

Department of Transport and Planning

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18 May 2026

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**Re: Response to Preliminary Comments
Planning Permit Application No. PA2604379
846-858 Glenferrie Road, Hawthorn**

Dear [REDACTED]

We act on behalf of OP Glenferrie Pty Ltd, in respect of the land at 846-858 Glenferrie Road, Hawthorn (the **subject site**).

We refer to the Eligibility Confirmation Letter dated 30 April 2026 and the City of Boroondara (**Council**) pre-application comments dated 20 April 2026.

To assist the department with its initial review of the planning permit application, we are pleased to provide a consolidated response below addressing the comments raised in the Eligibility Confirmation Letter and by Council.

RESPONSE TO THE COMMENTS RAISED IN THE ELIGIBILITY CONFIRMATION LETTER

Preliminary Comments	Response
The maximum building height variation sought under the BFO3 remains a concern, noting the adverse shadowing and visual bulk impacts. A maximum height consistent with the BFO3 is encouraged. In order to remain eligible for DFP, the proposal must meet the \$50 million development cost threshold and provide the minimum affordable housing contribution for DFP eligibility. Any amended proposal must be accompanied by an amended QS report and affordable housing report (as applicable).	A comprehensive assessment of overshadowing and visual bulk is provided at Section 5 of the Planning Report and responds directly to DFP's concerns regarding the proposed variation to the preferred height under BFO3. In summary, any additional shadow beyond that anticipated by the preferred BFO envelope is limited, comprising approximately 0.83 square metres to the rear yard of No. 30 Sercombe Grove and 0.53 square

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metres to the rear yard of No. 34 Sercombe Grove at 1pm. While the proposal results in overshadowing to the dwellings at 1/1A, 2/1A and 3/1A Churchill Grove, these properties are located within the Commercial 1 Zone (**C1Z**), BFO and the activity centre, where a high level of change is anticipated and minimal overshadowing is not an expected outcome. Notably, the preferred BFO envelope itself already results in overshadowing to these properties.

Additional shadowing also occurs to the Glenferrie Road footpath on the opposite side of the street between 10am and 11am at the equinox, with the largest extent occurring between 10.00am and 10.20am and only a limited portion of the footpath affected by 10.40am. However, the preferred built form envelope under the BFO similarly results in overshadowing of this footpath between 10am and approximately 10.30am. This confirms that some degree of morning overshadowing is anticipated in order to achieve the broader urban consolidation and densification objectives of the BFO. The additional shadows will not adversely impact the use, quality or amenity of the public realm beyond what is already contemplated.

Visual bulk impacts are appropriately managed through a combination of setbacks greater than the minimum required by BFO3 and a refined articulation strategy, which breaks down the overall massing and presents a well-resolved built form outcome. This approach is consistent with the intent of the BFO, which seeks a visible built form commensurate with the activity centre context, rather than an underdeveloped or recessive outcome.

While the proposal exceeds the maximum building height under BFO3, the resultant amenity impacts in terms of overshadowing and visual bulk are minor and clearly outweighed by the significant public benefits delivered by the proposal. This includes a substantial affordable housing contribution, strong architectural and ESD performance, and alignment with key BFO objectives relating to urban intensification, the creation of a high-amenity mixed-use precinct, and the promotion of sustainable

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development commensurate with the site's strategic and locational attributes.

Lastly, the proposed increase in height is accompanied by a commensurate public benefit, as envisaged by the BFO3's decision guidelines. In particular and in addition to the above, the proposal includes a 175% uplift in affordable housing contribution relative to the BFO3's requirements and 75% uplift compared to the Clause 53.23 requirements.

The proposal therefore represents an appropriate and justified response to the BFO3 controls, notwithstanding the height variation sought.

Should any signage be proposed as part of this proposal, this must be confirmed with a detailed response to the application requirements at Clause 52.05-6.

Signage is not proposed as part of the application.

A standing wind comfort criterion should be achieved for Test Location 5 and all outdoor terraces to enhance on-site amenity and allow for a comfortable footpath condition for any outdoor seating associated with existing and proposed retail premises.

The Environmental Wind Conditions Study (Wind Impact Assessment) submitted with the application demonstrates that pedestrian wind conditions achieve the walking criterion or better for transit areas and private outdoor terraces, and the standing criterion or better for building entrances.

On this basis, the assessment concludes that wind conditions within and around the site are likely to be within acceptable limits and comply with the relevant wind comfort requirements of Clause 58.04-4 of the Boroondara Planning Scheme (**the Scheme**). Planning permit conditions can give effect to the wind report and mitigation requirements.

Further Information Request

Response

a. Certificates of title, including any encumbrances, covenants, and agreements (within three months).

Current Certificate of Titles, dated within three months of lodgement (4 May 2026), are included in the application material.

b. A Metropolitan Planning Levy Certificate.

A Metropolitan Planning Levy Certificate is included in the application material.

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c. 3D digital model in accordance with DTP's submission guide.	A 3D digital model in accordance with DTP's submission guide is included in the application material.
d. Affordable housing amended to refer to the affordable housing contribution as a 5.25% cash contribution, as opposed to an 'affordable housing contribution of 17.5%'.	The cover letter accompanying the application, Planning Report and Affordable Housing Report have been amended to refer to an affordable housing contribution of 17.5% or 5.25% cash contribution equivalent.
e. Draft watermark removed from all lodgement material.	The draft watermark has been removed from the final application material.
f. A response to the Council's ESD comments (attached). DTP encourage the project team to enhance the proposed ESD outcome.	Refer to the responses to Council's planning comments provided in Section 2.0 below.
g. The Town Planning Report amended to: i. Confirm the affordable housing contribution as a 5.25% cash contribution, as opposed to an 'affordable housing contribution of 17.5%'. ii. Update the response to Standard D27 of Clause 58.07-2 (Room depth objective), noting that there are apartment types which do not comply. The project team is encouraged to achieve compliance with this requirement for all apartments.	The Planning Report has been amended to: • Refer to the affordable housing contribution as 17.5% or 5.25% cash contribution equivalent. This reflects the approach in Clause 52.32-4 that establishes the 10% affordable housing requirement as well as alternative contribution approaches (such as a cash contribution). • Clarify the minor variations proposed to Standard D27. Refer to Section 5.5.3 and Appendix 4 of the Planning Report for details.
h. Architectural plans amended to: i. Provide additional overlooking diagrams to demonstrate the minimisation of overlooking to the following: 1. The habitable room windows at 862 Glenferrie Rd from proposed north facing habitable room windows and terraces. 2. The private open space of dwellings at 16, 18, 20, 22, and 26 Sercombe Gr from the proposed west facing	A response to these comments is provided below. • The development has been designed to avoid direct views into habitable room windows or secluded private open space areas within 9 metres of the subject site. This includes views of the properties to the east of the subject site fronting Sercombe Grove, No's 1/1A, 2/1A and 3/1A Churchill Grove to the south of the subject site and views from the light wells on the northern and southern boundaries. Internal views are also limited through the location,

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terraces and habitable room windows. 3. The third floor habitable room windows and ground floor SPOS at 1/1A, 2/1A, and 3/1A Churchill Gr from the proposed south facing terraces and habitable room windows. 4. Impacts from the communal hallways to the interfacing bedroom windows. ii. Provide annotations in accordance with the recommendations contained within the Acoustic Report prepared by Enfield (27 February 2026). iii. Clearly nominate any wind amelioration devices as recommended in the Environmental Wind Conditions Study prepared by Mel Consultants (4 March 2026). iv. Provide a minimum 3.6m x 3.6m living area space within all dwellings on the detailed apartment plans in accordance with Standard D26 of Clause 58.07-1 (Functional layout objective). v. Provide all minimum bedroom dimensions on the detailed apartment plans in accordance with Standard D26 of Clause 58.07-1 (Functional layout objective). vi. Demonstrate minimum 2.7m ceiling heights for all apartments seeking a 9m or greater room depth on section diagrams. vii. Nominate which apartments are provided with external storage within the basement.	orientation and setback of balconies and positioning of planters within the built form, in accordance with the requirements of Standard D15 of Clause 58.04-2. Further detail is provided in the Planning Report and architectural plans enclosed with the application. • The recommendations of the Acoustic Report and Environmental Wind Conditions Study can be incorporated into the development and reflected on endorsed plans in response to appropriate permit conditions. • The minimum bedroom and living area dimensions, consistent with Standard D26 of Clause 58.07-1, are included on the detailed apartment plans (TP-9001 to TP-9019) included within the application material. • All apartments are provided with ceiling heights in excess of 2.7 metres, as confirmed on the architectural plans. • Storage is provided for all dwellings in accordance with the internal storage volumes required under Standard D21 of Clause 58.05-4. Additional storage cages are located within the basement to accommodate any supplementary storage needs and can be allocated to residents as required. This copied document to be made available for the sole purpose of enabling its consideration and review as part of a planning process under the Planning and Environment Act 1987. The document must not be used for any purpose which may breach any copyright
iii. A Preliminary Site Investigation (PSI) or Preliminary Risk Screen Assessment (PRSA) to identify any remediation and/or environmental audit related conditions required (as applicable) for the proposed use and works to proceed is recommended. The neighbouring properties at 844 and 842 Glenferrie Rd	It is noted that the existing planning permit for the subject site, includes permission for a sensitive land use and no requirement for a PRSA or audit. Nevertheless, our client is presently liaising with its contamination experts to provide further details to demonstrate that there is no basis for requiring an environmental audit.



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have recorded history for land uses that indicate potential soil contamination.	
iv. Written consent from the Head, Transport for Victoria is required under Clause 36.04-3 for the construction of the canopy over the Glenferrie Road footpath (TRZ2). The proponent is encouraged to obtain this formal consent prior to lodgement of a formal permit application.	Written consent from Head, Transport for Victoria to lodge a planning permit application for the construction of the canopy over the Glenferrie Road footpath pursuant to Clause 36.04-3 is included in the application material.

RESPONSE TO COUNCIL REFERRAL COMMENTS

Council Comment	Response
The proposal seeks a maximum building height of 56.83m, representing a substantial 42% departure from the 40m discretionary limit established under Standard 6.2-1 of the BFO3. This height is a significant overdevelopment that fails to respect the intent or objectives of the BFO3. Specifically, the additional scale results in an unacceptable streetscape presentation and an overbearing presence within the public realm, diverging from the preferred built form outcomes sought by the BFO3. Furthermore, the height increase does not adequately respond to the Schedule 3 decision guidelines, as the resultant overshadowing and visual bulk impacts on adjoining streets and residential properties demonstrate that the building is over-scaled for its site constraints and fails to provide a suitable transition to the lower-scale residential interface. The proposed building height fails to respond to the site and adjacent existing or proposed development, which is a key consideration in the decision guidelines.	The BFO's "immediate opportunity for uplift" has been applied by the State government due to many years of Council's using the planning system to stifle housing opportunities for the community. The BFO3's "uplift" is simply making up for years of inaction an failed strategic planning/housing policy by Council and is not relevant to whether any further uplift is acceptable or not. A detailed assessment of the proposal against the objectives of BFO3 is provided at Section 5.3 of the Planning Report enclosed with the application. The building's presentation to the public realm is carefully moderated through a well-resolved streetwall, recessed upper levels and a layered articulation massing strategy that breaks down perceived scale and maintains a human-scaled streetscape. This approach ensures the building presents as a refined and visually engaging built form, avoiding any overbearing presence, while remaining consistent with the preferred future character envisaged by the BFO. A response to the overshadowing and visual bulk impacts of the proposed development is provided above. Greater setbacks to the rear interface are provided than required by the BFO, to reduce overshadowing and improve scale transition.

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As reiterated above, in this context, any amenity impacts associated with the additional height must be balanced against the significant public benefits delivered by the proposal, which clearly outweigh the extent of the variation or uplift sought.

It is noteworthy that both the Council and DFP have had no regard to the project's public benefits in its comments, despite public benefits being a specific decision guideline in the BFO3 – decision guidelines that are only relevant when a proposal exceeds a standard in the BFO3.

The proposal fails to meet the BFO overshadowing requirements resulting in unacceptable additional shadow impacts to the opposite footpaths of Glenferrie Road and Churchill Grove between 10am and 2pm. With regard to Glenferrie Road, this is a key pedestrian street meaning the requirements at 6.2-2 are to be assessed concurrently with building height i.e. the shadow controls are not subservient to the height controls, the development should comply with both requirements which could result in a building height lower than the maximum building height. The increased building height also causes significant and unjustified overshadowing to nearby residential private open spaces and associated residential amenity. The shadow diagrams provided depict additional overshadowing to adjoining residential secluded private open space above and beyond the BFO3 building envelope which would impact amenity. While the proposal is unacceptable having regard to a number of the decision guidelines, the following are specifically brought to your attention:

- a. Whether the development respects the amenity of adjoining residential land;
- b. Whether any additional overshadowing to the nominated spaces adversely affects the use, quality and amenity of the public space.

A detailed assessment of the proposal against the decision guidelines of BFO3, including the specific overshadowing impacts, is provided at Section 5.3 of the Planning Report.

As summarised above, the proposal introduces only limited additional overshadowing beyond that anticipated by the preferred BFO envelope. This incremental change is negligible in extent, will not result in any material adverse amenity impacts on adjoining properties or the public realm, and is appropriate having regard to the urban consolidation and densification objectives of the BFO and the significant public benefits delivered by the proposal.

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The insufficient setbacks provided, combined with significant departure from the discretionary height limit do not provide for an appreciation of the architecture or positive contribution to the streetscape. This results in a lack of distinction

A detailed assessment of the proposed massing and setbacks is provided at Section 5.3 of the Planning Report.

between the volumetric form of the building contributing to its over-scaled design response. The massing and setbacks do not aide in the transition of scale to the adjoining site to the south.

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The proposed setbacks respond appropriately to each interface, combining a contextual design approach with the outcomes anticipated by BFO3. The streetwall height, height of walls on the side boundaries and varied upper-level side setbacks, achieve the preferred outcomes of the BFO3.

Setbacks to the rear exceed the BFO3 minimum requirements, reducing overshadowing, improving transition in scale and supporting future housing outcomes on adjoining land within the Housing Choice and Transport Zone (**HCTZ**). Along the side boundaries, setbacks generally align with the numerical expectations of the BFO, with any variation from the prescribed 21 metre and 40 metre transition points continuing to achieve the underlying intent of recessing upper levels above the streetwall and limiting the building to a single setback above the streetwall. To the southern interface, upper-level setbacks are integrated into the overall composition, reinforcing the stepped form and providing a consistent transition in scale.

Collectively, these measures result in a layered and articulated built form that breaks down the overall massing, enables appreciation of the architectural expression and avoids an over-scaled presentation, while achieving an appropriate transition to adjoining development consistent with the intent of BFO3.

In addition to the non-compliances outlined above, the proposal does not achieve the development objectives of BFO3 and fails to make an appropriate contribution to the future character of the area as envisaged by the BFO3 development framework.

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A detailed assessment against the development objectives of BFO3 is provided at Section 5.3 of the Planning Report. The development provides a sound response to the objectives of BFO3, providing a built form that is respectful of the preferred future built form morphology and character, with respect to building height, setbacks, the importance of an activated ground plane and the need to provide and protect high levels of internal and external residential amenity. This delivers a carefully composed, site-responsive design outcome that will make a positive contribution to the emerging character of the area and establish a sound precedent for change. The concerns raised by Council ultimately relate to the proposal exceeding the deemed to comply building height; however, the

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	BFO3 framework is expressly performance-based, and does not preclude variations where an appropriate built form outcome and clear net community benefit are achieved.
The loss of commercial floor area (as compared to permit PP24/0934) resultant from the revised design is disappointing given the opportunity to strengthen the commercial offerings provided on the site particularly within a Major Activity Centre. The commercial land use component of the proposal should not be watered down to facilitate an increased number of dwellings. This undermines the core functions and strategic vision of the Commercial 1 zoning of the site.	The proposal provides 711.7 square metres of commercial floor area across two tenancies. While this represents a 211.8 square metres reduction from the 923.5 square metres approved under the existing permit (PP24/0934), the retention of two tenancies ensures continued flexibility and functionality, with the reduced floor area not limiting the range or viability of potential commercial uses. The reduction in commercial floor area is immaterial in planning terms and is appropriately considered having regard to the relevant permit triggers and associated decision guidelines. A genuine mixed-use outcome is maintained, with commercial uses occupying a comparable extent of the Glenferrie Road frontage as the approved scheme, consistent with the strategic intent of the Commercial 1 Zone.
The widening of the laneway remains consistent with the previous approval under PP24/0934. Consideration should be given to whether the laneway size and design remain fit for purpose resulting from the further intensification of the development by reason of additional vehicle movements.	The laneway size and design remain fit for purpose for the proposed development, as confirmed in the Traffic Engineering Assessment enclosed with the application. The laneway has been widened to facilitate two-way vehicle access and, in the absence of a Public Acquisition Overlay or any strategic basis for further widening, is considered appropriate and adequately serves the operational needs of the site.
The proposed ESD target is unambitious given the scale of the development, as compared to similar proposals in Boroondara and the use of the fast-tracked pathway. Further concerns remain regarding daylight amenity, the modelling approach in the SMP, and the poor quality of landscaping and green infrastructure.	The proposal exceeds the BESS 'best practice' standard, achieving a total BESS score of 63%, with no mandatory category (IEQ, Energy, Water, Stormwater) below 50%. This is further expanded by a commitment to net zero carbon. The ecologically sustainable design outcomes of the proposed development are sufficiently innovative to exceed the expectations of the BFO in relation to environmental performance and achieving ESD design excellence, in particular, in the context of the Scheme, which provides no guidance as to what

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constitutes ‘innovative’ ecologically sustainable design practices.

Nevertheless, the applicant is open to further exploring whether ESD outcomes can be improved, if necessary.

The approach to daylight modelling adopted in the proposal is entirely consistent with that previously accepted by the Council and approved under Planning Permit PP24/0934, including the daylight reflectance value assumptions.

These parameters have been reviewed and accepted by Council the Council previously and remain unchanged in the current application.

It is unclear why the Council has raised an issue with an approach it has previously accepted on the subject site – twice.

A detailed assessment of the proposed ESD measures is provided in the Sustainability Management Plan and Planning Report submitted with the application.

The proposal does not appear to comply with Clause 58.03-5 (Landscaping). The landscape plans indicate the planting of only one Type B tree and two Type A trees, falling short of the minimum requirement for at least two Type B trees or one Type C tree and the required canopy cover. The trees are to be planted in highly confined locations, which would prevent them from achieving their minimum mature dimensions and required canopy spread which represents a poor landscaped outcome.

The proposal does not comply with the numerical requirements of Standard D10; however, it achieves the objective of Clause 58.03-5.

The proposal’s landscape response appropriately balances the site context with the urban design and landscape character outcomes of the Scheme.

The site’s context is not one where the extent of deep soil landscaping contemplated by the standard is evident either ‘on the ground’ or as a preferred future character outcome of policy. Rather, the site is located in an inner city, highly urbanised area, in a C1Z, within a major activity centre.

Opportunities for deep soil planting are inherently constrained, with existing landscape features limited to street trees along Glenferrie Road. In this context, the proposal represents a clear improvement on the prevailing condition of the site, which is currently devoid of meaningful landscaping.

The use of substantial integrated planters provides an appropriate and site-responsive outcome,

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enabling the provision of small to medium canopy trees and cascading greenery within the built form. The species selection and planting design have been carefully resolved to ensure long-term viability and performance in the proposed conditions.

Further details of the proposed landscape provision are included in the Landscape Plan, architectural plans and Planning Report enclosed with the application.

It is noted that the design of the development approved by planning permit (PP24/0934) also did not meet this standard, and the same accepted approach has been maintained in the current proposal.

Officers have not undertaken an assessment against the onsite amenity standards at Clause 58 as part of this referral. Notwithstanding, it is expected that any future application demonstrates full compliance with the relevant requirements.

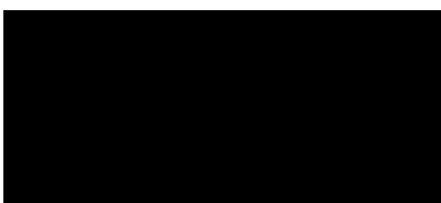
All on-site amenity standards under Clause 58.05 are met by the proposal. All objectives of Clause 58 are achieved, with minor variations limited to Standards D10 of Clause 58.03-5 and D27 of Clause 58.07-2. Detailed justification for these variations is provided at Section 5.5.3 and Appendix 4 of the Planning Report.

CONCLUSION

We trust this letter will assist the Minister and DTP in assessing the application.

Should you have any questions, please do not hesitate to contact me on [REDACTED]

Yours sincerely



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UPco acknowledges the Traditional Owners of Country throughout Australia and acknowledges their continuing connection to land, waters and community. We pay our respects to the people, the cultures and the Elders past and present.

