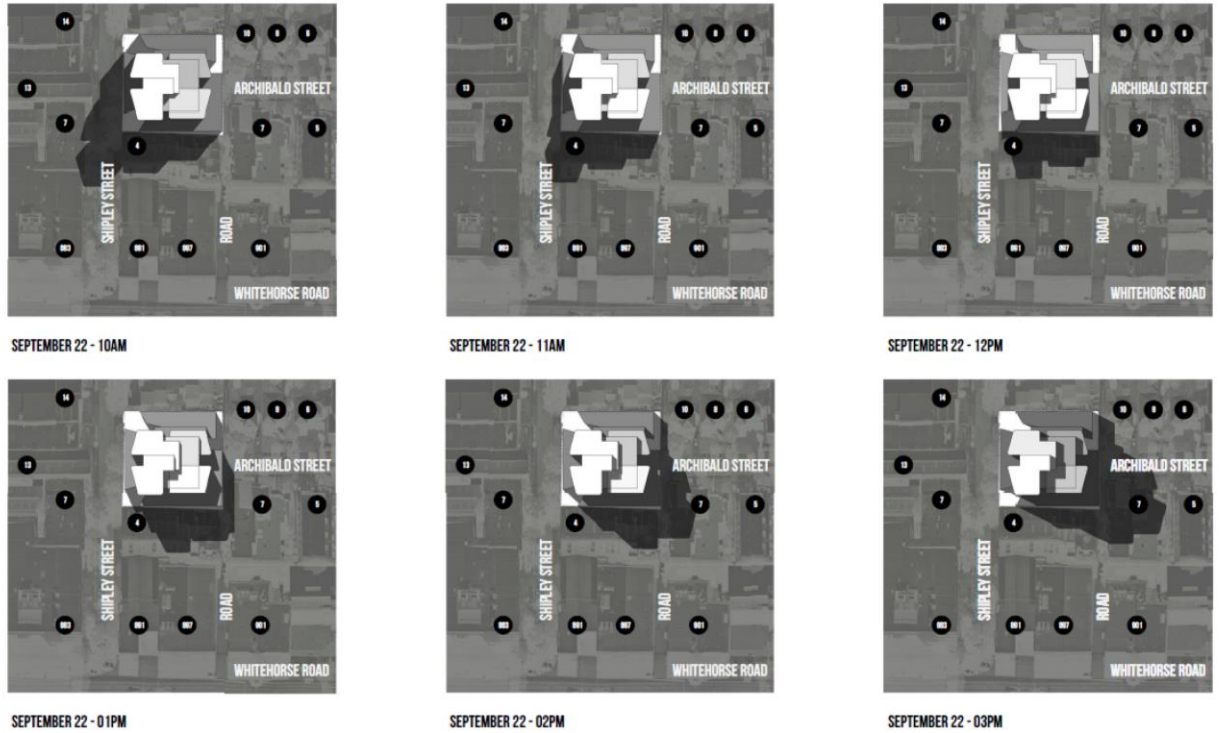


Figure6.2  
EXAMPLE SHADOW DIAGRAMS (12 STOREY BUILDING)



