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AGENDA

Planning Committee Meeting to be held
at Darebin Civic Centre,
350 High Street Preston
on Tuesday, 13 June 2017
at 6.00 pm.

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Agenda

1. MEMBERSHIP

Cr. Kim Le Cerf (Mayor) (Chairperson)

Cr. Steph Amir

Cr. Gaetano Greco (Deputy Mayor)

Cr. Tim Laurence

Cr. Trent McCarthy

Cr. Lina Messina

Cr. Susanne Newton

Cr. Susan Rennie

Cr. Julie Williams

2. APOLOGIES

3. DISCLOSURES OF CONFLICTS OF INTEREST

4. CONFIRMATION OF THE MINUTES OF PLANNING COMMITTEE

Recommendation

That the Minutes of the Planning Committee Meeting held on 22 May 2017 be confirmed as a correct record of business transacted.

5. CONSIDERATION OF REPORTS

**5.1 APPLICATION FOR PLANNING PERMIT D/630/2016
25 Kenilworth Street Reservoir**

Author: Principal Planner

Reviewed By: Director City Futures and Assets

Applicant	Owner	Consultant
RMP Home Builders	Allan Albert Haas	Peter English

SUMMARY

- Construction of six (6) double storey dwellings and a single storey dwelling, with all dwellings having two (2) bedrooms each. Dwellings 1 to 6 are double storey and Dwelling 7 is single storey.
- Dwellings 1, 2, 5 and 6 are to have a similar level of accommodation, with the ground floor having a bedroom and single garage. Their first floor levels are each to have a bedroom, kitchen/meals/living area and west facing balconies of between 10 and 11 square metres.
- Dwellings 3 and 4 have a similar level of accommodation, with the ground floors having two (2) bedrooms and a single garage. Their first floor levels are each to have a kitchen/meals/living area and west facing balconies of 13 square metres.
- Dwelling 7 provides two (2) bedrooms and kitchen/meals/living area.
- Vehicle access is via a common driveway adjacent the west boundary. A separate pedestrian walkway is provided to the dwellings entries to the east.
- The dwellings will have a contemporary design, with brick walls to the ground level, render and lightweight cladding to the first floor and skillion and hipped metal roofs.
- The proposal will have a maximum height of approximately 8.2 metres.

The site is zoned General Residential Zone (Schedule 2).• There is no restrictive covenant on the title for the subject land.

- Six (6) objections were received against this application.
- The proposal fails to meet a number of objectives and standards of Clause 55 of the Darebin Planning Scheme. The proposal does not adequately respond to the issues raised in the VCAT Order P1392/2016 dated 22 March 2017.
- It is recommended that the application be refused.

CONSULTATION:

- Public notice was given via a sign posted on site and letters sent to surrounding owners and occupiers.
- This application was referred internally to ESD Officer, Capital Works Unit and the Transport Management and Planning Unit.
- This application was not required to be referred to external authorities.

Recommendation

That Planning Permit Application D/630/2016 be refused and Notice of Refusal be issued on the following grounds:

- (1) The proposal fails to satisfy the objectives of Clause 22.04 (Neighbourhood Character) of the Darebin Planning Scheme and the design objective of the Darebin Neighbourhood Character Study and Precinct Guidelines 2007 in terms of the design, visual bulk and lack of landscaping opportunities.
 - (2) The proposal does not satisfactorily comply with the standards and objectives of Clause 55 of the Darebin Planning Scheme, in particular:
 - a) Clause 55.02-1: Neighbourhood character - the proposal is inappropriate in terms of the design, visual bulk and lack of landscaping opportunities
 - b) Clause 55.02-2: Residential policy - the proposal is contrary to the preferred character of the area.
 - c) Clause 55.03-3: Site coverage - insufficient opportunities within side and rear setbacks to provide appropriate areas of landscaping.
 - d) Clause 55.03-8: Landscaping – the site coverage fails to respect the existing neighbourhood character.
 - e) Clause 55.04-1: Side and rear setbacks - inadequate side setbacks resulting in visual bulk to the neighbouring residential properties.
 - f) Clause 55.04.-8: Noise impacts: the siting of master bedrooms in proximity to the common walkway gives rise to potential acoustic amenity and privacy issues.
 - g) Clause 55.06-1: Design detail - the design of the development lacks cohesion and will result in visual bulk to the street and neighbouring properties.
 - (3) The proposal is an overdevelopment of the site.
 - (4) The proposal does not adequately respond to the issues raised in the VCAT Order P1392/2016 dated 22 March 2017.
-

INTRODUCTION AND BACKGROUND

D/167//2016 – Development of nine (9) dwellings (8 3-storey and 1 2-storey dwelling) and a reduction to the car parking requirement. – Refused – 14 May 2016.

The application was refused planning permission on the following grounds:

1. The proposal fails to satisfy the objectives of Clause 22.04 (Neighbourhood Character) of the Darebin Planning Scheme and the design objective of the Darebin Neighbourhood Character Study and Precinct Guidelines 2007 in terms of visual bulk, excessive height and lack of landscaping opportunities.
2. The proposal does not satisfactorily comply with the standards and objectives of Clause 55 of the Darebin Planning Scheme, in particular:
 - a) Clause 55.02-1: Neighbourhood character - the proposal is inappropriate in terms of the visual bulk, excessive height and lack of landscaping.
 - b) Clause 55.02-2: Residential policy - the proposal is contrary to the preferred character of the area.

- c) Clause 55.03-2: Building height - the height of the development will result in visual bulk to the street and the adjoining properties.
 - d) Clause 55.03-8: Landscaping - insufficient opportunities within side and rear setbacks to provided landscaping.
 - e) Clause 55.04-1: Side and rear setbacks - inadequate side setbacks resulting in visual bulk to the neighbouring residential properties.
 - f) Clause 55.04-5: Overshadowing - the development will result in unacceptable overshadowing of neighbouring properties.
 - g) Clause 55.04-6: Overlooking - the screening measures restricts outlook resulting in a poor level of internal amenity to the dwellings.
 - h) Clause 55.05-4: Private open space - poor amenity to balconies.
 - i) Clause 55.06-1: Design detail - the design of the development will result in visual bulk to the street and neighbouring property.
3. The proposal is an overdevelopment of the site.
 4. The proposed development will result in poor amenity for the residents and is contrary to proper and orderly planning.

The application was subject to an appeal before VCAT. The plans relied on at the hearing comprised eight (8) dwellings (1 single storey, 4 2-storey and 3 3-storey dwellings). The design presented to VCAT comprised one less dwelling and a reduced 3rd storey element limited to the middle three dwellings (dwellings 3, 4 and 5).

At the hearing Council contended that the design was too big, bulky, provides insufficient space for landscaping and does not respond to the preferred neighbourhood character. The proposal provides poor levels of internal amenity to a number of dwellings and that overall, the proposal is an overdevelopment of the site.

Amongst other matters VCAT distilled the application down to the following issues:

- The weight to be given to the implementation of housing policies relative to neighbourhood character considerations; and
- The acceptability of the design response relative to its strategic and physical contexts, both in terms of built form and landscaping.

The weight given to housing policies / neighbourhood character considerations

I must still give some degree of weight to neighbourhood character considerations including the preferred character outcomes but not to the same extent as what might be normally expected in an area of Incremental Housing Change. Conversely, policies promoting housing diversity and intensification are to be given more weight than they would normally be given for an Incremental Housing Change area but not to the same extent as they would otherwise be given in other areas of Substantial Housing Change – such as in sub-Precinct 6b along Edwardes Road which is in the RGZ.

The acceptability of the design response

I should also say that I have no in-principle concerns with the concept of a reverse living typology. However, it is clear that this particular typology does present numerous design challenges and in this case there are a number of elements that are not particularly well resolved.

I also accept that a 2-storey built form with a modest and recessive third storey element has the potential for success in this location.

There is no one single element of this proposal that leads me to conclude that this is not an acceptable development, but rather it is the combination of many design elements that do. I summarise these as follows:

- *The continuous attached 2-storey form of the development, spanning a distance of some 32m into the site with a 14m long third storey element would be too big and bulky, particularly on oblique views from the street in both directions and when viewed from neighbouring properties to the east and west. This includes views of the three storey form from the backyard realm of No. 23 Kenilworth Street towards Units 3 and 4 in particular;*
- *The excessive visual mass and building bulk is exacerbated by the limited degree of recession between the ground and first floor footprint on the north and east sides and the lack of any gaps or breaks in the built form as is characteristic of other larger scale development such as No.s 27 and 29 Kenilworth Street;*
- *The mass and volume of the building is not sufficiently mediated by an appropriate amount of space around both sides of the proposed development. For example, large portions of two-storey walls on the east side are setback about 2.2m;*
- *The extent of built form and hard surfaces throughout the site leaves too little space for the provision of a spacious garden setting surrounding the proposed dwellings which is a preferred character outcome. I accept Mr Thomson's evidence that there is adequate space in horticultural terms to provide mostly upright trees in narrow planting beds along both side boundaries, such as fastigate ornamental pears and pencil pines. I also acknowledge that a wider space is proposed central to the driveway for two Kanooka trees. However, I consider that the overall landscape response to the side boundaries is not one that provides for a spacious garden setting integrated into the overall design;*
- *While the plans show levels of site coverage at 49.7%, this is based on the floor area of the ground level footprint only. It does not for example, include the cantilevered balcony and first floor elements over the driveway nor does it appear to include external architectural features such as the entry canopies on the east side and on the north side of Unit 1. I calculate that these elements would bring the site coverage to at least 60%. While standard B3 at clause 55.03-3 suggests a maximum site coverage of 60%, the acceptability of this particular design response needs to be understood in the context of the front setback of approximately 9m resulting in a very concentrated extent of built form and building bulk throughout the balance the site;*
- *Reversing movements within the driveway are tight, requiring a high degree of precision;*
- *In terms of design quality, I consider that the cantilevered balconies do not read as an integrated part of the development, but rather would have the appearance of tacked on elements. Their projecting form, which extends in places to within 1.9m of the site boundary separated by 1.7m high screens, will emphasise their prominence when viewed in oblique views from the street;*
- *The overall composition of the building lacks visual cohesion with varied roof forms and pitches and an array of proposed materials and finishes that in relation to the east elevation is particularly 'busy';*
- *The attached linear design with little variation in setbacks between dwellings together with their narrow configuration limits opportunities to capture northern light and necessitates substantial screening of windows and some balconies or the use of highlight windows. Other elements are poorly thought out, such as the clerestory windows proposed to Unit 6 which are located close to the south wall of Unit 5's third storey wall and the location of robes and a stair well to the north side of Unit 3 together with screened windows on the east and west sides of this dwelling;*

- *The means of achieving cross-ventilation particularly in relation to highlight windows is unclear;*
- *Although intended to serve a utilitarian purpose, the extent of driveway paving (5.3m to 6.5m wide over a distance of about 36m) together with the continuous row of garage doors, limited space for landscaping and overhanging first floor/balcony elements the latter with concrete to their undersides would not in my view represent a high quality design outcome nor contribute to good levels of on-site amenity; and*
- *The siting of master bedrooms to four of the dwellings at ground level within about 0.5m of the common walkway to dwelling entries gives rise to potential acoustic amenity and privacy issues, particularly at night.*

In summary, I find that the development is too big and intense for this peripheral part of the activity centre and would have a jarring visual impact upon the surrounding area, particularly in the streetscape. Insufficient space is provided around the development to mediate its scale and to provide opportunities for a spacious garden setting. The proposal is also one that I would not describe as achieving high quality design with consequential impacts in terms of internal and on-site amenity.

I note that it is most probable that redevelopment of No. 23, 17, 15 and 13 Kenilworth Street with their similarly proportioned lots and modest brick dwellings will occur at some stage in the future.

I consider that this proposal would also set a poor precedent for the redevelopment of these and other sites in the area similarly designated for substantial change and in the GRZ, being mindful of the need to provide equitable development opportunities for others.

It is primarily for these reasons that I conclude a permit must not be granted.

ISSUES AND DISCUSSION

Subject site and surrounding area

- The site is regular in shape, with a frontage of 20.12 metres, a depth of 50.29 metres and an area of 1,012 square metres.
- The site is located to the southern side of the street, approximately 220 metres to the west of High Street.
- It contains a single storey brick dwelling, with a pitched and hipped tile roof.
- The dwelling has vehicle access to a garage to the rear of the dwelling along the western boundary.
- The site has a fall of approximately 1.2 metres from the south east (rear) corner to the north-west (front) corner.
- The surrounding area consists of single and double storey dwellings and medium density developments.
- To the north of the site, on the opposite side of the street, are single storey dwellings.
- To the south are the rear yards of dwellings in medium density developments to Ralph Street.
- To the east is a single storey brick dwelling, with a front setback of 9 metres and a setback of 4 metres from the common boundary. It has vehicle access, a garage and an outbuilding along the common boundary.

- To the west is a medium density development of five (5) dwellings (four (4) double storey dwellings and a single storey dwelling at the rear). The dwellings at the front have a setback of 8.9 metres from the street. The vehicle access and a garage for the rear dwellings are located along the common boundary, with the dwellings having a setback of 3.65 metres to 6 metres from the common boundary.
- On-street parking on Kenilworth Street is *No Parking 8.30am-6.30pm Monday to Friday* on the southern side (site frontage) and unrestricted the northern side.
- Public transport is located in proximity to the site, with Reservoir Station located 500 metres to the south east. Buses are available on Spring and Edwardes Streets.

Proposal

- Construction of six (6) double storey dwellings and a single storey dwelling, with all dwellings having two (2) bedrooms each. Dwellings 1 to 6 are double storey and Dwelling 7 is single storey.
- Dwellings 1, 2, 5 and 6 are to have a similar level of accommodation, with the ground floor having a bedroom and single garage. Their first floor levels are each to have a bedroom, kitchen/meals/living area and west facing balconies of between 10 and 11 square metres.
- Dwellings 3 and 4 have a similar level of accommodation, with the ground floors having two (2) bedrooms and a single garage. Their first floor levels are each to have a kitchen/meals/living area and west facing balconies of 13 square metres.
- Dwelling 7 is to have two (2) bedrooms and kitchen/meals/living area, with a single garage.
- Vehicle access is via a common driveway and along the southern common boundary.
- A separate pedestrian walkway is provided to the dwellings entries to the east.
- The dwellings will have a contemporary design, with brick walls to the ground level, render and lightweight cladding to the first floor and skillion and hipped metal roofs.
- The proposal provides a maximum height of approximately 8.2 metres.

Number of objections

Six (6) objections received.

Objections summarised

- Too many units in the street
- Neighbourhood character
- Safety
- Overlooking
- Reduce daylight
- Loss of privacy
- Insufficient car parking
- Increased traffic
- Reduced setback
- Visual bulk
- Landscaping

- Noise
- Property devaluation
- Family area

Officer comment on summarised objectionsToo many units in the street

The consideration of a medium density development is based on its compliance with a set of criteria outlined in the Darebin Planning Scheme and not based on a subjective concern of 'too many units'. In fact, the Victorian State Government has a clear policy on urban consolidation which is heavily dependent on medium density housing development.

Neighbourhood character

The neighbourhood character assessment below indicates that the design of proposal does not appropriately respond to the site context.

Safety

The application does not raise any issues relating to safety.

Overlooking

There are overlooking opportunities from selected balconies. This could be address via conditions on any permit that may issue.

Reduce daylight

The level daylight to adjacent windows accords with the planning scheme.

Insufficient car parking

The development seeks a reduction of one (1) visitor car parking space. This is considered appropriate in the context of the site, with public transport located a relatively short distance from the site.

Increased traffic

It is acknowledged that the development will generate some additional vehicle movements on the local road network, however it is not considered that such additional movements would necessarily be concentrated or conflict substantially with existing traffic. Furthermore some residents may choose to walk or use public transport which is available within a short walking distance of the site.

Setback and Visual bulk

Building setback and visual bulk concerns are acknowledged. This issue is assessed within the body of the report.

Impact of landscaping

The majority of the proposed landscaping comprises shrubs and the like which are unlikely to cause damage to adjacent properties and infrastructure.

Noise from new units

The proposed use is residential and will have noise impacts consistent with those normal to a residential zone, unlike a commercial or an industrial use which would create noise impacts that are not normal to a residential zone. Speech, laughter, music etc. are noises associated with people living their lives and are all part of life in an urban area.

Devaluation of property

Fluctuations in property prices are a not relevant consideration in assessing medium density development under the provisions of the *Planning and Environment Act 1987*, or the Darebin Planning Scheme.

Family area

Respondents have formed the view that future residents of this building would disrupt the family and village feel of the area. This view runs against the principles of social inclusion, it is baseless and cannot be given consideration as part of the planning process.

PLANNING ASSESSMENT**Neighbourhood Character Precinct Guideline Assessment – Precinct E7**Existing Buildings

It is noteworthy that the site is not located in a Heritage Overlay, therefore the existing dwelling may be demolished without planning permission.

CompliesVegetation

The proposal provides no discernible increase in landscaping opportunities in comparison to the previous planning application. The narrow landscape strips adjacent the east and west boundaries remain unchanged. Additional landscaping is provided between bedroom 2 of dwellings 3 and 4 and the driveway, however it is located directly beneath overhung balconies located directly above and could only accommodate low lying shrubs etc, with no benefit in terms of reducing visible bulk for neighbouring properties.

VCAT made the following comments in relation to landscaping: *the extent of built form and hard surfaces throughout the site leaves too little space for the provision of a spacious garden setting surrounding the proposed dwellings which is a preferred character outcome. I accept Mr Thomson's evidence that there is adequate space in horticultural terms to provide mostly upright trees in narrow planting beds along both side boundaries, such as fastigiate ornamental pears and pencil pines. I also acknowledge that a wider space is proposed central to the driveway for two Kanooka trees. However, I consider that the overall landscape response to the side boundaries is not one that provides for a spacious garden setting integrated into the overall design.*

Does not complySiting

The front garden is large enough to accommodate a satisfactory landscape response.

As highlighted above the development does not provide adequate space for an acceptable landscape response, particularly adjacent the east and west boundaries.

Does not comply

Height and Building Form

The development provides a maximum two storey height, reduced from the partial three storey height contemplated under the previous application. While the height of the current design is acceptable, the attached form and proximity of the proposal to adjacent boundaries does not sufficiently respond to the characteristics of the site.

In relation to the previous application the Tribunal reached the view that the excessive visual mass and building bulk is exacerbated by the limited degree of recession between the ground and first floor footprint on the north and east sides and the lack of any gaps or breaks in the built form as is characteristic of other larger scale development such as No.s 27 and 29 Kenilworth Street.

The mass and volume of the building is not sufficiently mediated by an appropriate amount of space around both sides of the proposed development. For example, large portions of two-storey walls on the east side are setback about 2.2 metres.

The current design retains the attached form typology and double storey rear projection. While some additional setbacks are proposed from the east and west boundary, these setbacks are insufficient to offset the visual bulk arising from the attached upper level form.

Does not comply

Materials and Design Detail

In terms of design quality the Tribunal consider the earlier design comprising cantilevered balconies not to be *integrated part of the development, but rather would have the appearance of tacked on elements. Their projecting form, which extends in places to within 1.9m of the site boundary separated by 1.7m high screens, will emphasise their prominence when viewed in oblique views from the street.*

The overall composition of the building lacks visual cohesion with varied roof forms and pitches and an array of proposed materials and finishes that in relation to the east elevation is particularly 'busy'.

The extent of driveway paving (5.3 metres to 6.5 metres wide over a distance of about 36 metres) together with the continuous row of garage doors, limited space for landscaping and overhanging first floor/balcony elements the latter with concrete to their undersides would not in my view represent a high quality design outcome nor contribute to good levels of on-site amenity.

The current retains the large extent of driveway, cantilevered balconies within 1.9 metres of the west boundary and provide an array of roof forms including flat, hipped and single pitch forms.

Does not comply

Front Boundary Treatment

There is to be no front boundary fence, which allows views from the street to the front façade and is appropriate.

Complies**Clause 55 Assessment**Standard B1 - Neighbourhood Character:

This element has been considered above in the Neighbourhood Character Guidelines Assessment.

Does not complyStandard B2: Residential Policy

The proposal is accompanied by an acceptable written statement and design response. The proposal generally complies with the State Planning Policy Framework, the Local Planning Policy Framework including Council's Municipal Strategic Statement and local planning policies. However at a detailed level the proposal fails to address neighbourhood character resulting in a poor design response.

Does not complyStandard B4: Infrastructure

The development is to be located in an established area where there is adequate infrastructure. The proposal will not exceed the capacity of local infrastructure.

Council's Capital Works Unit has commented that drainage is available to the site subject to conditions.

Complies subject to conditionStandard B8: Site Coverage

The area covered by buildings should not exceed 60% of the site area. While the plans show a site coverage of 48.2%, this is based on the floor area of the ground level footprint only. It does not for example, include the cantilevered balconies and architectural features such as the entry canopies on the east side and on the north side of Dwelling 1. When accounting for these additional elements the site coverage is closer to 60%. While this standard suggests a maximum site coverage of 60%, the acceptability of this particular design response needs to be understood in the context of the front setback of approximately 9 metres resulting in a very concentrated extent of built form and building bulk throughout the balance the site.

Does not complyStandard B10: Energy Efficiency

The proposal is considered to be generally energy efficient due to the following:

- Attached construction.
- Cross ventilation is available in the design.

- The development does not unreasonably affect the solar access and energy efficiency of neighbouring dwellings.
- Space for outdoor clothes drying facilities.
- Shading devices to west facing balconies are required as a condition of any approval.

Complies subject to condition

Standard B13: Landscaping

The proposal provides no discernible increase in landscaping opportunities in comparison to the previous planning application. The narrow landscape strips adjacent the east and west boundaries remain unchanged. Additional landscaping is provided between bedroom 2 of dwellings 3 and 4 and the driveway, however it is located directly beneath overhung balconies located directly above and could only accommodate low lying shrubs etc, with no benefit in terms of reducing visible bulk for neighbouring properties.

VCAT made the following comments in relation to landscaping: *the extent of built form and hard surfaces throughout the site leaves too little space for the provision of a spacious garden setting surrounding the proposed dwellings which is a preferred character outcome. I accept Mr Thomson’s evidence that there is adequate space in horticultural terms to provide mostly upright trees in narrow planting beds along both side boundaries, such as fastigate ornamental pears and pencil pines. I also acknowledge that a wider space is proposed central to the driveway for two Kanooka trees. However, I consider that the overall landscape response to the side boundaries is not one that provides for a spacious garden setting integrated into the overall design.*

Does not comply

Standard B17: Side and Rear Setbacks

Ground floor

Boundary	Wall height	Required Setback	Proposed setback
Eastern – Dwelling 1	3.5 metres	1.0 metre	1.92 metres
Eastern – Dwelling 2	3.9 metres	1.09 metre	1.92 metres
Eastern – Dwelling 3	4.1 metres	1.15 metre	2.65 metres
Eastern – Dwelling 4	4.1 metres	1.15 metre	2.65 metres
Eastern – Dwelling 5	4.1 metres	1.15 metre	1.92 metres
Eastern – Dwelling 6	4.1 metres	1.15 metre	1.92 metres
Eastern – Dwelling 7	3.2 metres	1.0 metre	1.92 metres
Western – Dwelling 7	3.5 metres	1.0 metre	2.8 metres
Southern – Dwelling 7	3.5 metres	1.0 metre	1.0 metres

The first floor balconies of Dwellings 1-6 are cantilevered over the western ground floor façades and are setbacks are considered below.

First Floor

Boundary	Wall height	Required Setback	Proposed setback
Eastern – Dwelling 1	6 metres	1.72 metres	2.27 metres
Eastern – Dwelling 2	6.5 metres	1.87 metres	2.27 metres
Eastern – Dwelling 3	6 metres	1.72 metres	3.69 metres
Eastern – Dwelling 4	6 metres	1.72 metres	3.69 metres
Eastern – Dwelling 5	6.5 metres	1.87 metres	2.27 metres
Eastern – Dwelling 6	6.5 metres	1.87 metres	2.27 metres
Western – Dwelling 1	6.2 metres	1.78 metres	3.57 metres
Western – Dwelling 1 (Balcony screen)	4.5 metres	1.27 metres	1.9 metres
Western – Dwelling 2	7.4 metres	2.49 metres	4.75 metres
Western – Dwelling 2 (Balcony screen)	4.5 metres	1.27 metres	1.9 metres
Western – Dwelling 3	6.1 metres	1.75 metres	7.14 metres
Western – Dwelling 3 (Balcony screen)	4.4 metres	1.4 metres	4.75 metres
Western – Dwelling 4	6 metres	1.72 metres	714 metres
Western – Dwelling 4 (Balcony screen)	4.9 metres	1.39 metres	4.75 metres
Western – Dwelling 5	7.3 metres	2.39 metres	4.75 metres
Western – Dwelling 5 (Balcony screen)	5.1 metres	1.45 metres	1.9 metres
Western – Dwelling 6	7.3 metres	2.39 metres	4.75 metres
Western – Dwelling 6 (Balcony screen)	5.1 metres	1.45 metres	1.9 metres

The table demonstrates that the proposal achieves the prescriptive element of Standard B17. However complying with the techniques for the setback of walls from side and rear boundaries, does not in this case negate the visual impact of an attached two (2) storey form projecting a substantial distance into the site. It is considered that the height, proximity and attached design of these dwellings fail to respond to the features of the site and surrounding area. This is one of the objectives of the Neighbourhood Character requirements contained in Clause 55. Those features include the setbacks of adjacent buildings from side and rear boundaries and the private open space areas at the rear of properties, particularly to the east.

Further the proposal does not appropriately respond to the key issues raised at paragraph 72 of the VCAT Order. VCAT raised issues including the attached form, minimal setbacks, limited landscaping opportunities and projecting balconies.

The current design in terms of its side facing reverse living typology is not a significant departure from the previous planning application considered by VCAT. The latest plans have removed one dwelling and the third storey element from the plans considered by VCAT. However the ground and first floor footprint and setbacks remain very similar.

The key changes include increased east and west boundary setbacks at the first floor level for the central dwellings (Dwellings 3 and 4). This provides some visual relief however when read in the context of the overall mass and scale of the proposal these changes do little to reduce the perception of bulk. The balconies remain as close as 1.9 metres from the west boundary and the larger portion of the east elevation remains setback 2.2 metres at first floor level; which were key criticisms identified by the Tribunal.

The narrow landscape strips adjacent the east and west boundaries remain unchanged. Additional landscaping is provided between bedroom 2 of Dwellings 3 and 4 and the driveway, however it is located directly beneath overhung balconies located directly above and could only accommodate low lying shrubs etc, with no benefit in terms of reducing visible bulk for neighbouring properties.

While the area is subject to change in line with the policies contained within the Planning Scheme, the degree of change proposed in this instance is considered excessive and an overdevelopment.

Does not comply

Standard B21: Overshadowing

Overshadowing of adjoining open space meets the standard and objective.

Overshadowing of neighbouring properties to the south, east and west by the proposed dwellings is minimal, with at least 40 square metres of neighbouring dwellings' secluded private open space with a minimum dimension of 3.0 metres, or 75% (whichever is the lesser) receiving a minimum of five (5) hours sunlight between 9am and 3pm on 22 September.

Complies

Standard B22: Overlooking

The ground floor level provides finished floor levels less than 0.8m above natural ground level at the boundary. Existing 1.9 metre high boundary fences on the east boundary to sufficiently limit overlooking.

The development is designed to limit views into neighbouring secluded private open space and habitable room windows to the east, with 1,700mm sills.

To the west, the balconies of Dwellings 3-6 have appropriate screening to limit unreasonable views to adjacent habitable room windows and private open space within 9 metres and a 45 degree angle.

However, the balconies of Dwellings 1 and 2 will have views to the habitable room windows of the adjacent dwellings and must be screened.

Complies subject to condition

Standard B24: Noise Impacts

Similar to the viewed formed by VCAT the siting of master bedrooms to four of the seven dwellings at ground level within about 0.5m of the common walkway to dwelling entries gives rise to potential acoustic amenity and privacy issues, particularly at night.

Does not comply

Standard B28: Private Open Space

The development provides adequate private open space (pos) for the reasonable recreation and service needs of residents.

This is achieved through the provision of 40 square metres of secluded private open space at the side or rear of the dwelling with a minimum area of 25 square metres, a minimum dimension of 3 metres and convenient access from a living room or through the provision of 11 square metre balcony with a minimum width of 1.7 metres and convenient access from a living room.

	Total POS	Secluded POS	Minimum dimension of secluded POS
Dwelling 1	11.0 square metres (balcony)		1.85 metres
Dwelling 2	10.0 square metres (balcony)		1.7 metres
Dwelling 3	13.0 square metres (balcony)		2.39 metres
Dwelling 4	13.0 square metres (balcony)		2.39 metres
Dwelling 5	11.0 square metres (balcony)		1.6 metres
Dwelling 6	11.0 square metres (balcony)		1.8 metres
Dwelling 7	48 square metres	32 square metres	4.61 metres

All secluded private open space areas have direct access to a living room.

Complies

Standard B30: Storage

Adequate storage facilities are provided for the dwellings. This is provided in the form of 6 cubic metres of externally accessible secure storage. However, the storage for Dwellings 1 to 6 is in the garages and the internal clearances lengths of the garages for Dwellings 1, 3 and 4 must be confirmed to be a minimum of 6 metres.

Complies subject to condition

Standard B31: Design Detail

The design detail of the development does not respect the existing or preferred neighbourhood character. The front facade is inadequately articulated and recessed. It will present significant visual bulk to the street and neighbouring properties and is not considered to be an adequate design response. As highlighted by the Tribunal the design lacks cohesion as a result of the varied roof forms and projecting balconies. Overall the design composition is not a significant departure from the scheme which was refused by the Tribunal.

Does not comply**Clause 52.06 Car Parking**Number of Parking Spaces Required

One (1) car parking space is provided for each of the two (2) bedroom dwellings.

The proposal requires one (1) visitor parking space and no visitor parking is provided. Although the applicant has not provided a Car Parking Demand assessment, on consideration of the decision guidelines contained within Clause 52.06-6 of the Planning Scheme, the proposed car parking waiver is considered satisfactory in this instance, noting that visitor parking demands associated with the development will typically peak during weekday evenings and during the afternoon to evening period on weekends, with very small demands anticipated during the day on weekdays. Any visitor parking demands generated by the proposal (up to one (1) space) is able to be readily accommodated within the nearby on-street parking areas and would not be considered to result in an unreasonable adverse impact upon the amenity of the surrounding residential area.

Design Standards for Car parking

The car parking spaces, the carports, the garaging and the accessways have appropriate dimension to enable efficient use and management.

The car parking facilities are designed, surfaced and graded to reduce run-off and allow stormwater to drain into the site.

The garage dimensions appear to be 6.0 metres length x 3.5 metres width to comply with the minimum requirements of the standard. However, the storage for Dwellings 1 to 6 is in the garages and the internal clearances lengths of the garages for Dwellings 1, 3 and 4 must be confirmed to be a minimum of 6 metres.

Cars appear to be able to exit the site in a forward direction. Access dimensions to the car spaces appear to comply with the standard; however, they are constrained by landscape areas. Therefore, further swept path diagrams are required by condition.

Visibility splays are required at the accessway interface with the footpath to protect pedestrians. This can be requested via conditions.

A minimum of 2.1 metres headroom has been provided beneath overhead obstructions.

Conclusion:

The tribunal concluded that *some scaling back of this proposal is warranted, which may entail a reduction in the number and size of dwellings, a greater degree of recession to upper levels and the introduction of gaps in the built form to break up the continuous form of the development. A more considered response in terms of design quality, the provision of more space around both sides of the development and better attention to internal and on-site amenity is also necessary. In doing so, I do not think that a proposal for perhaps six or seven dwellings on this site in this location would represent an underdevelopment.*

The current application comprising predominantly a side facing reverse living typology (except dwelling 7) is not a significant departure from the previous planning application considered by the Tribunal. Critically the proposal does not respond to the key issues raised at paragraph 72 of the VCAT Order. The Tribunal raised concerns with the attached form, minimal setbacks, limited landscaping opportunities, projecting balconies, ground level bedrooms and associated privacy issues and the extent of the driveway.

These aspects of the current proposal are either unchanged or provide little variation from the previous application. For these reasons the application is recommended to be refused planning permission.

CLAUSE 55 COMPLIANCE SUMMARY

Clause	Std		Compliance	
			Std	Obj
55.02-1	B1	Neighbourhood character		
		Please see assessment in the body of this report.	N	N
55.02-2	B2	Residential policy		
		Please see assessment in the body of this report.	N	N
55.02-3	B3	Dwelling diversity		
		N/A as development contains less than 10 dwellings.	N/A	N/A
55.02-4	B4	Infrastructure		
		Adequate infrastructure exists to support new development.	Y	Y
55.02-5	B5	Integration with the street		
		Dwelling 1 appropriately integrates with the Street.	Y	Y
55.03-1	B6	Street setback		
		The required setback is 8.95 metres. Dwelling 1 is setback 8.95 metres from the street frontage.	Y	Y
55.03-2	B7	Building height		
		8.2 metres.	Y	Y
55.03-3	B8	Site coverage		
		Please see assessment in the body of this report.	Y	N
55.03-4	B9	Permeability		
		28.1%	Y	Y

Clause	Std		Compliance	
55.03-5	B10	Energy efficiency		
		Dwellings are considered to be generally energy efficient and will not unreasonably impact adjoining properties.	Y	Y
55.03-6	B11	Open space		
		N/A as the site does not abut public open space. / The proposed development appropriately addresses the adjoining public open space area.	N/A	N/A
55.03-7	B12	Safety		
		The proposed development is secure and the creation of unsafe spaces has been avoided.	Y	Y
55.03-8	B13	Landscaping		
		Inadequate areas are provided for appropriate landscaping.	N	N
55.03-9	B14	Access		
		Access is sufficient and respects the character of the area.	Y	Y
55.03-10	B15	Parking location		
		Parking facilities are proximate to the dwellings they serve, the access is observable, habitable room windows are sufficiently set back from accessways.	Y	Y
55.04-1	B17	Side and rear setbacks		
		Please see assessment in the body of this report.	Y	N
55.04-2	B18	Walls on boundaries (north boundary)		
		Length: 4.6 metres. Height: 3.2 metres. Walls on boundaries comply with the requirements of this standard.	Y	Y
55.04-3	B19	Daylight to existing windows		
		Sufficient setbacks exist to allow adequate daylight.	Y	Y
55.04-4	B20	North-facing windows		
		Please see assessment in the body of this report.	Y	Y
55.04-5	B21	Overshadowing open space		
		Shadows cast by the development are within the parameters set out by the standard.	Y	Y
55.04-6	B22	Overlooking		
		Please see assessment in the body of this report.	N	N
55.04-7	B23	Internal views		
		There are no internal views.	Y	Y

Clause	Std		Compliance	
55.04-8	B24	Noise impacts		
		Please see assessment in the body of this report.	N	N
55.05-1	B25	Accessibility		
		The ground level of the proposal can be made accessible for people with limited mobility.	Y	Y
55.05-2	B26	Dwelling entry		
		Entries to the dwellings are identifiable and provide an adequate area for transition.	Y	Y
55.05-3	B27	Daylight to new windows		
		Please see assessment in the body of this report.	N	N
55.05-4	B28	Private open space		
		Please see assessment in the body of this report.	Y	Y
55.05-5	B29	Solar access to open space		
		Sufficient depth is provided for adequate solar access.	Y	Y
55.05-6	B30	Storage		
		Please see assessment in the body of this report.	Y	N
55.06-1	B31	Design detail		
		Please see assessment in the body of this report.	N	N
55.06-2	B32	Front fences		
		No front fence is proposed which is acceptable.	Y	Y
55.06-3	B33	Common property		
		Common property areas are appropriate and manageable.	Y	Y
55.06-4	B34	Site services		
		Sufficient areas for site services are provided.	Y	Y

REFERRAL SUMMARY

Department/Authority	Response
Capital Works	No objection, subject to condition.
Transport Management and Planning	No objection, subject to conditions.
ESD officer	No objection, subject to conditions.

PLANNING SCHEME SUMMARY

Darebin Planning Scheme clauses under which a permit is required

- Clause 32.08 (General Residential 2 Zone) – construction of two or more dwellings
- Clause 52.06 (Car parking) – reduction to the visitor car parking requirement.

Section of Scheme	Relevant Clauses
SPPF	11.02-1, 15.01-1, 15.01-5, 15.02, 16.01, 19.03-1
LPPF	21.05-1, 21.05-2, 21.05-3, 22.04
Zone	32.01
Overlay	45.06
Particular provisions	52.06, 55
General provisions	65.01
Neighbourhood Character Precinct	E7

POLICY IMPLICATIONS

Environmental Sustainability

All new dwellings are required to achieve a minimum six (6) star energy rating under the relevant building controls.

Social Inclusion and Diversity

Nil

Other

Nil

FINANCIAL AND RESOURCE IMPLICATIONS

There are no financial or resource implications as a result of the determination of this application.

FUTURE ACTIONS

Nil

DISCLOSURE OF INTERESTS

Section 80C of the *Local Government Act 1989* requires members of Council staff and persons engaged under contract to provide advice to Council to disclose any direct or indirect interest in a matter to which the advice relates.

The Manager authorising this report, having made enquiries with relevant members of staff, reports that no disclosable interests have been raised in relation to this report.

RELATED DOCUMENTS

Darebin Planning Scheme.

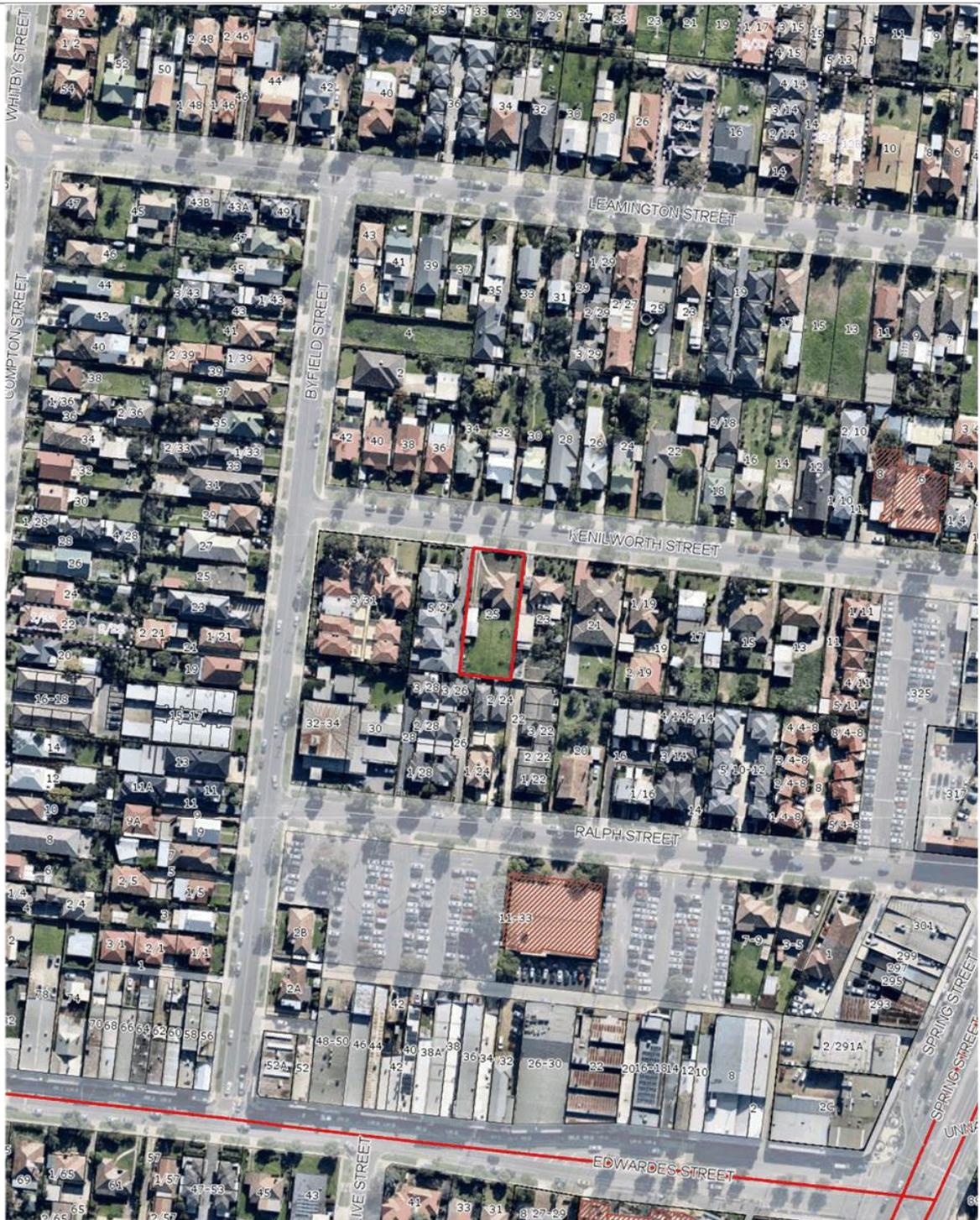
Attachments

- Aerial (**Appendix A**)
- Plans (**Appendix B**)

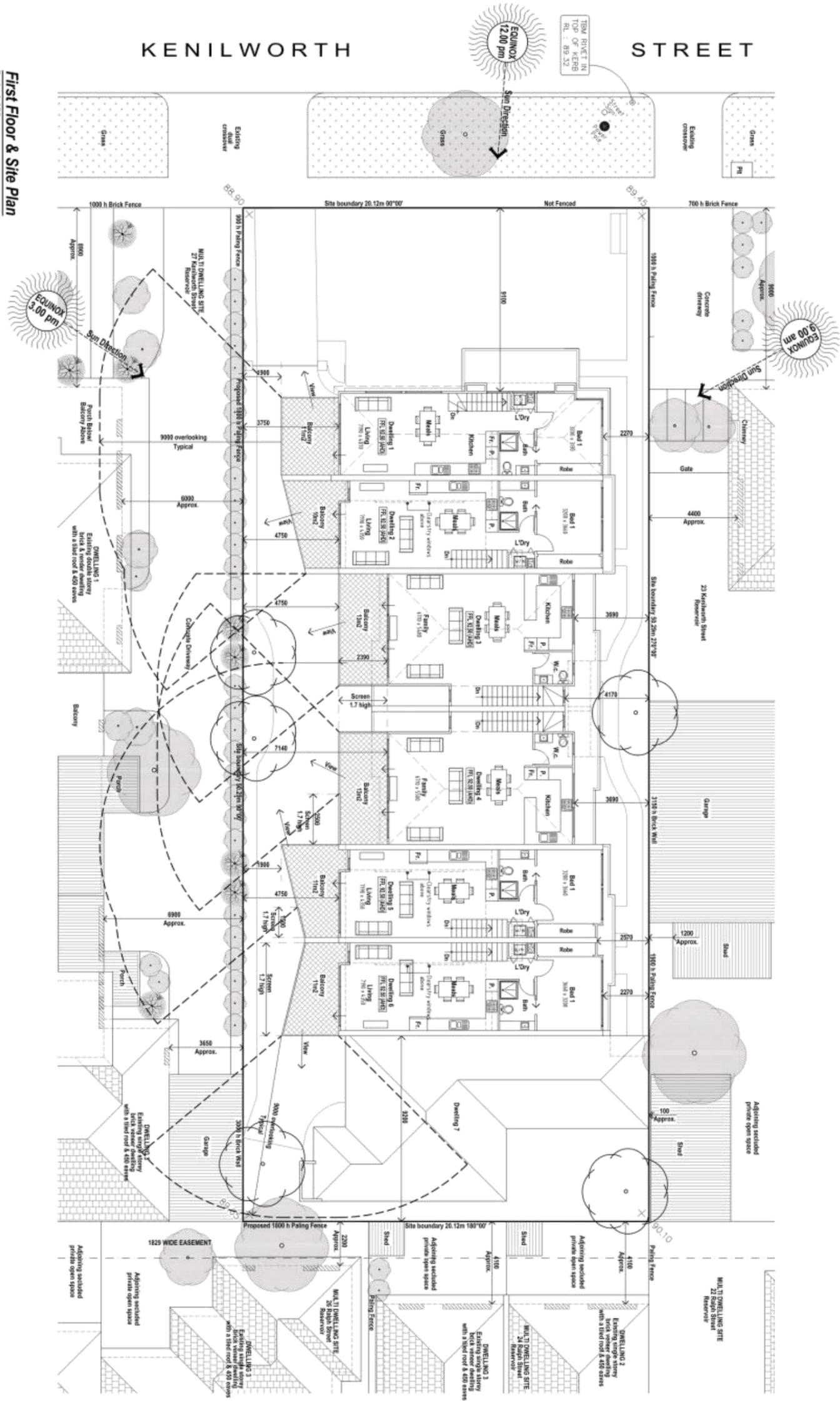
Darebin City Council
23/05/2017



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First Floor & Site Plan
Scale 1:100



Project
Multi-Dwelling Development

Client
RMP Home Builders Pty Ltd

Rev.	Date	Description	Initial
A	04.10.16	Council Queries	P.S.

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Date 04.02.2016
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Drawing
First Floor & Site Plan
Address
At 25 Kenilworth Street, Reservoir
Ref No. 16-1324
Sheet No. TP2

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Project
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Drawing
Elevations
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At 25 Kenilworth Street, Reservoir
Ref No. 16-1324 Sheet No. TP3

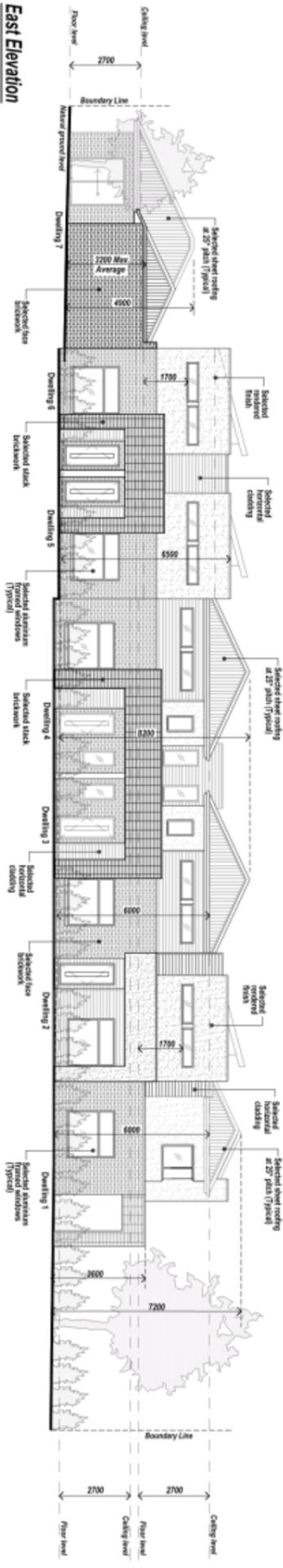
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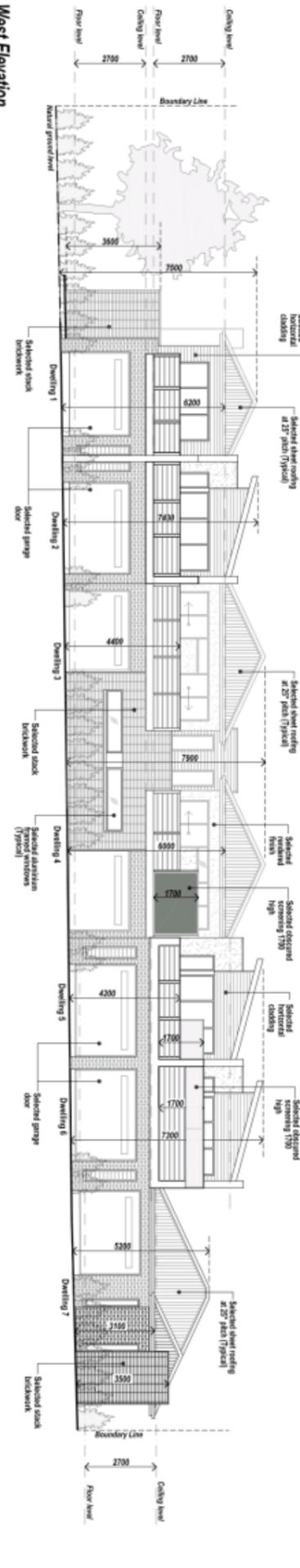
Streetscape Elevation - View From Kenilworth Street
Scale 1:100



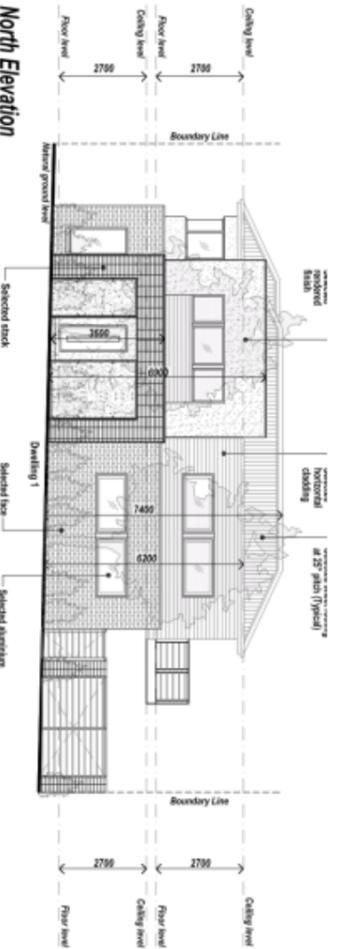
East Elevation
Scale 1:100



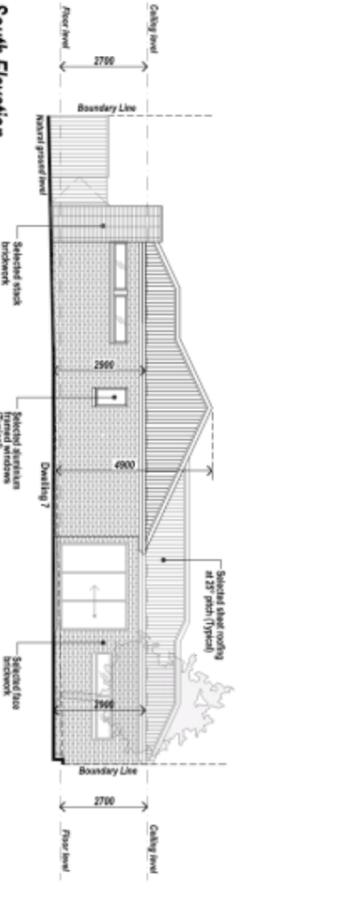
West Elevation
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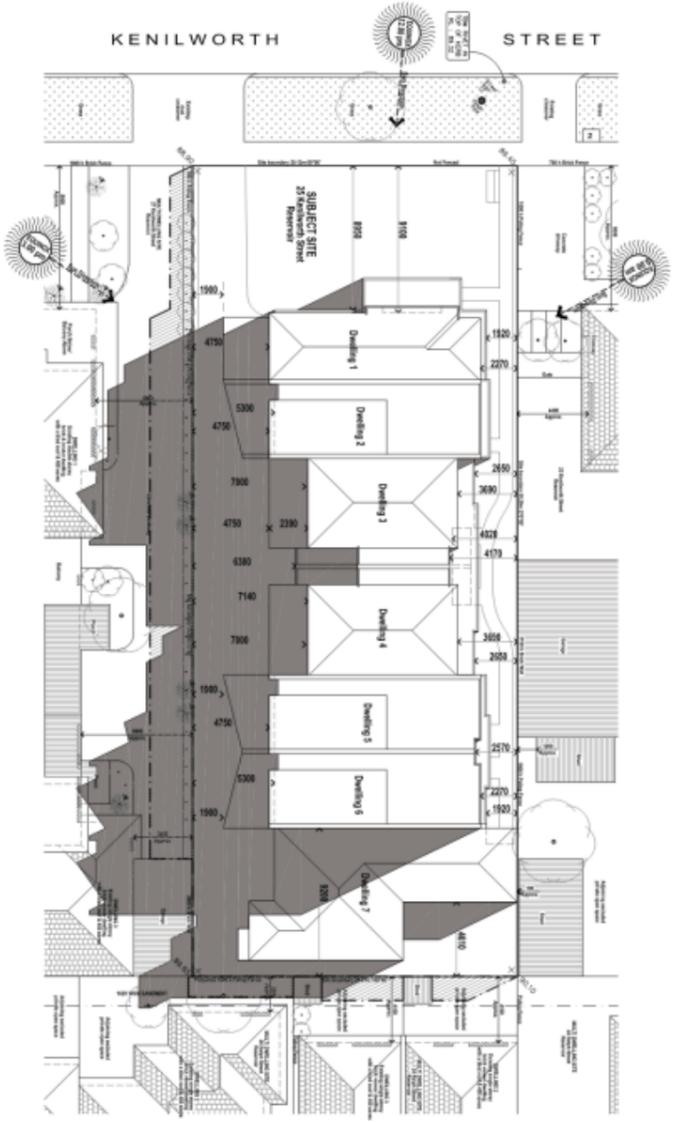


North Elevation
Scale 1:100

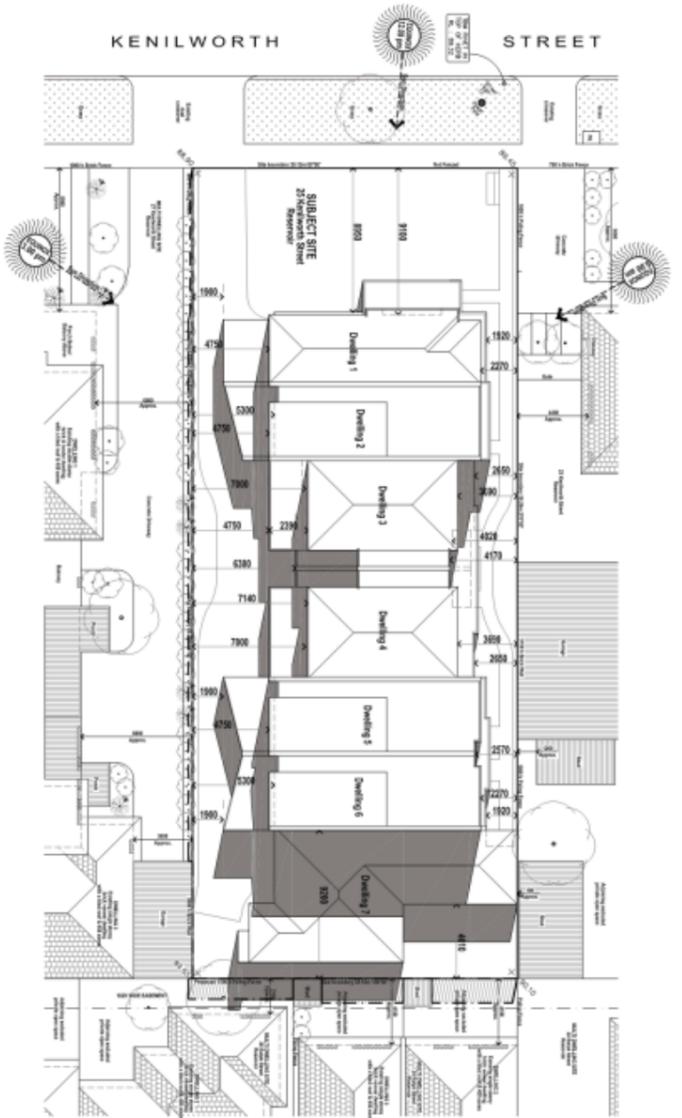


South Elevation
Scale 1:100

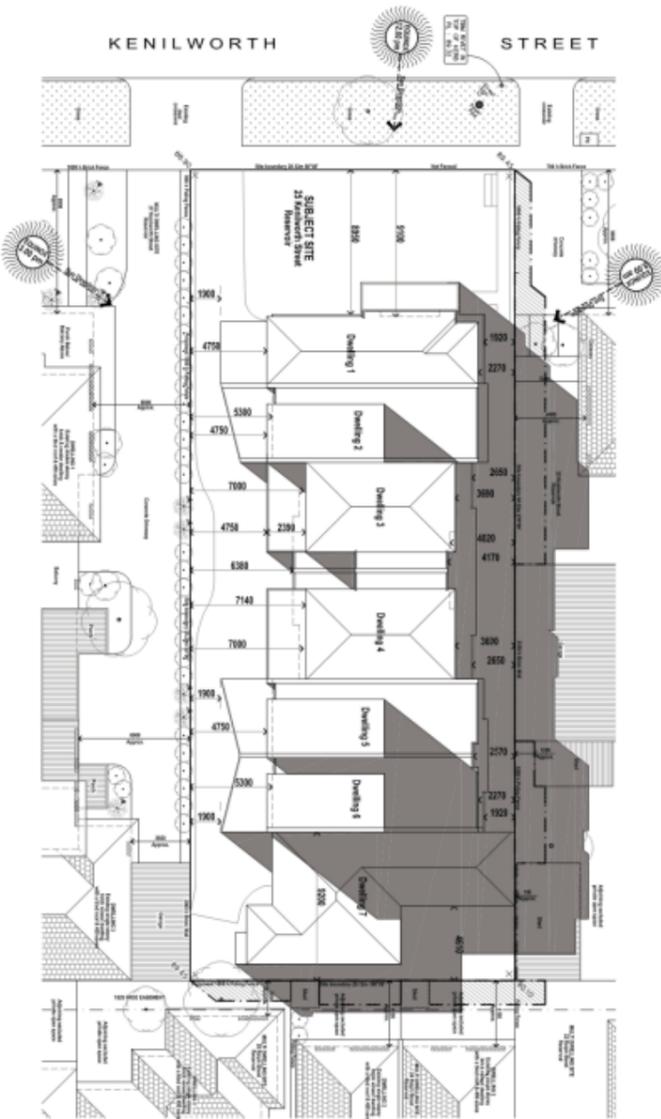




Shadow Diagram - 9:00 am
 Scale 1:200
 SEPTEMBER 22 (EQUINOX)
 DENOTES THE AREA OF SHADOW CAST BY THE EXISTING PALING FENCE ALONG THE SOUTHERN & WESTERN BOUNDARY LINES.



Shadow Diagram - 12:00 pm
 Scale 1:200
 SEPTEMBER 22 (EQUINOX)
 DENOTES THE AREA OF SHADOW CAST BY THE EXISTING PALING FENCE ALONG THE SOUTHERN & WESTERN BOUNDARY LINES.



Shadow Diagram - 3:00 pm
 Scale 1:200
 SEPTEMBER 22 (EQUINOX)
 DENOTES THE AREA OF SHADOW CAST BY THE EXISTING PALING FENCE ALONG THE SOUTHERN & EASTERN BOUNDARY LINES.



Project
 Multi-Dwelling Development

Client
 RMP Home Builders Pty Ltd

Rev.	Date	Description	Initial
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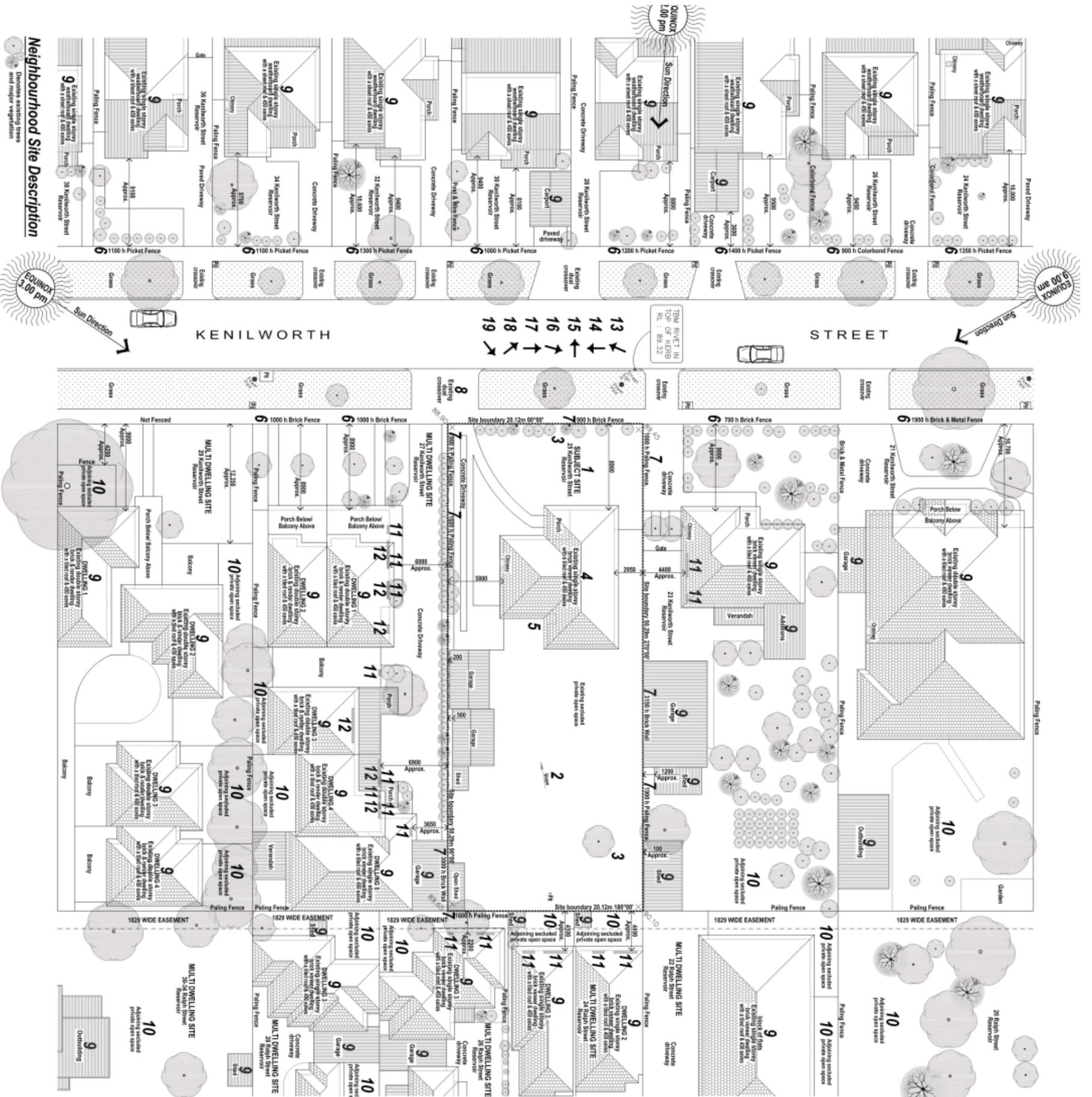


Scale 1:200
Checked S.A.
Date 04/02/2016
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Drawing
 Shadow Diagrams
Address
 At 25 Kenilworth Street, Reservoir
Ref No. 16-1324 **Sheet No.** SH1

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Neighbourhood Site Description
 Dwellings existing trees and major vegetation

Analysis

- 1 The Subject Site has a north - south orientation, from the front to the rear. Best access to direct sunlight is from the north and from the side boundaries of the property.
- 2 The Subject Site is basically flat with an insignificant fall from the rear to the front.
- 3 The site contains a few trees & shrubs which have minimal significance. The proposed design will incorporate trees with the capacity for new trees with spreading crowns.
- 4 The existing dwelling on the Subject Site is in an average condition and is proposed to be removed.
- 5 The site has access to all services: (Sewer water, electricity, gas & telephony).
- 6 Surrounding properties have mixed types of front & rear fencing styles: Picket, brick, brick & metal, colorbond and paling fence. Heights vary from 700mm (approx.) to 1900mm (approx.).
- 7 An existing 1900mm high paling fence located on the east boundary that reduces to a 1000mm high towards the front of the property. In the middle of the east boundary is a 3150mm high brick wall. The south boundary has a 1600mm high paling fence. Along the west boundary is a 1600mm high paling fence that reduces to 900mm high towards the front of the property. At the rear of the west boundary is a 3000mm high brick wall. On the north boundary (front of site) is a 900mm high brick fence.
- 8 Access to the site is currently from an existing crossover in the north west corner of the site.
- 9 Dwellings surrounding the Subject Site, consist of single and double storey brick veneer and weatherboard. Adjoining secluded open spaces contain single storey outbuildings, (bath, workshop & brick).
- 10 Adjoining Secluded private open space of surrounding properties.
- 11 Possible habitable room windows facing the subject site within 9 metres.
- 12 Possible habitable room windows facing the subject site within 9 metres, at the first floor level.
- 13 Edgars Creek Wetlands, 900 metres.
- 14 Moore Park, 800 metres.
- 15 Reservoir Primary School, 250 metres.
- 16 Reservoir High School, 2 kms.
- 17 Supermarket and Shopping strip located on Spring Street, 200 metres.
- 18 Bus service located on Leamington Street, 250 metres.
- 19 Reservoir train station, 300 metres.

The Neighbourhood Site Description is produced in accordance with our on site assessment & scaled Aerial Photographs. Due to circumstances regarding insurance of privacy issues, we endeavor to respect neighbors privacy as much as is possible, to their cooperation. Therefore all dimensions is based on approximation, estimation & in some cases, assumption. **Beyond Design Group Pty. Ltd.**

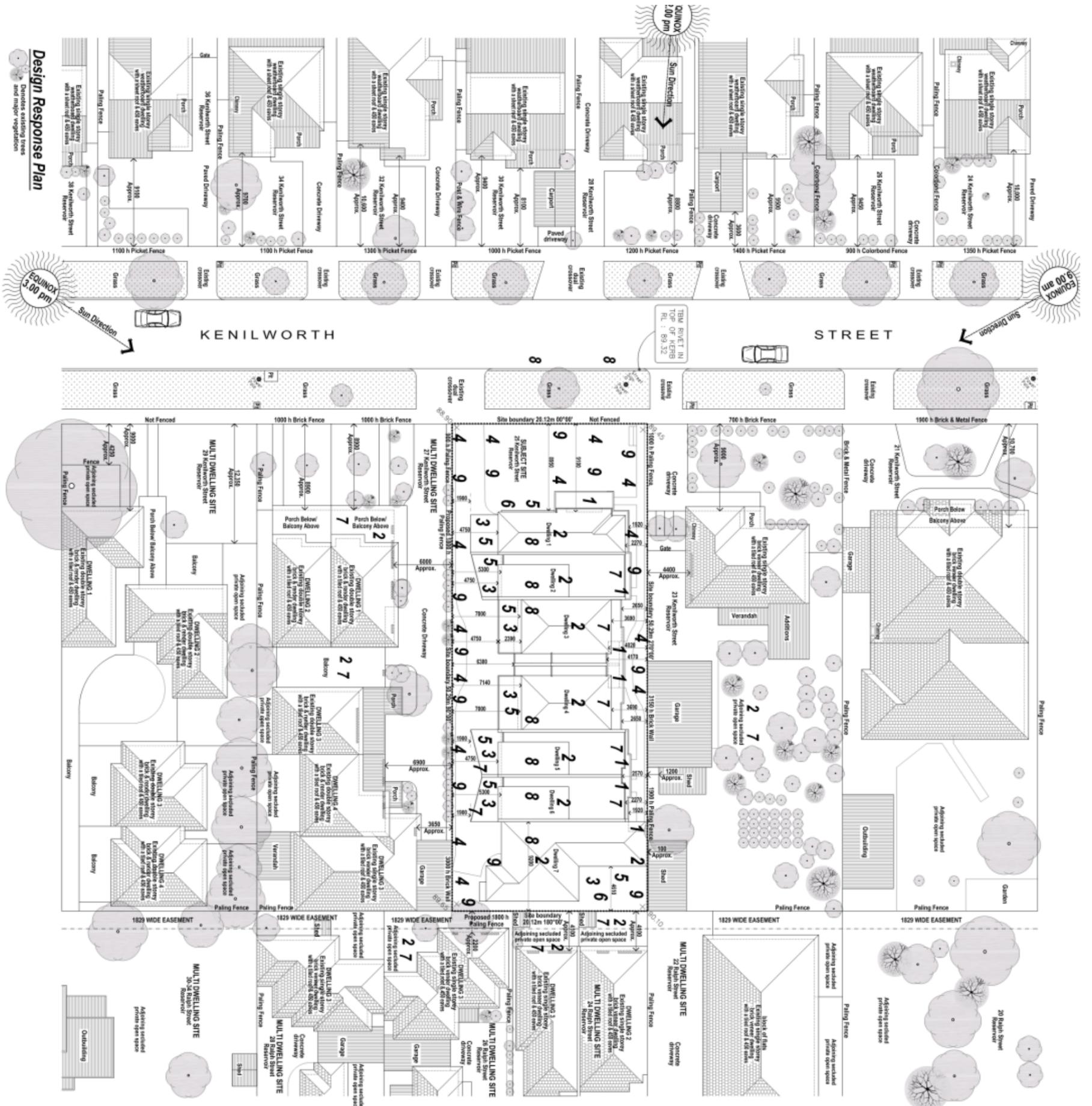
Drawing
 Neighbourhood Site Description & Analysis
 Proposed Multi Dwelling Development
 At 25 Kenilworth Street, Reservoir

Client RHP Home Builders Pty Ltd

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Sheet No. SD1

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Design Response Plan

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Sheet No.: DR1

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- Design Response**
- The proposed development has responded to the site context in the following ways:
- 1 The proposed dwellings have a clear sense of identity. A sheltered area and transitional space is provided around the entry point of all of the proposed dwellings, which will provide secure access.
 - 2 Proposed double storey construction at the front of the site with single storey construction behind provides for an elevational treatment that is articulated and more pleasant to view from adjoining secluded private open spaces and upon entry to the site. Only a small component of walls are proposed on the boundary, which helps maintain existing views from adjoining secluded private open spaces.
 - 3 The private open space areas have been positioned to minimise any adverse impact on adjoining properties with respect to access to natural light and overlooking.
 - 4 On site infiltration has been maximised through the introduction of landscaped areas and stormwater run-off will be directed into garden areas to reduce watering and the demand on drainage infrastructure.
 - 5 The principal open space areas of each dwelling will be accessed directly from main living areas. Secluded open space areas within the development will achieve total privacy.
 - 6 The varied dimensions (a minimum of 1.8m and a maximum of 4.46m) of secluded private open space areas proposed for the dwellings will allow for the planting of small canopy trees and screen vegetation and provide a reasonable recreation area for each of the dwellings.
 - 7 No direct overlooking will occur into surrounding properties given that all first floor habitable windows that overlook adjoining properties will have fixed obscured glazing or a sill height to 1700mm above the finished floor level. Proposed balconies will also have adequate screening to 1700mm high to prevent overlooking.
 - 8 The proposed dwellings will each be provided with a single garage. Sufficient visitor parking can be accommodated for in Kenilworth Street.
 - 9 Canopy vegetation and extensive landscaping is proposed throughout the site to enhance the appearance of the site and to soften hard surface areas.
- The Design Response has been prepared taking into account the opportunities and constraints of the subject site and the Standards of Res Code. The Design Response has been derived from the Neighbourhood Site Description ensuring that a coherent design outcome has been achieved.

**5.2 APPLICATION FOR PLANNING PERMIT D/707/2016
(1) 610 Gilbert Road, Reservoir**

Author: Urban Planner

Reviewed By: Director City Futures and Assets

Applicant	Owner	Consultant
Ikonomidis Reid	David Decata	Pro Town Planning Solutions

SUMMARY

- It is proposed to construct four double storey dwellings, one behind the other. Dwelling’s 1 and 4 utilise a standard design, with living areas and private open space provided at the ground floor. Dwelling’s 2 and 3 utilise a ‘reverse living’ design, with bedrooms provided at the ground floor, while living areas and private open space (in the form of balconies) is provided at the first floor. The maximum building height within the development is 7.396 metres.
- The site is zoned General Residential Zone - Schedule 2 and is affected by the Development Contributions Plan Overlay.
- There is no restrictive covenant on the Certificate of Title for the subject land.
- Ten objections were received against this application.
- The proposal fails to meet a number of objectives and standards of Clause 55 of the Darebin Planning Scheme.
- It is recommended that the application be refused.

CONSULTATION:

- Public notice was given via a sign posted on site and letters sent to adjoining owners and occupiers.
- This application was referred internally to Councils Capital Works, Parks, and Traffic Management and Planning units.
- This application was not required to be referred to any external referral authorities.

Recommendation

That Planning Permit Application D/707/2016 be refused and Notice of Refusal be issued on the following grounds:

- (1) The proposal fails to satisfy the objectives of Clause 22.02 (Neighbourhood Character) of the Darebin Planning Scheme and the design objective of the Darebin Neighbourhood Character Study and Precinct Guidelines 2007 in terms of visual bulk, lack of landscaping opportunities, siting, and height and building form.
- (2) The proposal does not satisfactorily comply with the standards and objectives of Clause 55 of the Darebin Planning Scheme, in particular:
 - a) Clause 55.02-1: Neighbourhood character – The proposal is inappropriate in terms of the visual bulk, lack of landscaping opportunities, siting, and height and building form.

- b) Clause 55.03-8: Landscaping – The extensive ground floor built form, particularly that associated with the reverse living arrangement proposed for Dwellings 2 and 3, will result in inadequate side setback areas for the provision of landscaping to sufficiently screen the development.
 - c) Clause 55.04-1: Side and rear setbacks - Inadequate side setbacks at the first floor will result in unacceptable visual bulk impacts to the neighbouring residential properties, given the extent of double storey form extending through the site.
 - d) Clause 55.04-6: Overlooking – The north and south orientation of habitable rooms windows and the first floor private open space for Dwellings 2 and 3, requires extensive screening. This will result in poor outlook and unacceptable amenity and usability outcomes for the dwellings.
 - e) Clause 55.05-4: Private Open Space – The extent of screening required for the balconies to Dwellings 2 and 3 will result in unacceptable amenity outcomes for these areas of private open space. The proposed siting of a portion of Dwelling 1's secluded private open space within the front setback will result in the partial privatization of the area and is not supported.
- (3) The proposal features double storey built form for the extent of the site and is an overdevelopment.
-

INTRODUCTION AND BACKGROUND

A search of Council's records indicates that Planning Permit D/833/2015 was issued on 20 April 2016 for a two lot subdivision. This planning permit approved a realignment of the boundaries between Lot 168 on LP7444, Certificate of Title Volume: 6957 Folio: 395 and Lot 1 on TP023520G, Certificate of Title Volume: 11539 Folio: 659 (which is encumbered by an Easement for drainage infrastructure in favour of Darebin City Council and also in favour of Yarra Valley Water Ltd for sewerage infrastructure), resulting in an increase of Lot 1 by 46m² with a total lot size of 669m².

ISSUES AND DISCUSSION

Subject site and surrounding area

- The land is regular in shape and measures 43.89 metres in length and 15.24 metres in width with a site area of 669 square metres. There is a fall of 1.66 metres from the north-east corner (rear) to the south-east corner (front) of the site.
- The land is located within the General Residential Zone – Schedule 2 and is covered by the Development Contributions Plan Overlay.
- The land is located on the eastern side of Gilbert Road, Reservoir, and is 15 metres south of the corner with Pershing Street.
- The land is currently developed with a single storey brick dwelling with a hipped roof. Secluded private open space is provided to the rear of the site and a small outbuilding sits adjacent to the southern boundary in this rear open space. Vehicle access is provided via a single crossover to Gilbert Road.
- To the east of the site is a lot developed with two single storey brick dwellings with hipped roofs. This lot shares a boundary with lots at 608, 610, and 612 Gilbert Road.
- To the west of the site, across Gilbert Road, is a 14 unit development (all single storey dwellings), with frontages to Knox Street, Bourke Street, and Gilbert Road.

- To the north of the site is a similarly dimensioned lot developed with a single storey brick dwelling with a hipped roof. The site to the north is located on the corner of Gilbert Road and Pershing Street and has access off Pershing Street via a single crossover to a rear outbuilding/garage. This site also features secluded private open space to the rear.
- To the south of the site is a similarly dimensioned lot developed with a single storey brick dwelling with a hipped roof. Vehicle access is provided via a single crossover to Gilbert Road. The site features secluded private open space to the rear and is also developed with various outbuildings. The site features a number of significant trees in the private open space area, a number of which adjoin the common boundary with the subject site.
- The western side of Gilbert Road in the immediate vicinity of the subject site (between the intersection with Beatty Street to the south and Bourke Street to the north) is affected by no-standing zones (due to the presence of bus zones). On-street parking is otherwise unrestricted in the areas immediately to the north, east, south, and west of the subject site.
- The subject site is located 385 metres north of the terminus for the route 11 tram and the Regent Street commercial precinct. Regent Station is approximately 930 metres south-east of the subject site. Crispe Park is approximately 440 metres north-east of the subject site.

Proposal

- Four double storey dwellings, one front Gilbert Road and three fronting the internal accessway.
- Dwelling 1, fronting Gilbert Road, is proposed to be a two bedroom dwelling with a standard design with the ground floor comprising an open plan Living/Meals/Kitchen area, a powder room, and laundry facilities. The first floor consists of two bedrooms, both featuring built in robes (BIR's), an open study area, and a bathroom. The dwelling has a single car garage and a 35.28 square metre area of secluded private open space, with convenient access from the living area, provided at the ground floor. 6 cubic metres of storage is provided in the secluded private open space area. Dwelling 1 is set back 9.0 metres from Gilbert Road, with a porch extending into this setback.
- Dwellings 2 and 3 are proposed to be two bedroom dwellings and utilise a 'reverse living' design. Both dwellings front the internal accessway. The ground floor of these dwellings comprise two bedrooms (both with BIR's), laundry facilities, a bathroom, and an external service yard area with 6 cubic metres of storage. The first floor of the dwelling's features open plan Living/Meals/Kitchen area, a powder room, and a balcony. The dwellings both have single car garages. The dwellings have private open space in the form of 9.36 square metre and 11.2 square metre balconies respectively.
- Dwelling 4 is proposed to be a two bedroom dwelling with a standard design with the ground floor comprising an Living/Meals/Kitchen area, a powder room, laundry facilities, and a bedroom (with BIR). The first floor consists of an open TV room area at the staircase landing, a bathroom, and a bedroom (with BIR). The dwelling has a single car garage and a 47.69 square metre area of secluded private open space, with convenient access from the living area, provided at the ground floor. 4 cubic metres of storage is provided in the secluded private open space area (6 cubic metres as required by Clause 55 can be accommodated).
- A shared internal accessway along the southern boundary is proposed for access to the garages of all four dwellings, with access via a proposed crossover. The existing crossover adjacent the northern boundary is proposed to be reinstated.

- A 457mm strip of landscaping is proposed to run adjacent the accessway on the southern boundary of the site. The front and rear setbacks of the site are capable of supporting landscaping to screen and soften the impact of the proposal to the street and adjoining lot to the east. The northern side setbacks of the proposal provide limited space to accommodate landscaping to screen the development at this shared boundary.

Objections

- Ten (10) objections have been received.

Objections summarised

- Oversupply of 1 and 2 bedroom dwellings and an undersupply of 3 or more bedroom/family housing.
- Study/TV rooms can be used as a third bedroom.
- Proposal reduces front setback.
- Proposal is contrary to the standards and objectives of Clause 55 of the Darebin Planning Scheme.
- Proposal does not meet best practice guidelines for housing outlined in the MSS of the Darebin Planning Scheme.
- Dwellings have poor internal amenity due to lack of windows and reverse living design (Dwellings 2 and 3).
- Dwellings are provided with insufficient private open space areas.
- Proximity of accessway to ground floor habitable rooms.
- Removal of significant trees and inadequate replacement planting.
- Insufficient landscaping proposed.
- Increased traffic congestion.
- Increased traffic safety risks for pedestrians – cars reversing from driveways.
- Increased traffic noise.
- The development is contrary to Clause 22.06 of the Darebin Planning Scheme.
- The proposal is inconsistent with Clauses 55.03-3 (Site Coverage), 55.03-4 (Permeability), 55.04-1 (Side and rear setbacks), 55.04-2 (Walls on boundaries), and Clause 55.05-6 (Storage) of the Darebin Planning Scheme.
- Car parking reduction is contrary to the requirements of Clause 52.06 of the Darebin Planning Scheme.
- The proposal does not respect existing or preferred neighbourhood character.
- Overdevelopment of the site.
- Proposal warrants review against the Darebin Planning Scheme by the Darebin Planning Committee.
- Visual bulk.
- Does not add net community value.
- Negative social effect on the community.
- Will not guarantee social or affordable housing.
- Overlooking.

- Proposal is not consistent with standards set in Darebin Planning Scheme amendments applicable to the area.

Officer comment on summarised objectionsOversupply of 1 and 2 bedroom dwellings and an undersupply of 3 or more bedroom/family housing

The development comprises four (4) two (2) bedroom dwellings. The objection refers to apartments which is not relevant to the proposed development. While the development does not provide larger three (3) or more bedroom accommodation it does add to the mix of housing types in the immediate area, which includes apartments and more recent three (3) bedroom dwellings.

Study/TV rooms can be used as a third bedroom

Access to Dwelling 1's two first floor bedrooms is provided through the designated study area. Access to Dwelling 4's first floor bedroom is provided through the TV room area, while the ground floor study area is insufficiently sized to be reasonably used as a bedroom. It is considered that these factors will sufficiently limit the opportunity to use the aforementioned spaces as third bedrooms.

Were the application being supported, a condition could be placed on the permit to require that the Dwelling 1 study area and Dwelling 4 TV room will not be used for the purposes of a bedroom.

Proposal reduces front setback

The proposal adheres to the requirements of Standard B6 at Clause 55.03-1 of the Darebin Planning Scheme. A front setback from Gilbert Road of 9 metres is required. The proposal incorporates a front setback of 9 metres, thus complying with the standard.

Proposal is contrary to the standards and objectives of Clause 55 of the Darebin Planning Scheme

A thorough planning assessment of the proposed development against the Darebin Planning Scheme has been undertaken. It is acknowledged that the proposed development is non-compliant with some objectives of Clause 55 of the Darebin Planning Scheme, these are detailed in the assessment below.

Proposal does not meet best practice guidelines for housing outlined in the MSS of the Darebin Planning Scheme

A thorough planning assessment of the proposed development against the Darebin Planning Scheme has been undertaken. The proposal is considered to be generally consistent with the objectives, strategies and policy guidelines detailed within the Municipal Strategic Statement contained within the Darebin Planning Scheme.

Dwellings have poor internal amenity due to lack of windows and reverse living design (Dwellings 2 and 3)

It is acknowledged that the reverse living arrangement proposed for Dwellings 2 and 3 may result in poor internal amenity outcomes for those dwellings. This is due to the requirement for screening to be provided for the full extent of all first floor north and south facing habitable room windows/balconies.

With regard to Dwellings 1 and 4, windows are provided to all habitable rooms and are appropriately dimensioned to allow for adequate solar access and sufficient internal amenity to these dwellings.

Dwellings are provided with insufficient private open space areas

Dwellings 1 and 4 are provided with sufficient private open space areas of 110.56 square metres (with one part of this private open space consisting of 35.28 square metres of secluded private open space with a minimum dimension of 3 metres and convenient access from a living room) and 53.44 square metres (with one part of this private open space consisting of 47.69 square metres of secluded private open space with a minimum dimension of 3 metres and convenient access from a living room) respectively. The private open space provisions for Dwellings 1 and 4 are thus compliant with the requirements of Standard B28 at Clause 55.05-4 of the Darebin Planning Scheme.

Dwellings 2 and 3 utilise a reverse living design and provide private open space in the form of first floor balconies. The balconies proposed for Dwelling 2 and 3, at 9.36 square metres and 11.14 square metres respectively, comply with the numerical area requirements of the standard. Despite this, it is acknowledged that the useability and amenity of these balconies is poor, given the requirement to screen the full extent of their northern and eastern perimeters to 1.7 metres in order to address overlooking concerns to neighbouring properties.

Proximity of accessway to ground floor habitable rooms

The ground floor habitable room windows fronting the accessway are set back 1.0 metres from the accessway and have window sills heights more than 1.4 metres above the accessway, which complies with the requirements of standard B15 at Clause 55.03-10 of the Darebin Planning Scheme.

Removal of significant trees and inadequate replacement planting

As the site is not covered by a Vegetation Protection Overlay or Heritage Overlay protection of trees on privately owned sites is limited. The application was referred to Council's Parks Department, with tree protection measures outlined for the subject site. Were the application being supported, a landscape plan could be required as a condition on any permit that may be issued for the proposal.

Insufficient landscaping proposed

A landscape plan can be required as a condition on any planning permit issued for the proposal, should it be supported.

It is acknowledged that the ground floor service yard areas proposed for Dwellings 2 and 3 are not adequately dimensioned to incorporate sufficient landscaping and vegetation opportunities in order to screen this interface with the neighbouring dwelling to the north.

Increased traffic congestion

It is considered that the proposal will not generate significant traffic congestion. The local road network and site context has capacity to accommodate the additional vehicle movements associated with the development. The application was referred to Council's Transport Management and Planning Unit and no objection was received.

Increased traffic safety risks for pedestrians – cars reversing from driveways

The proposal incorporates pedestrian visibility splays at the interface between the footpath and the crossover to the development site from Gilbert Road. These pedestrian visibility splays will provide adequate protection for pedestrians from cars utilising the crossover. The application was referred to Council's Transport Management and Planning Unit and no objection was received.

Increased traffic noise

The traffic noise levels generated by potential residents of the development will not be significantly above that of the surrounding area. Occupants of this type of development are no more or less likely to generate excessive vehicle noise than the occupiers of the surrounding dwellings.

The development is contrary to Clause 22.06 of the Darebin Planning Scheme

The application does not trigger assessment against Clause 22.06 of the Darebin Planning Scheme, as the proposal is not for a multi-dwelling apartment development or a mixed-use development which includes a residential use.

The proposal is inconsistent with Clauses 55.03-3 (Site Coverage), 55.03-4 (Permeability), 55.04-1 (Side and rear setbacks), 55.04-2 (Walls on boundaries), and Clause 55.05-6 (Storage) of the Darebin Planning Scheme

A thorough planning assessment has been undertaken and revealed that the proposed development is generally in accordance with the requirements and direction of the Darebin Planning Scheme. The State Planning Policy Frameworks, Local Planning Policy Frameworks and Municipal Strategic Statement along with the requirements of Clause 55 of the Darebin Planning Scheme have all been considered and are addressed within the assessment section of this report.

Car parking reduction is contrary to the requirements of Clause 52.06 of the Darebin Planning Scheme

There is no proposed waiver for car parking as part of this proposal. One (1) car space is provided for each two (2) bedroom dwelling in accordance with the requirements of Clause 52.06 of the Darebin Planning Scheme.

The proposal does not respect existing or preferred neighbourhood character

See neighbourhood character assessment below.

Overdevelopment of the site

Plan Melbourne sets targets for established areas of Melbourne to absorb a high proportion of Melbourne's expected growth. State and Local Planning Policy envisage an increase in housing density in well serviced areas such as this. While any increase in population density will likely increase the level of activity around the site and area, it is not envisioned that such an increase would be detrimental or substantially more intensive than what is currently experienced.

It is acknowledged that development proposes double storey form throughout the entirety of the site. Furthermore, the reverse living design proposed for Dwellings 2 and 3 maximises site coverage and allows for a limited provision of open space at the ground floor of these dwellings to accommodate landscaping.

This combination of visual bulk and a lack of landscaping to screen built form, particularly for Dwellings 2 and 3, is considered to be an overdevelopment of the mid-site area.

Proposal warrants review against the Darebin Planning Scheme by the Darebin Planning Committee

The application will be reviewed by Darebin's Planning Committee as a result of the number of objections and proximity of the objectors to the subject site.

Visual bulk

The proposed dwellings within the development are double storey and incorporate compliant side and rear setbacks in excess of the minimum required Standard B17 at Clause 55.04-1 of the Darebin Planning Scheme.

It is acknowledged that the extent of double storey form through the site (particularly the balconies for Dwellings 2 and 3), combined with the limited provision of open space at the ground floor of these dwellings to accommodate landscaping, will result in a double storey form that is not sufficiently screened and will be visually dominant in the area immediately adjacent to the neighbouring dwelling to the north's private open space area.

Does not add net community value/Negative social effect on the community

This ground is unsubstantiated. There have been no demonstrated dis-benefits associated with the development. The proposal provides dwellings resulting in community benefit. This ground is clearly contrary to the objectives of planning in Victoria.

In *Backman and Company Pty Ltd v Boroondara City Council* the following was noted:

33. *As I have highlighted, parties seeking to rely on Sections 60(1B) and 84(2)(jb) of the Planning and Environment Act face a significant task in order to substantiate a significant social effect in relation to a housing proposal on residentially zoned land. That significant task extends much further than just garnering a significant level of opposition to a proposed development. Firstly, parties alleging a significant social effect have to ascertain what the actual significant social effect is, in the framework of a zoning regime where one does not need a permit to use residentially zoned land for residential purposes. The mere identification of significant community opposition to a proposal is not a significant social effect of itself. Secondly, the significant social effect will need to be sufficiently documented with evidentiary material to demonstrate the likelihood, probability and severity of the social effect. The identification of a social effect is not sufficient, as it also needs to be demonstrated that the social effect will be significant. Thirdly, as identified in the Rutherford decision, it will need to be demonstrated that any significant social effect outweighs any social benefits that might result from a balanced assessment of a development proposal.*

Will not guarantee social or affordable housing

A general principle established in *Green v Hobsons Bay CC (Red Dot) [2013] VCAT 2091* ('*Green*') in relation to affordable housing is:

That in the absence of specific statutory controls in the Planning Scheme, the provision of smaller dwellings, commanding lower prices on the open market than other comparable housing types, sufficiently achieves the intent of general planning policy which encourages affordable housing.

Local policy guidance with respect to housing is contained in Clause 21.03 of the Scheme. While there is strong policy support for appropriate medium density in-fill in well serviced locations, it is Clause 21.03–3 (Housing Diversity and Equity) that is of particular relevance to the objectors' concerns. The overview sets out (extracted as relevant):

“Housing affordability is a particular housing issue in Darebin. Lack of affordable housing and high rental prices can aggravate housing stress and homelessness. Housing affordability, income levels and demand for social and public housing are highly correlated. An increase in the supply of affordable housing could ease housing stress of low income earners and can decrease the demand for social housing.”

Objective 4 of Clause 21.03–3 includes the following strategies:

“Ensure housing in the municipality is sufficiently diverse to provide more affordable and appropriate choices and opportunities.”

“Facilitate the provision of affordable housing in terms of purchase price as well as lower ongoing operational costs, by promoting housing growth in areas with good access to services and public transport and encouraging best practice environmentally sustainable housing design to minimise ongoing utility costs”

The proposed development incorporates smaller dwellings and improves the diversity of housing choice on the open market. The proposal therefore accords with the principles established in *Green* and the objectives of the relevant local policy.

Overlooking of neighbouring properties

See assessment below.

Proposal is not consistent with standards set in Darebin Planning Scheme amendments applicable to the area

There are no relevant amendments to the Darebin Planning Scheme that affect the proposal.

PLANNING ASSESSMENT

Clause 21.03 – Housing

The Strategic Housing Framework Plan illustrates the directions for residential land use and development in Darebin as set by the Darebin Housing Strategy (2013). This framework provides greater certainty as to where growth and change can be expected and the preferred scope of housing change in terms of the intensity and type of residential development to be encouraged in different areas.

Under the Darebin Housing Strategy (2013) the subject site is identified as being within an Incremental Change Area, which includes the following future housing objectives:

- *To provide for moderate housing growth and diversification over time.*
- *To encourage residential development and housing diversity that is generally consistent with the character of the area. This may include a mixture of single and semi-detached dwellings as well as infill development including 2-3 storey town houses and villas. Lower scale apartment developments in a mixture of configurations may also be encouraged in appropriate locations.*
- *To ensure that varying local conditions influence design and scale of the built form outcome.*

The proposed development is not considered to comply with the objectives for the incremental change housing area. While the proposal comprises four double storey, two (2) bedroom dwellings, it is inconsistent with the scale of the precinct characteristics and context that the site is located within, which predominantly includes detached single and double storey dwellings with significant open space and vegetation. The proposed reverse living design for Dwellings 2 and 3 in particular, results in a development that features double storey built form throughout the entirety of the subject site, with a lack of separation and screening of this built form as it presents to the neighbouring areas of secluded private open space, the most sensitive interfaces of the immediately adjoining properties.

It is not considered that the proposal adequately responds to the local development conditions. A more modest scale of change is desired, which the proposed development does not achieve, particularly due to the proposed reverse living design for Dwellings 2 and 3.

Neighbourhood Character Precinct Guideline Assessment - Precinct F9

Vegetation

The development features extensive impervious ground floor areas. Insufficient ground floor setbacks are provided, particularly to Dwellings 2 and 3, to allow for adequate planting and landscaping opportunities to soften and screen the development at this interface. The development is hindered by the lack of available space to accommodate canopy trees within the side setback areas.

Does not comply

Siting

Dwelling 1 is set back 9.0 metres from the front boundary. This setback distance is consistent with the neighbouring dwellings and provides sufficient space to accommodate a front garden, with canopy trees and understorey planting. As noted below, the development proposes a recessed fence within the front setback area. This is provided to extend the secluded private open space area for Dwelling 1. This proposal would privatise a portion of the front setback areas and is not supported.

Due to the proposed reverse living arrangement for Dwellings 2 and 3, with high site coverage at ground floor and small service yards, the side setback areas of the development contain insufficient space for landscaping.

The rear setback of the development, at 3.0 metres, is sufficiently sized to accommodate a rear garden area.

The development is to utilise one proposed crossover along the southern boundary of the site for vehicle access. The proposed garages for the dwellings do not front the street and as such will not dominate the façade or views of the dwellings.

The combination of minimal landscaping in the side setback areas along the northern and southern boundaries and the restricted area available for gardening in the rear setback, leave the front setback as the primary landscaped area within the development. This is not consistent with either the existing or preferred character of the area.

Does not comply

Height and Building Form

The upper level of Dwelling 1 is setback a sufficient distance from the façade of the dwelling at the ground floor.

While the proposed dwellings incorporate pitched roof forms, with some contemporary design features (which in the case of Dwelling 1 are considered to contribute positively to the streetscape), the extent of continuous double storey built form through the entirety of the site is inconsistent with neighbourhood character and is not supported. The issues relating to the extent of double storey form are further exacerbated by the lack of area available for landscaping to screen the development and the minor side setbacks at the first floor.

Does not comply

Materials and Design detail

Dwelling 1's front façade as it presents to Gilbert Road incorporates sufficient articulation, through various recesses and the use of different materials, colours and textures, to provide visual interest within the streetscape.

While the design detail of the development is generally acceptable, the treatment of the side elevations of the development, particularly to the north, are negatively impacted upon by the extent of external screening required in these areas to address overlooking concerns.

Complies

Front Boundary Treatment

No front fence is proposed as part of the development.

The proposed recessed fence sitting within the front setback of the development is not supported. This would result in the privatisation of a portion of the front setback into the secluded private open space of Dwelling 1. The dwelling is already provided with a sufficient area of secluded private open space. This proposal is inconsistent with the front boundary treatments of the adjoining properties.

Complies subject to condition

Clause 55 Assessment

The following sections provide discussion on fundamental areas of Clause 55 including variations of standards and matters informing conditions of the recommendation above.

Clause 55.03-8 B13 Landscaping

The proposed design response for the development is not considered to satisfy the requirements of the objective. The reverse living design utilised for Dwellings 2 and 3 provides insufficient area to accommodate an appropriate landscaping response. The development maximises ground floor site coverage at the sites most sensitive interface, i.e. the area adjacent the dwelling to the north's primary area of private open space. Furthermore, the requirement to screen all north facing first floor balconies and habitable room windows exacerbates the visual bulk impacts of the two storey dwellings at this interface. Finally, the ground floor service yard areas for Dwellings 2 and 3 are restricted in size and for the most part taken up by external storage, rubbish bins, and clothes lines, with little area remaining for substantial landscaping.

As such, it is considered that there is insufficient space available along the northern boundary of the site to accommodate a landscaping response that would soften and screen the development from the adjoining properties.

Does not comply

Clause 55.04-1 B17 Side and rear setbacks

While the ground and first floor side and rear setbacks provided are in excess of the requirements of the standard, the extent of double storey form extending through the site is inconsistent with neighbourhood character and will result in unacceptable amenity impacts to the secluded private open space of the neighbouring dwellings.

The lack of landscaping along the northern boundary at ground level, combined with the screening elements provided for the full northern extent of Dwelling 2 and 3 at the first floor, will exacerbate these visual bulk impacts.

Does not comply

Clause 55.04-6 B22 Overlooking

The proposed dwellings are double storey. The ground floors of the dwellings have finished floor levels less than 0.8 metres above natural ground level at the boundary. Proposed 1.8 metre high boundary fences on the northern and eastern boundaries and a proposed 2.0 metre high fence on the southern boundary, will sufficiently limit overlooking from the ground floor.

All upper storey windows are appropriately designed and/or screened to ensure no overlooking.

The development is designed to limit views into neighbouring secluded private open space and habitable room windows.

While the overlooking measures employed at the first floor of the dwellings are compliant with the requirements of the standard, the orientation of the dwellings' (outlook to the private open space and habitable room windows of the neighbouring lots to the north and south) requires all habitable room windows and balconies at the first floor of the development to be fully screened/provided with high window sills. These screening measures fully enclose the living areas of the dwellings, providing a limited outlook, and would result in poor internal amenity outcomes for potential residents of the dwellings.

Does not comply

Clause 55.05-4 B28 Private Open Space

	Total POS	Secluded POS	Minimum dimension of secluded POS
Dwelling 1	110.56 square metres	35.28 square metres	3.0 metres
Dwelling 2	8.0 square metres (balcony)	N/A	2.5 metres
Dwelling 3	8.0 square metres (balcony)	N/A	2.8 metres
Dwelling 4	53.44 square metres	47.69 square metres	3.0 square metres

With regard to Dwellings 1 and 4, the development proposes adequate private open space (POS) for the reasonable recreation and service needs of residents. This is achieved through the provision of 40 square metres of secluded private open space at the side or rear of the dwelling with a minimum area of 25 square metres, a minimum dimension of 3 metres and convenient access from a living room.

The proposal seeks to site a portion of the secluded private open space for Dwelling 1 within the front setback of the site. This is supported, as it will result in the privatisation of a portion of the front setback and is inconsistent with the treatment of the front setback of the surrounding properties. The dwelling has sufficient secluded private open space provided to the side of the dwelling with access from the living room and as such it is considered unnecessary to incorporate a portion of the front setback into the secluded private open space of the dwelling.

The private open space areas for Dwellings 2 and 3, in the form of 8 square metre balconies (with a minimum width of 1.6 metres and convenient access from a living room), are not considered to comply with the objective. While both balconies comply with the minimum area and dimension requirements of the standard and have access from a living room, the 1.7 metre high screens employed to address overlooking concerns for the property to the north (discussed above) will fully enclose the private open space area and thus provide a poor standard of amenity to the residents. The screening measures required for the habitable room windows at the first floor of the dwelling (discussed above) further exacerbate these poor amenity outcomes for potential residents.

Does not comply

Clause 55.05-6 B30 Storage

Dwellings 1-3 are provided with 6m³ of externally accessible, secure storage. Dwelling 4 is shown to be provided with 4m³ of externally accessible, secure storage. This storage provision could be increased to 6m³ via a condition of any approval, if the application was being supported.

Complies subject to condition

Clause 52.06 Car Parking

Number of Parking Spaces Required

One car parking space is provided for each of the two bedroom dwellings, as required under Clause 52.06

Design Standards for Car parking

The garaging and the accessways have appropriate dimensions to enable efficient use and management.

The car parking facilities are designed, surfaced and graded to reduce run-off and allow stormwater to drain into the site.

Dwelling 1's open study and Dwelling 4's TV room cannot reasonably be used as a bedroom, whilst Dwelling 4's study has dimensions that are considered to adequately restrict its use as a bedroom.

Garage dimensions of 6.0 metres length and 3.5 metres width comply with the minimum requirements of the standard.

Access dimensions to the car spaces comply with the standard.

Visibility splays have been shown on the plans at the interface with the footpath, these are provided to protect pedestrians from cars utilising the crossover.

CLAUSE 55 COMPLIANCE SUMMARY

Clause	Std		Compliance	
			Std	Obj
55.02-1	B1	Neighbourhood character		
		Please see assessment in the body of this report.	N	N
55.02-2	B2	Residential policy		
		The proposal does not comply with the relevant residential policies outlined in the Darebin Planning Scheme.	Y	Y
55.02-3	B3	Dwelling diversity		
		N/A as development contains less than 10 dwellings.	N/A	N/A
55.02-4	B4	Infrastructure		
		Adequate infrastructure exists to support new development.	Y	Y
55.02-5	B5	Integration with the street		
		Dwelling 1 appropriately integrates with the Street.	Y	Y
55.03-1	B6	Street setback		
		The required setback is 9 metres, the dwellings are set back 9 metres from the street frontage.	Y	Y
55.03-2	B7	Building height		
		7.396 metres.	Y	Y
55.03-3	B8	Site coverage		
		45.13%	Y	Y
55.03-4	B9	Permeability		
		32.98%	Y	Y
55.03-5	B10	Energy efficiency		
		Dwellings are considered to be generally energy efficient and will not unreasonably impact adjoining properties.	Y	Y
55.03-6	B11	Open space		
		N/A as the site does not abut public open space.	N/A	N/A
55.03-7	B12	Safety		
		The proposed development is secure and the creation of unsafe spaces has been avoided.	Y	Y
55.03-8	B13	Landscaping		
		Please see assessment in the body of this report.	N	N

Clause	Std		Compliance	
55.03-9	B14	Access		
		Access is sufficient and respects the character of the area.	Y	Y
55.03-10	B15	Parking location		
		Parking facilities are proximate to the dwellings they serve, the access is observable, habitable room windows are sufficiently set back from accessways.	Y	Y
55.04-1	B17	Side and rear setbacks		
		Please see assessment in the body of this report.	Y	N
55.04-2	B18	Walls on boundaries		
		Walls on boundary are proposed along the northern site boundary. Length: 13.71 metres (in two sections of 5.05 metres and 8.66 metres). Height: 3.495 metres maximum height. Walls on boundaries comply with the requirements of this standard.	Y	Y
55.04-3	B19	Daylight to existing windows		
		Sufficient setbacks exist to allow adequate daylight.	Y	Y
55.04-4	B20	North-facing windows		
		Development is set back in accordance with the standard.	Y	Y
55.04-5	B21	Overshadowing open space		
		Shadow cast by the development is within the parameters set out by the standard.	Y	Y
55.04-6	B22	Overlooking		
		Please see assessment in the body of this report.	Y	N
55.04-7	B23	Internal views		
		There are no internal views.	Y	Y
55.04-8	B24	Noise impacts		
		Noise impacts are consistent with those in a residential zone.	Y	Y
55.05-1	B25	Accessibility		
		The ground levels of the proposal can be made accessible for people with limited mobility.	Y	Y
55.05-2	B26	Dwelling entry		
		Entries to the dwellings are identifiable and provide an adequate area for transition.	Y	Y

Clause	Std		Compliance	
55.05-3	B27	Daylight to new windows		
		Adequate setbacks are proposed to allow appropriate daylight access.	Y	Y
55.05-4	B28	Private open space		
		Please see assessment in the body of this report.	Y	N
55.05-5	B29	Solar access to open space		
		Sufficient depth is provided for adequate solar access.	Y	Y
55.05-6	B30	Storage		
		Please see assessment in the body of this report.	N	Y
55.06-1	B31	Design detail		
		Design detail of dwellings is appropriate in the neighbourhood setting.	Y	Y
55.06-2	B32	Front fences		
		No front fence is proposed, which is acceptable.	Y	Y
55.06-3	B33	Common property		
		Common property areas are appropriate and manageable.	Y	Y
55.06-4	B34	Site services		
		Sufficient areas for site services are provided.	Y	Y

REFERRAL SUMMARY

Department/Authority	Response
Capital Works	No objection, subject to condition
Transport Management and Planning	No objection
Darebin Parks	No objection, subject to condition

PLANNING SCHEME SUMMARY

Darebin Planning Scheme clauses under which a permit is required

- Clause 32.08-6 (General Residential Zone) – construction of two or more dwellings on a lot.

Applicable provisions of the Darebin Planning Scheme

Section of Scheme	Relevant Clauses
SPPF	11.02-1, 15.01-1, 15.01-5, 15.02, 16.01, 19.03-1
LPPF	21.02-3, 21.3, 21.05, 22.02
Zone	32.08
Overlay	45.06
Particular provisions	52.06, 55
General provisions	65.01
Neighbourhood Character Precinct	F9

POLICY IMPLICATIONS**Environmental Sustainability**

All new dwellings are required to achieve a minimum six (6) star energy rating under the relevant building controls.

Social Inclusion and Diversity

Nil

Other

Nil

FINANCIAL AND RESOURCE IMPLICATIONS

There are no financial or resource implications as a result of the determination of this application.

FUTURE ACTIONS

Nil

DISCLOSURE OF INTERESTS

Section 80C of the *Local Government Act 1989* requires members of Council staff and persons engaged under contract to provide advice to Council to disclose any direct or indirect interest in a matter to which the advice relates.

The Manager authorising this report, having made enquiries with relevant members of staff, reports that no disclosable interests have been raised in relation to this report.

RELATED DOCUMENTS

Darebin Planning Scheme and the *Planning and Environment Act (1987)* as amended.

Attachments

- Aerial Map (**Appendix A**)
- Advertised Plans (**Appendix B**)

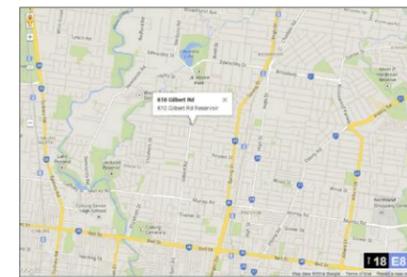


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LOCALITY PLAN
NOT TO SCALE
MELWAY REF 18 E8

LEGEND

- 225mmØ CONCRETE SEWER PIPE
DEPTH 3.19m INVERT LEVEL. OFFSET 0.99m EAST FROM EAST BOUNDARY
CONFIRM EXACT POSITION ON SITE PRIOR TO CONSTRUCTION
- 375mmØ DRAINAGE PIPE
MATERIAL UNKNOWN. DEPTH UNKNOWN.
CONFIRM EXACT POSITION ON SITE PRIOR TO CONSTRUCTION
- LPD: LEGAL POINT OF DISCHARGE - THE STORMWATER FROM THE PROPERTY TO BE CONNECTED TO THE EXISTING 375mm UNDERGROUND DRAIN AT FRONT IN GILBERT ROAD TO COUNCIL REQUIREMENTS WITH THE DISCHARGE FROM THE WHOLE SITE BEING LIMITED TO NOT MORE THAN 0.33 COEFFICIENT OF RUN-OFF DETENTION STORAGE DESIGNED AT 1:10 ARI AND SITE DISCHARGE OF ONE IN FIVE YEARS.
COMPUTATIONS & RETENTION DESIGN IS REQUIRED TO BE SUBMITTED TO THIS OFFICE FOR COMPLIANCE WITH LEGAL POINT OF DISCHARGE OF ONE IN FIVE YEARS.
THE DISCHARGE FROM THE SITE TO BE VIA GRAVITY. NO PUMP SYSTEMS PERMITTED.
ACCURATE DEPTH AND OFFSET OF THE DRAIN TO BE CONFIRMED ON SITE.
- EXISTING TREES
- EXISTING SPOT LEVELS
- NOTE: ALL LEVELS ARE TO A.H.D.
- SEWER TIE IN POINT
- SIDE ENTRY PIT
- WINDCROW
- NON-HABITABLE WINDOW
- PRIVATE OPEN SPACE
- OVERHEAD POWERLINES

LOCAL AMENITY SCHEDULE

- ACCESS TO PUBLIC TRANSPORT**
BUS ROUTE No 553 - IN FRONT OF DWELLING
WEST PRESTON/GILBERT ROAD TRAM TERMINUS 0.6KM
- TRAIN STATIONS**
REGENT TRAIN STATION 1.3KM
- PARKS / RESERVES**
J'S GREY RESERVE 0.5KM
CRISPE PARK 0.59KM
LARKINS RESERVE 0.72KM
J.E. MOORE PARK 0.88KM
L.W. WILLIAMS RESERVE 0.88KM
ROBINSON PARK 1.15KM
EDWARDS LAKE PARK 1.19KM
- PLACES OF WORSHIP**
ST HANES CHURCH
ST RAPHAEL'S CATHOLIC PARISH
RESERVOIR PRESBYTERIAN CHURCH
ANGELICAN CHURCH OF AUSTRALIA
ALL WITHIN 3KM RADIUS
- HOSPITALS/HEALTH CENTRES**
OAKHILL CLINIC
HIGH STREET MEDICAL AND DENTAL CLINIC
DOCTORS ON BROADWAY
MATERNAL AND CHILD HEALTH CENTRE
ALL WITHIN 3.5KM RADIUS
- PRIMARY SCHOOLS**
RESERVOIR WEST PRIMARY SCHOOL 0.42KM
NEWLANDS PRIMARY SCHOOL 0.81KM
PRESTON WEST PRIMARY SCHOOL 1.35KM
ST GABRIEL'S PRIMARY SCHOOL 1.34KM
SACRED HEART PRIMARY SCHOOL 2.41KM
- SECONDARY SCHOOLS**
PRESTON GIRLS SECONDARY COLLEGE 2.16
COBURG SENIOR HIGH SCHOOL 2.24KM
CHARLES LA TROBE P-12 COLLEGE 2.66KM
WITHIN 3.0km RADIUS
- SHOPPING/ENTERTAINMENT FACILITIES**
REGENT WEST VILLAGE 0.49KM
PRESTON MARKET 1.66KM
COBURG DRIVE IN 1.96KM
EDWARDS STREET SHOPPING STRIP 2.30KM
- DISTANCE TO CBD**
APPROX. 11.7KM

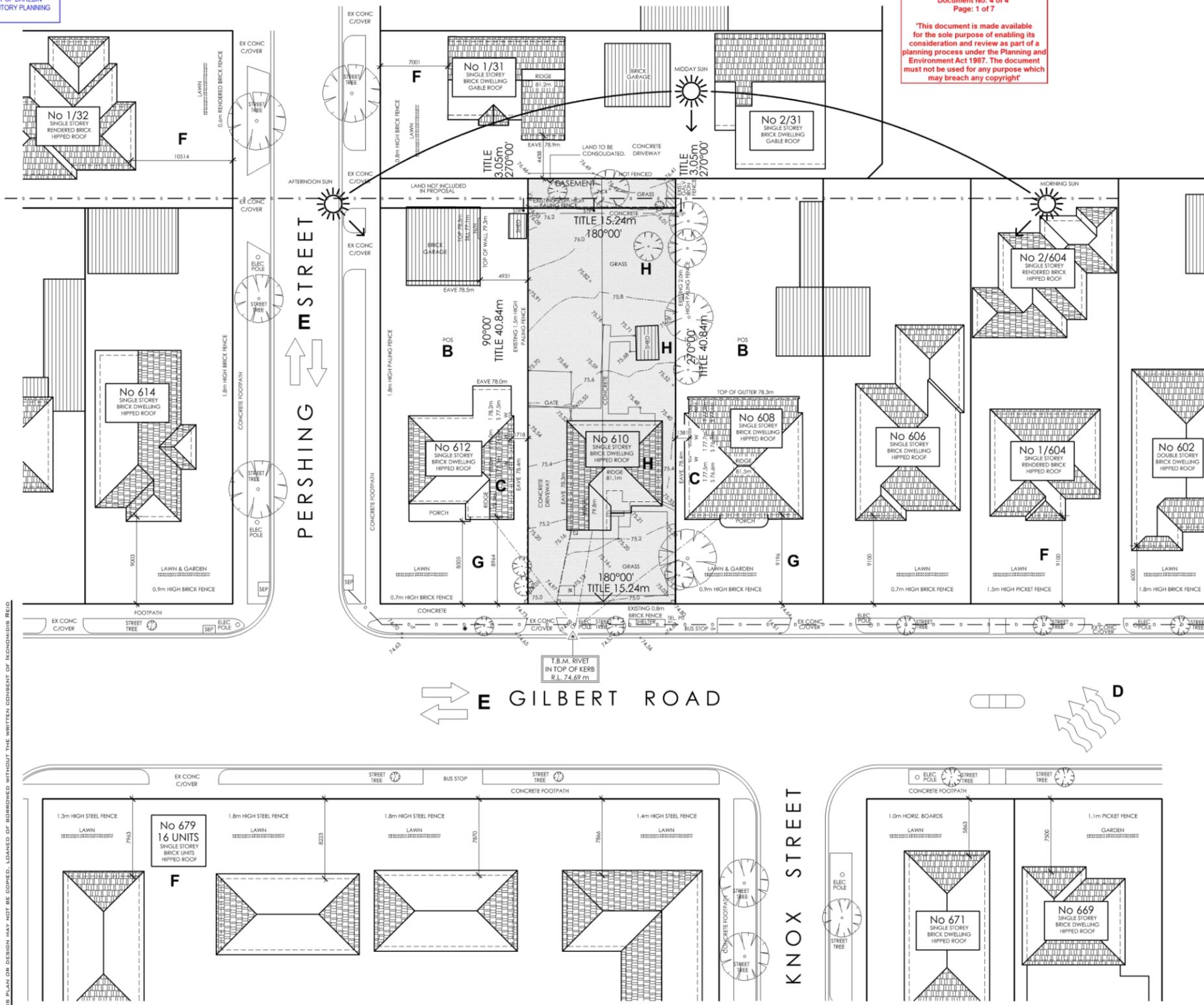
SITE CHARACTERISTICS

- A** - SITE FALLS APPROX. 1.69m FROM EAST TO WEST
- B** - ADJACENT OPEN SPACE TO BE PROTECTED FROM OVER-LOOKING & OVER-SHADOWING
- C** - SOLAR ACCESS & PRIVACY TO ADJOINING WINDOWS TO BE PROTECTED
- D** - SURROUNDING AREA EXPOSED TO PREVAILING WINDS AND BAD WEATHER
- E** - DIRECTION OF MAIN VEHICULAR & PEDESTRIAN TRAFFIC ACCESS TO THE SITE
- F** - EXISTING MEDIUM DENSITY UNIT DEVELOPMENTS WITHIN CLOSE PROXIMITY TO THE SITE
- G** - EXISTING FRONT SETBACKS TO BOTH ADJOINING PROPERTIES
- H** - EXISTING STRUCTURES & VEGETATION TO BE REMOVED AND SITE CLEARED

MULTI UNIT DEVELOPMENT
610 GILBERT ROAD
RESERVOIR

TP01 B JOB NO. SCALE, DRAWN, DATE, DDB 1:68 1:200 JAN 17

NEIGHBOURHOOD & SITE DESCRIPTION



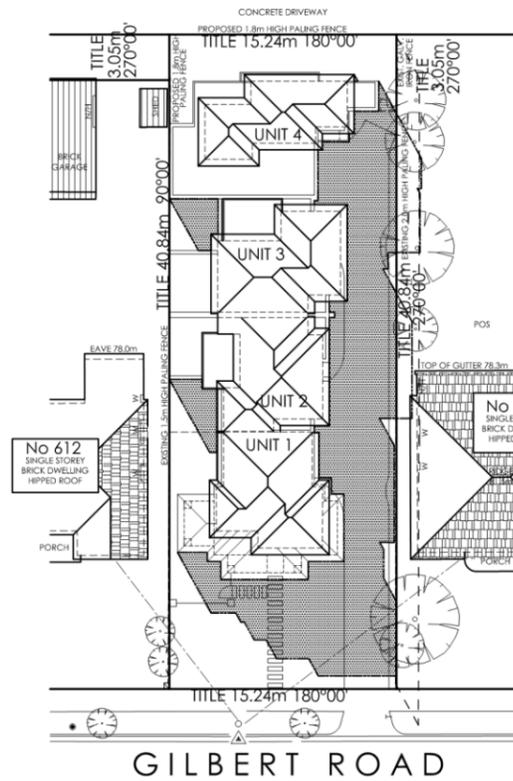
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PH. 94782836

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P2	JUL16	FACADE CHANGES
A	AUG16	TOWN PLANNING APPLICATION
B	JAN17	COUNCIL RFI

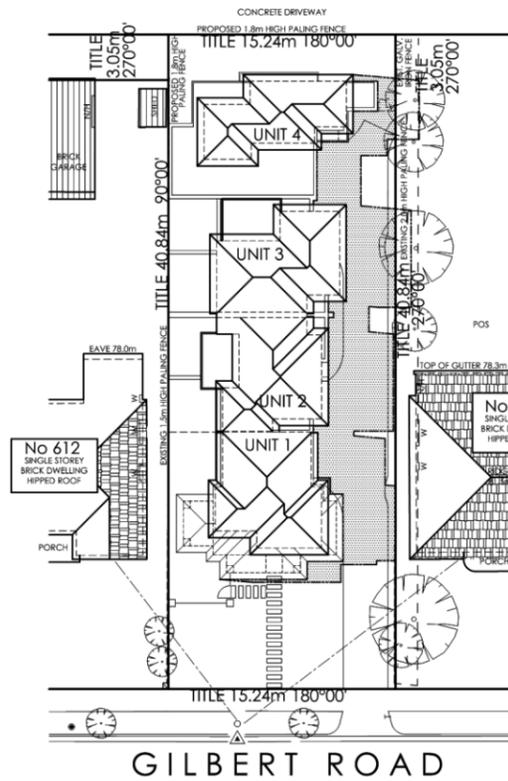
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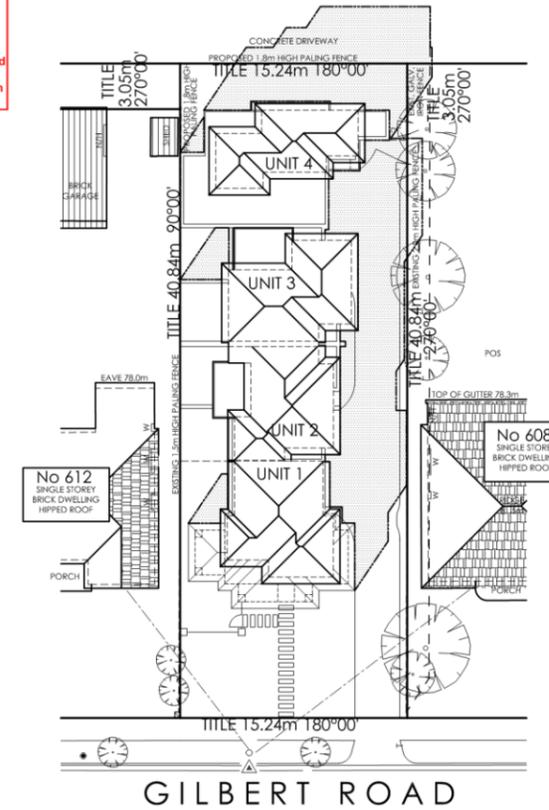
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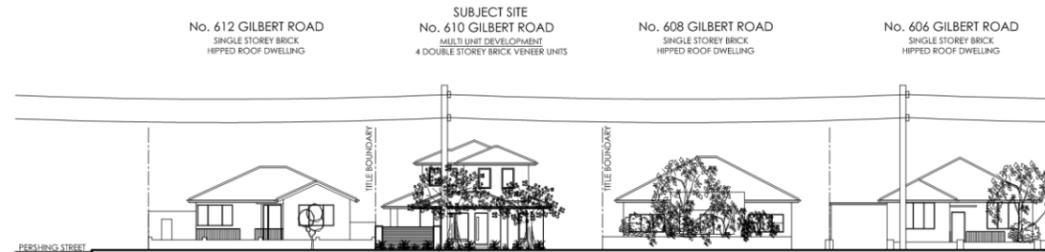
SHADOW DIAGRAM
22 SEP - 9.AM
SCALE 1:200
EXTENT OF SHADOW CAST BY PROPOSED DWELLINGS
EXTENT OF SHADOW CAST BY EXISTING FENCE



SHADOW DIAGRAM
22 SEP - 12.PM
SCALE 1:200
EXTENT OF SHADOW CAST BY PROPOSED DWELLINGS
EXTENT OF SHADOW CAST BY EXISTING FENCE



SHADOW DIAGRAM
22 SEP - 3.PM
SCALE 1:200
EXTENT OF SHADOW CAST BY PROPOSED DWELLINGS
EXTENT OF SHADOW CAST BY EXISTING FENCE



STREETSCAPE ELEVATION GILBERT ROAD
SCALE 1:200

- MASS, ARTICULATION AND ROOF SHAPE SIMILAR TO ADJACENT DWELLINGS
- MATERIALS AND FINISHES COMPLIMENTARY TO STREETSCAPE
- LOW SCALE RESIDENTIAL BUILDING

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MULTI UNIT DEVELOPMENT
610 GILBERT ROAD
RESERVOIR

TPO3 B JOB NO. SCALE. DRAWN. DATE, DDB 168 1:200 SP JAN17

SHADOW DIAGRAMS
& STREETSCAPE



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LEGEND

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DEPTH 3.19m INVERT LEVEL. OFFSET 0.99m EAST FROM EAST BOUNDARY
CONFIRM EXACT POSITION ON SITE PRIOR TO CONSTRUCTION

375mmØ DRAINAGE PIPE
MATERIAL UNKNOWN. DEPTH UNKNOWN.
CONFIRM EXACT POSITION ON SITE PRIOR TO CONSTRUCTION

LEGAL POINT OF DISCHARGE -
THE STORMWATER FROM THE PROPERTY TO BE CONNECTED TO THE EXISTING 375mm UNDERGROUND DRAIN AT FRONT IN GILBERT ROAD TO COUNCIL REQUIREMENTS WITH THE DISCHARGE FROM THE WHOLE SITE BEING LIMITED TO NOT MORE THAN 0.5% COEFFICIENT OF RUN OFF DETENTION STORAGE DESIGNED AT 1:10 ARI AND SITE DISCHARGE OF ONE IN FIVE YEARS.

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ACCURATE DEPTH AND OFFSET OF THE DRAIN TO BE CONFIRMED ON SITE.

EXISTING TREES

EXISTING SPOT LEVELS

SEWER TIE IN POINT
SIDE ENTRY PIT
WINDOW
NON-HABITABLE WINDOW
PRIVATE OPEN SPACE
MAILBOX AS SELECTED

WHERE LIGHTWEIGHT CLADDING IS PROPOSED ON THE GROUND FLOOR DIMENSIONS TAKEN TO EXTERNAL FACE OF STUD AND EXCLUDES LIGHTWEIGHT CLADDING

NOTE: ALL LEVELS ARE TO A.H.D.

OVERHEAD POWERLINES

FENCE

PROPOSED 1.8 HIGH PALING FENCE

PROPOSED 1.8 HIGH GATE TO MATCH PALING FENCE

COLOURED CONCRETE DRIVEWAY / PATH

PROPOSED PAVING

PROPOSED DECKING

PEDESTRIAN VISIBILITY SPAY NOTE:
ACCESSWAYS MUST HAVE A CORNER SPAY OR AREA AT LEAST 50 PER CENT CLEAR OF VISUAL OBSTRUCTIONS EXTENDING AT LEAST 2 METRES ALONG THE FRONTAGE ROAD FROM THE EDGE OF AN EXIT LANE AND 2.5 METRES ALONG THE EXIT LANE FROM THE FRONTAGE. TO PROVIDE A CLEAR VIEW OF PEDESTRIANS ON THE FOOTPATH OF THE FRONTAGE ROAD. THE AREA CLEAR OF VISUAL OBSTRUCTIONS MAY INCLUDE AN ADJACENT ENTRY OR EXIT LANE WHERE MORE THAN ONE LANE IS PROVIDED, OR ADJACENT LANDSCAPED AREAS. PROVIDED THE LANDSCAPING IN THOSE AREAS IS LESS THAN 900mm IN HEIGHT.

EXTERNAL FINISHES SCHEDULE

ROOFING	CONCRETE ROOF TILES
WALLS	FACE BRICKWORK SELECTED TEXTURE BRICKWORK LIGHTWEIGHT RENDERED CLADDING
GUTTERS & DOWNPIPES	COLORBOND
WINDOWS & DOORS	POWDERCOATED ALUMINIUM

DEVELOPMENT SUMMARY

SITE AREA	668.88m ²	BUILDING SITE COVERAGE	301.91m ² (45.13%)
DENSITY	1:167	SITE PERMEABILITY	220.65m ² (32.98%)
NO OF DWELLINGS	4	PRIVATE OPEN SPACE	
CAR-PARKINGS	4 TOTAL	UNIT 1	SPOS 35.28m ² /POS 45.28m ² + PY
		UNIT 2	SPOS BALC 9.36m ² + SY 11.52m ²
		UNIT 3	SPOS BALC 11.14m ² + SY 11.34m ²
		UNIT 4	SPOS 47.69m ² /POS 53.44m ²

GROSS BUILDING AREA / UNIT:

	UNIT 1	UNIT 2	UNIT 3	UNIT 4
GROUND	37.57m ²	44.35m ²	44.35m ²	62.69m ²
FIRST	47.95m ²	44.50m ²	45.93m ²	35.99m ²
GARAGE	23.67m ²	23.7m ²	22.89m ²	25.33m ²
BALCONY	N/A	9.36m ²	11.14m ²	N/A
PORCH	5.84m ²	1.84m ²	1.84m ²	1.98m ²
ALFRESCO	8.21m ²	N/A	N/A	N/A
TOTAL	119.78m ² (12.87%)	123.75m ² (13.30%)	126.15m ² (13.56%)	123.99m ² (13.33%)

CONSTRUCTION

INTERNAL WALLS:
90mm THICK TIMBER STUD CONSTRUCTION
EXTERNAL WALLS:
GROUND FLOOR - 240mm THICK BRICK VENEER CONSTRUCTION
- 90mm STUDWALL CONSTRUCTION
FIRST FLOOR - 90mm STUDWALL CONSTRUCTION

LANDSCAPING

FOR DETAILS OF LANDSCAPING PLEASE REFER TO SEPARATE LANDSCAPE PLAN - TO BE SUBMITTED AT A LATER DATE

STORMWATER

ALL STORMWATER, INCLUDING ROOF AND PAVEMENT TO BE COLLECTED VIA ON SITE SYSTEM AND CONNECTED TO LEGAL POINT OF DISCHARGE. DETAILS TO BE SUBMITTED AS PART OF BUILDING PERMIT.

MULTI UNIT DEVELOPMENT
610 GILBERT ROAD
RESERVOIR

TP04 B JOB NO. SCALE. DRAWN. DATE,
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GROUND FLOOR PLAN

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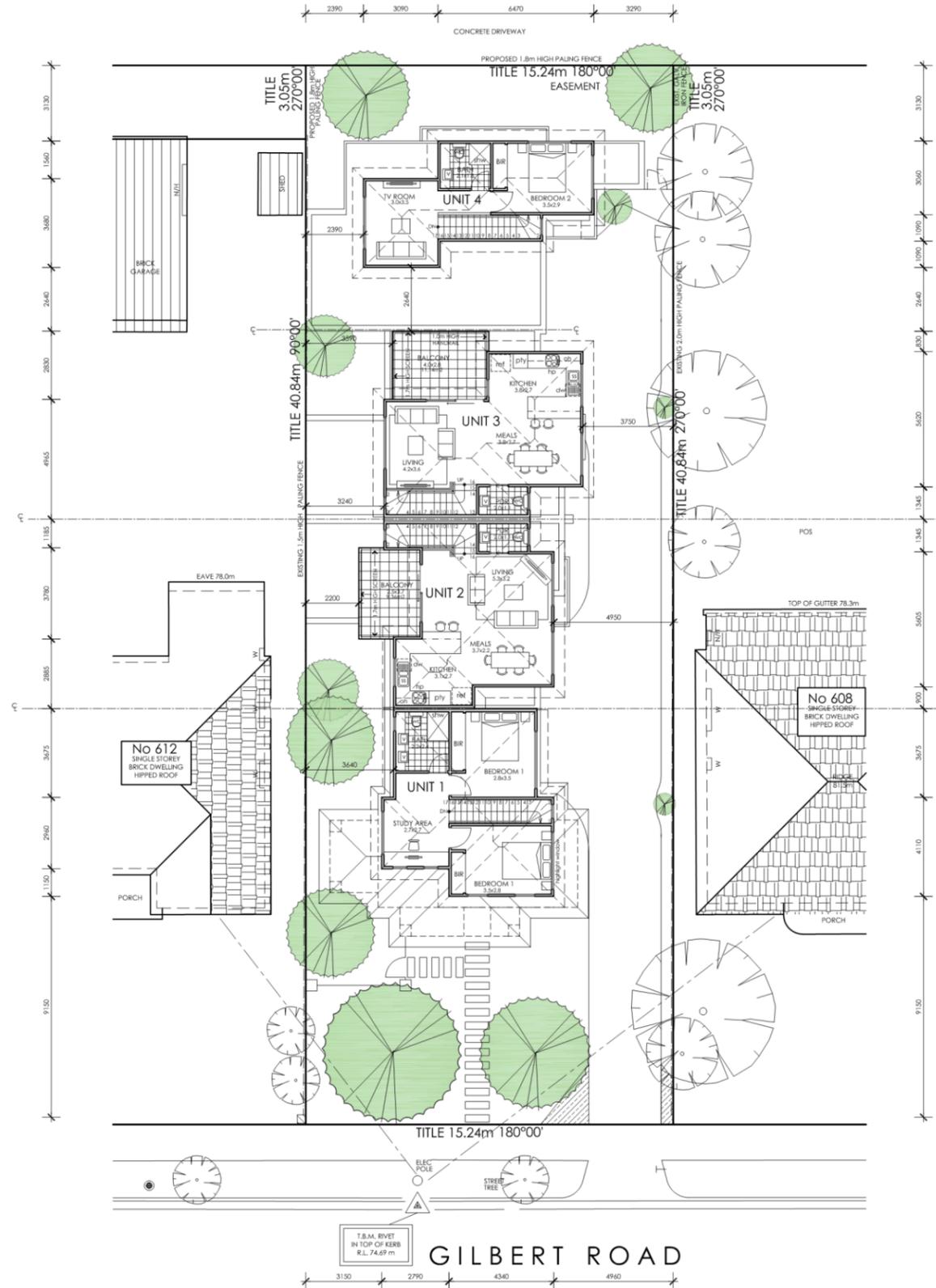
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MULTI UNIT DEVELOPMENT
610 GILBERT ROAD
RESERVOIR

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FIRST FLOOR PLAN

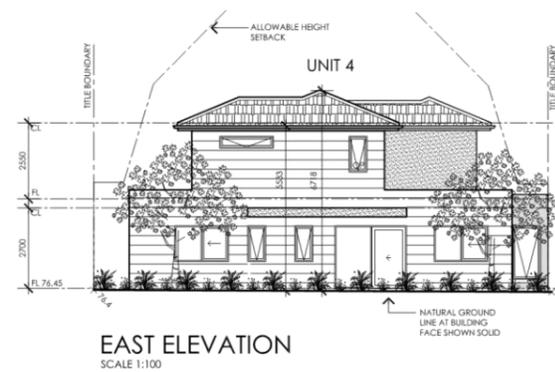
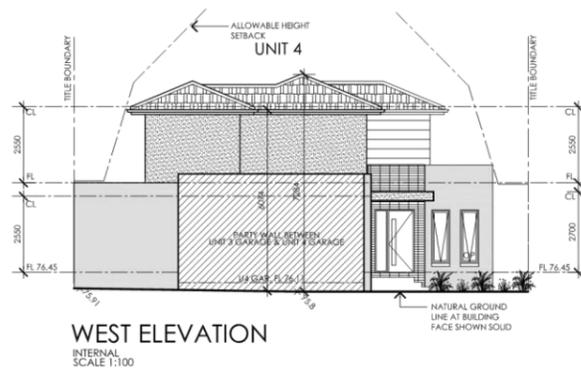
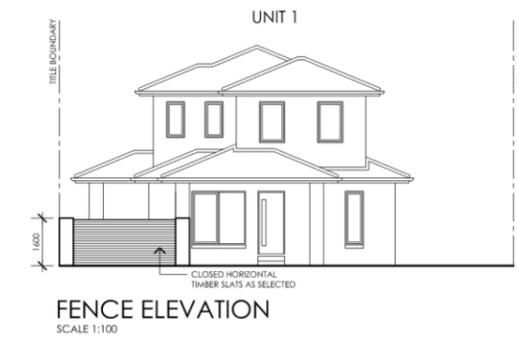
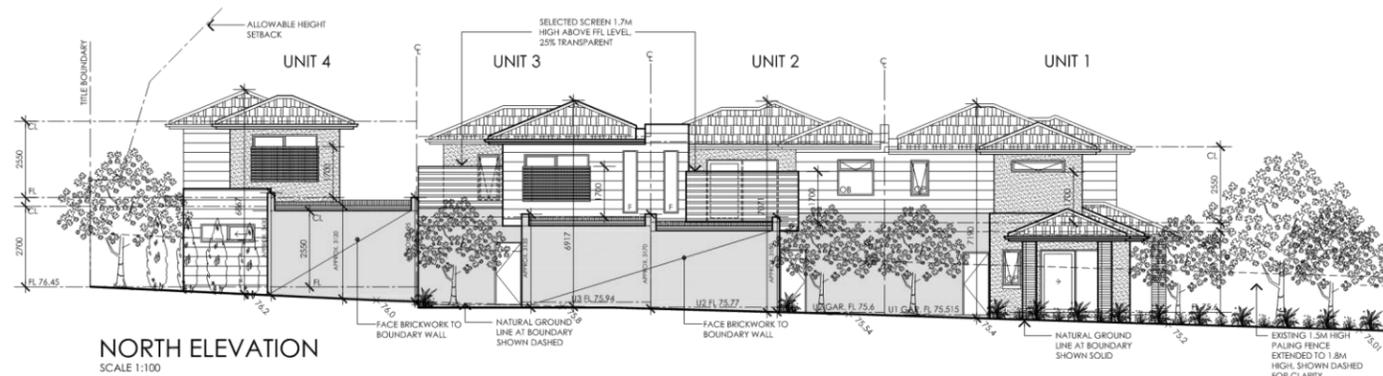
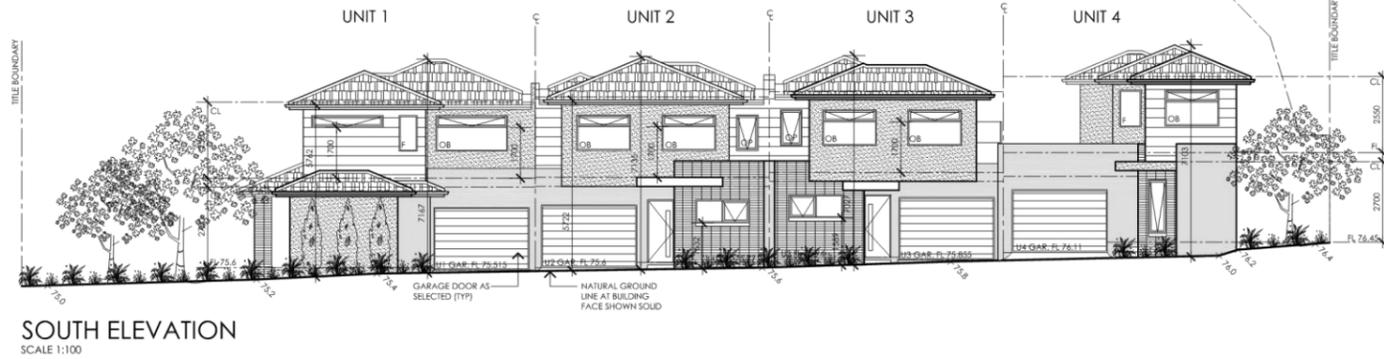
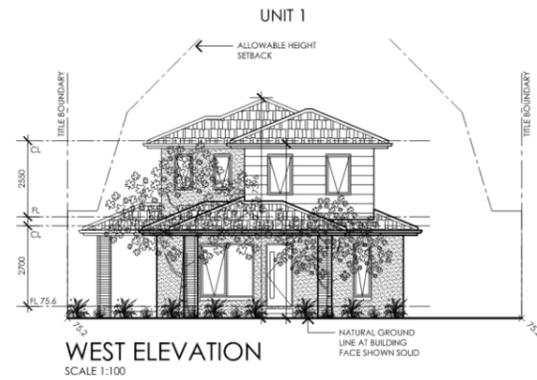




EXTERNAL FINISHES LEGEND

-  SELECTED CONCRETE TILE ROOF 22.5° PITCH
-  SELECTED FACE BRICKWORK
-  SELECTED FEATURE BRICKWORK
-  SELECTED RENDER #1
-  SELECTED RENDER #2
-  OB FIXED OBSCURED GLAZING TO 1700H ABOVE FFL 20% TRANSPARENT
-  OP OPAQUE GLAZING
-  F FIXED GLAZING
-  ALUMINIUM WINDOWS & DOORS @ 2.1M HEAD HEIGHT U.N.O

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MULTI UNIT DEVELOPMENT
610 GILBERT ROAD
RESERVOIR

TP06 B

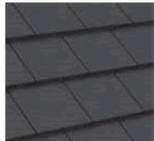
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008168 1:100 SP JAN17

ELEVATIONS



COLOUR SCHEDULE

610 Gilbert Road, Reservoir – JANUARY 2017

Roof tiles – Boral Vogue/Contour profile Charcoal or similar	
Brickwork - Boral/PGH Black Beauty or similar	
Render – Dulux Lexicon quarter or similar	
Horizontal cladding – Dulux shale grey or similar	
Windows – Powdercoated aluminium Woodland grey or similar	
Fascia/Gutter – Colourbond monument or similar	

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5.3 APPLICATION FOR PLANNING PERMIT D/634/2014/A
• **518-530 High Street, Northcote**

Author: Principal Planner

Reviewed By: Director City Futures and Assets

Applicant	Owner	Consultant
Hansen Partnership Pty Ltd	Seattle Investments Pty Ltd	Arup Pty Ltd

SUMMARY

- The application seeks to amend Planning Permit D/634/2014 issued on 15 May 2015 for an on-premises liquor licence, a car parking reduction and advertising signage associated with a restaurant and tavern. Specifically, the proposed amendment relates to Condition No.26 of the Planning Permit which prohibits the provision of live music at the venue. The application seeks to amend Condition No.26 to allow indoor and outdoor live music at the venue, in the locations identified on the accompanying plan.
- The application has been made pursuant to the provisions of section 72 of the *Planning and Environment Act 1987*.
- The site is zoned Commercial 1 Zone.
- There is a restrictive covenant on title which prohibits the use of the land for the direct or indirect use of brick making. A planning permit has already been issued for use of a licenced premise, to display advertising signage and to reduce car parking requirements, the proposal to amend the planning permit to introduce live music at the venue does not contravene the covenant.
- Seven objections were received against this application.
- The proposal is generally consistent with the purpose and requirements of Clause 52.43 (Live Music and Entertainment Noise) of the Darebin Planning Scheme.
- It is recommended that the application be supported.

CONSULTATION:

- Public notice was given via two signs posted on site and letters sent to surrounding owners and occupiers.
 - This application was not required to be referred to other Council units.
 - This application was referred externally to Marshall Day Acoustics for the purpose of a peer review of the application documents. In particular, the technical information submitted by the applicant in relation to the hours of live music, the generation and attenuation of noise matters have been assessed by Marshall Day.
 - This application was not required to be referred to other Council units.
-

Recommendation

That Planning Permit Application D/634/2014/A be supported and a Notice of Decision to Amend a Permit be issued subject to the following conditions:

The permit is to be amended by the following variations highlighted in **bold**:

TO WHAT CONDITIONS IS THE AMENDMENT SUBJECT?

- (1) Before the use starts, amended plans to the satisfaction of the Responsible Authority must be submitted to, and approved by, the Responsible Authority. The plans must be drawn to scale with dimensions and must be generally in accordance with the plans submitted with the application (identified as: SPM-200 Rev **G** dated **29 June 2015 received by Council on 24 October 2016**, SPM-200-A Rev A dated 19 March 2015, SPM-400 Rev C dated 18 August 2014, Welcome to Thornbury signage dated 2014, signage elevations received 25 August 2014, prepared by Switch Project Management) but modified to show:
 - a) **Any modifications to the acoustic report in Condition No.16, in accordance with Conditions No.26 of this Permit.**
 - b) **Any modifications to the Venue Management and Noise and Amenity Action plans in accordance with Condition No. 18 and No. 26 of this Permit.**
 - c) All redundant crossings removed and replaced with footpath and kerb and channel, in accordance with Condition No. 33 of this Permit.
 - d) Location of the pole sign.
 - e) Pedestrian visibility splays provided around vehicle crossing at the property boundary line, in accordance with Clause 52.06-8 (50% clear of obstructions), or alternatively Figure 3.3 of AS2890.1:2004 Clause 3.2.4(b) (no obstructions up to 1.15 metres in height), to ensure adequate visibility between vehicles leaving the site and pedestrians on the frontage road footpath.
 - f) A sustainable transport display provided near each of the main pedestrian entrances to the site. Information displayed in this sustainable transport display area must include; public transport maps and timetables and maps of walking and cycling routes to and from the site.

When approved, the plans will be endorsed and form part of this Permit.

- (2) The layout of the use as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
- (3) This Permit will expire if the use is not started within three (3) years from the date of this Permit.

The Responsible Authority may extend the time referred to if a request is made in writing before this Permit expires or within six (6) months after the expiry date.

- (4) This Permit will expire if the advertising signs are not displayed within three (3) years from the date of this Permit.

As relevant, the Responsible Authority may extend the times referred to if a request is made in writing:

- Before this Permit expires;
 - Within six (6) months after the expiry date; or
 - Within twelve (12) months after the expiry date if the request relates to the completion of the display of the signs.
-

- (5) This advertising signs hereby approved will expire 15 years from the date of issue of the Permit.
- (6) The use may operate only between the hours of:
 - Monday to Saturday - 11:00am to 1:00am
 - Sunday - 11:00am to 11:00pm
- (7) Use of the outdoor areas are limited to the following times:
 - Sunday to Thursday - 11:00am to 10:00pm
 - Friday to Saturday - 11:00am to 11:00pm
- (8) The maximum number of patrons shall be no more than 700 at any one time.
- (9) Patron numbers must be counted and logged and records must be made available on request to an authorised police officer, or an authorised officer of Council or an authorised officer of Liquor Licensing Victoria.
- (10) The licensed area is limited to the areas within the red line.
- (11) A designated Manager must be in charge of the premises at all times when the premises is open for business.
- (12) All persons engaged in the serving of alcohol must undertake a responsible serving of alcohol course provided by or approved by Liquor Licensing Victoria, to the satisfaction of the Responsible Authority.
- (13) A clear sign must be attached to an internal wall in a prominent position adjacent to the entry/exit points to advise patrons to leave in a quiet and orderly fashion, to the satisfaction of the Responsible Authority.
- (14) Before the use commences, a site assessment of the site, prepared by a member of the Australian Contaminated Land Consultants Association (Victoria) Inc. or other suitably qualified environmental professional, must be submitted to the Responsible Authority to its satisfaction. The Responsible Authority may request the site assessment be reviewed by a suitably qualified environmental auditor nominated by the Responsible Authority and at the cost of the owner/developer.

The site assessment must include:

- An opinion on the level and nature of contamination (if any), how much is present and how it is distributed;
- Details of any clean up, construction, ongoing maintenance, monitoring or other measures in order to effectively manage contaminated soil (if any) that is present within the site (management measures); and
- Recommendation on whether the environmental condition of the land is suitable for the proposed use and whether an environmental audit of the land should be undertaken.

Should the consultant's opinion be that an environmental audit be undertaken, before the use commences, either:

- A certificate of environmental audit must be issued for the land in accordance with Part IXD of the *Environment Protection Act 1970*, or
- An environmental auditor appointed under the *Environment Protection Act 1970* must make a statement in accordance with Part IXD of that Act that the environmental conditions of the land are suitable for the sensitive use.

In the event that the management measures are required or a statement is issued in

accordance with Part IXD of the *Environment Protection Act*, before the use commences all management measures of the site assessment or conditions of the Statement of Environmental Audit must be complied with to the satisfaction of the Responsible Authority. Written confirmation of compliance with the management measures of the site assessment or the conditions of the Statement of Environmental Audit must be provided by a suitably qualified environmental professional.

If the management measures of the site assessment or the conditions of the Statement of Environmental Audit require ongoing maintenance or monitoring, before the use commences the owner of the land must enter into an Agreement with the Responsible Authority under section 173 of the *Planning and Environment Act 1987* to the satisfaction of the Responsible Authority. This agreement must be to the effect that except with the written consent of the Responsible Authority all management measures of the site assessment or conditions of the Statement of Environmental Audit issued in respect of the land will be complied with. Written confirmation of compliance with the management measures of the site assessment or the conditions of the Statement of Environmental Audit must be provided by a suitably qualified environmental professional.

A memorandum of the Agreement must be entered on the Title to the land and the owner must pay the costs of the preparation and execution of the Agreement and entry of the memorandum on Title.

- (15) **Before the commencement of the live music component of the use, an amended acoustic report**, prepared by a suitably qualified acoustic consultant, must be submitted to the satisfaction of the Responsible Authority. The report must ensure that the noise levels generated by plant and equipment in the premises do not exceed the levels specified in the State Environment Protection Policy (Control of Noise from Commercial, Industrial or Trade Premises within the Melbourne Metropolitan Area) No. N-1. The report must identify all potential noise sources and sound attenuation work required. The recommendations of the report must be implemented by the applicant at no cost to Council prior to commencement of the use.

The development must be constructed in accordance with the requirements/recommendations of the approved Acoustic Assessment to the satisfaction of the Responsible Authority.

- (16) **Prior to the commencement of the live music component of the use hereby permitted (excluding a three month period during which live music noise testing as referred to in Condition 26(f) may be conducted)**, an acoustic report, prepared by a suitably qualified acoustic consultant, must be submitted to the satisfaction of the Responsible Authority. The report must ensure that the noise levels generated by the premises do not exceed the levels specified in the State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2. The report must identify all potential noise sources and sound attenuation work required. The recommendations of the report must be implemented by the applicant at no cost to Council prior to commencement of the use. At the request of the Responsible Authority, this report will be subject to **peer review by a qualified acoustic engineer selected by the Responsible Authority and to the satisfaction of the Responsible Authority, at the full cost of the owner/operator.**
- (17) If it is found that the noise emitted from the premises does not comply with the standards listed under Conditions No. 27 and 28, a further report must be prepared by a suitably qualified acoustic consultant. A copy of this report must be submitted to the Responsible Authority. This report should make recommendations regarding further noise attenuation measures required to be implemented. The applicant/owner of the premises must implement any recommendations to ensure the premises complies with the standards, to the satisfaction of and at no cost to the Responsible Authority.
- (18) **Prior to the commencement of the live music component of the use hereby**
-

permitted the applicant must submit an amended management plan describing:

- a) Details of the proposed hours of operation of the premises.
- b) Details of live music performance at the venue, in accordance with Condition No.26 of this Permit.**
- c) Details of any proposed special events.
- d) Security arrangements including the number of personnel and their hours of operation.
- e) Details of the maximum number of patrons to be permitted on the premises.
- f) Details of indoor and outdoor capacity of the venue.
- g) Pass-out arrangements.
- h) Pedestrian and vehicle access arrangements.
- i) Lighting within the boundaries of the site.
- j) Security lighting outside the premises.
- k) General rubbish storage and removal arrangements including hours of pick up.
- l) Bottle storage and removal arrangements including hours of pick up.
- m) Noise attenuation measures.
- n) The recommendations of the any acoustic report required under Conditions 15, 16 and 17 (if required).
- o) The training of staff in the management of patron behaviour.
- p) A **comprehensive** complaint handling process to be put in place to effectively manage complaints received from neighbouring and nearby businesses and residents. This must include details of a Complaints Register to be kept at the premises. The Register must include details of the complaint received, any action taken and the response provided to the complainant.
- q) Details of the management methods to minimise queuing outside the venue.
- r) Details of the management of patrons in outdoor areas to minimise impacts on the amenity of nearby properties.
- s) Details of the management of patrons who are smoking.

The management plan must be to the satisfaction of, and be approved by, the responsible authority. Once approved, the management plan will form a part of the endorsed documents under this permit. The operation of the use must be carried out in accordance with the endorsed management plan unless with the prior written consent of the Responsible Authority.

- (19) Before the use commences a sustainable transport display must be provided near each of the main pedestrian entrances to the site and must include public transport route maps and timetables and maps of walking and cycling routes to and from the site. The display must be regularly monitored and kept up to date to the satisfaction of the Responsible Authority.
 - (20) Before the use starts areas set aside for the parking of vehicles and access lanes as shown on the endorsed plans must be line-marked to indicate each car space and all access lanes, to the satisfaction of the Responsible Authority.
Car spaces, access lanes and driveways shown on the endorsed plans must not be used for any other purpose.
 - (21) At all times during the operation of the use, there must be present on the premises a
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person, over the age of eighteen (18) years, who is responsible for ensuring that the activities on the premises, and the conduct of persons attending the premises, do not have a detrimental impact on the amenity of the locality, to the satisfaction of the Responsible Authority.

- (22) A sign or signs must be displayed at the exits to the building and at the High Street site boundary requesting that patrons leave the site promptly and in a manner that does not cause disturbance to the amenity of the neighbourhood.
- (23) At all times during the operation of the use, appropriately trained staff must be provided by the operator of the use to ensure that:
- a) Patrons leave the premises in a quiet and orderly manner so that disturbance is not caused to the amenity of the neighbourhood; and
 - b) Patrons do not loiter around the premises
- to the satisfaction of the Responsible Authority.
- (24) The amenity of the area must not be adversely affected by the use or development as a result of the:
- a) Transport of materials, goods or commodities to or from the land; and/or
 - b) Appearance of any building, works, stored goods or materials; and/or
 - c) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil; and/or
- in any other way, to the satisfaction of the Responsible Authority.
- (25) Pedestrian and vehicle access to and from the site must be to High Street only. All patron and service vehicles and food trucks must enter and exit the site in a forwards direction.
- (26) Live music at the venue shall only be performed in accordance with the amended acoustic report as required by Condition No.16 of this Permit, as follows:**
- a) **Live music levels shall not exceed the music noise limits as specified by State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2 (SEPP N-2) at all times.**
 - b) **Live music shall occur at the venue during the following times only, including during any special events:**
 - Outdoor**
 - **Sunday to Thursday (and Public holidays) up to 8:00pm.**
 - **Friday and Saturday up to 10:00pm.**
 - Indoor**
 - **Friday and Saturday up to 11:00pm**
 - **Sunday to Thursday (and Public holidays) up to 10.00pm.**
 - c) **A noise limiting device shall be installed to all in-house sound systems to ensure that music levels do not exceed the music noise levels detailed in accordance with SEPP N-2.**
 - d) **Electric instruments shall be amplified through the house system only.**
 - e) **The playing of drums or percussive instruments must not be allowed in the outdoor area.**
 - f) **Live music noise must be assessed by a qualified sound technician over a 15 minute period at the commencement of any live music performance to confirm that music levels comply with noise limits under SEPP N-2.**
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- g) A music noise commissioning report shall be provided to the Responsible Authority within three months of the live music component of the use commencing. The report shall be prepared by suitably qualified acoustic consultant and peer reviewed by a qualified acoustic engineer selected by the Responsible Authority and to the satisfaction of the Responsible Authority, at the full cost of the owner/operator of the venue.**

If following the submission of the acoustic report, and the peer review of the report, it is found that the noise emitted from the venue does not comply with SEPP N-2, a further report must be prepared by a suitably qualified acoustic consultant. A copy of this report must be submitted to the Responsible Authority. This report must make recommendations regarding further noise attenuation measures required to be implemented. These measures are to be peer reviewed by the Responsible Authority at the full cost of the owner/operator of the venue. The applicant/owner of the premises must implement any recommendations to ensure the venue complies with SEPP N-2, to the satisfaction of and at no cost to the Responsible Authority.

- (27) Noise from the premises must not exceed the relevant limits prescribed by the State Environment Protection Policy (Control of Noise from Commerce, Industry and Trade) No. N-1.
- (28) Noise from the premises must not exceed the relevant limits prescribed under State Environment Protection Policy (Control of Music Noise from Public Premises) N-2.
- (29) A bottle crusher (located within the building away from the residential interfaces to the north and east) must be used for the disposal of bottles and waste glass. Disposal of the crushed glass outside of the premises must not occur after 10:00pm or before 8:00am, except with further written consent of the Responsible Authority.
- (30) No goods, equipment, packaging material, or any other material/object must be stored, or left exposed, outside a building so as to be visible from any public road or thoroughfare, to the satisfaction of the Responsible Authority.
- (31) All outdoor lighting must be designed, baffled and/or located to ensure that no loss of amenity is caused to adjoining and nearby land to the satisfaction of the Responsible Authority.
- (32) The design of bicycle parking facilities on the site must comply with Clause 52.34-4 of the Planning Scheme or be to the satisfaction of Council.
- (33) Before the use starts the vehicular crossing must be constructed to align with approved driveway to the satisfaction of the Responsible Authority. All redundant crossings, crossing openings or parts thereof must be removed and replaced with footpath and kerb and channel to the satisfaction of the Responsible Authority.
- (34) The advertising signs may only be illuminated between the hours of 11:00am to 11:00pm Sunday and 11:00am to 1:00am Monday to Saturday.
- (35) The advertising sign must not contain any flashing, intermittent or changing colour light.
- (36) The advertising sign must not contain any moving parts or be animated in any manner.
- (37) The advertising sign must be constructed and maintained to the satisfaction of the Responsible Authority.
- (38) The advertising sign must be located wholly within the boundary of the land.

NOTATIONS

(These notes are provided for information only and do not constitute part of this permit or conditions of this permit)

- The amendments specified in Condition 1 of this Permit and any additional modifications which are “necessary or consequential” are those that will be assessed by Council when plans are lodged to satisfy that condition. Any “necessary or consequential” amendments, in addition to those required by this condition, should be specifically brought to the attention of Council for assessment.
 - If any other modifications are proposed, application must also be made for their approval under the relevant Sections of the *Planning and Environment Act 1987*. They can only be approved once the required and consequential changes have been approved and the plans endorsed. It is possible to approve such modifications without notice to other parties, but they must be of limited scope. Modifications of a more significant nature may require a new permit application.
 - Any failure to comply with the conditions of this permit may result in action being taken to have an Enforcement Order made against some or all persons having an interest in the land and may result in legal action or the cancellation of this permit by the Victorian Civil and Administrative Tribunal.
 - Nothing in the grant of this permit should be construed as granting any permission other than planning permission for the purpose described. It is the duty of the permit holder to acquaint themselves, and comply, with all other relevant legal obligations (including any obligation in relation to restrictive covenants and easements affecting the site) and to obtain other required permits, consents or approval.
 - This Planning Permit represents the Planning approval for the use and/or development of the land. This Planning Permit does not represent the approval of other departments of Darebin City Council or other statutory authorities. Such approvals may be required and may be assessed on different criteria to that adopted for the approval of this Planning Permit.
 - All customer bicycle parking must be provided within the boundaries of the site. Bicycle rails located on the footpath can only be provided by Council via a contribution and if deemed safe and appropriate.
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INTRODUCTION AND BACKGROUND

D/634/2014 was issued on 15 May 2015 for an on-premises liquor licence, a car parking reduction and advertising signage associated with a restaurant and tavern. Plans in association with the permit were endorsed on 6 July 2015. The site is currently operating under this planning permit.

D/1013/2014 was issued on 4 December 2014 for buildings and works, in association with a 39 patron convenience restaurant. Endorsed plans were granted on 16 March 2015.

D/232/2016 was issued on 14 April 2016 for development of a verandah and two (2) retractable shading devices.

The site was previously occupied by Flexiglass a manufacturer of fibreglass canopies for vehicles.

ISSUES AND DISCUSSION

Subject site and surrounding area

- The land is irregular in shape and has the following dimensions:
 - Width: 95 metres
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- Depth: 31 metres – 51 metres
 - Area: 4,000m²
 - The land is located within the Commercial 1 Zone (C1Z) and is affected by the Design and Development Overlay (DDO14), Environmental Audit Overlay (EAO) and Special Building Overlay (SBO). The Development Contributions Overlay (DCPO1) also affects the site, however the plan associated with the overlay expired on 30 June 2014.
 - The land is located on the eastern side of High Street, approximately 80 metres south of the intersection with Darebin Road.
 - The site currently operates as Welcome to Thornbury, Bar and Food Truck Stop authorised under Planning Permit D/634/2014 as food and drink premises with a licence to serve alcohol. The premise provides both indoor and outdoor dining and bar. The northern open sections of the site are occupied by food trucks and proving to be a successful venture and hub of activity. The southern sections of the site are occupied by buildings providing indoor food and drink. The far northern section of the site is occupied by a car parking hardstand accessed via a crossover to High Street.
 - The planning permit authorising the use allows a maximum of 700 patrons at any one time.
 - The use is authorised to operate between:
 - Monday to Saturday: 11:00am to 1:00am
 - Sunday: 11:00am to 11:00pm
- Outdoor areas are limited to:
- Sunday to Thursday: 11:00am to 10:00pm
 - Friday to Saturday: 11:00am to 11:00pm
- The land also includes buildings which are not publicly accessible, namely the building area on the south-east corner identified as Tenancy 1, cool room, freezer and dry storage areas north of Tenancy 1 and the food truck storage compound on the north-east corner, adjacent to the common boundary with residential properties at No.17 and 19 Hayes Street.
 - To the south-eastern portion of the land interfaces with rear yard areas of residential properties fronting Hayes Street. The northern-eastern section of the land interfaces with buildings to the east at No.27 Hayes Street which are used for non-residential purposes (manufacturing and sale of furniture, homewares and lighting).
 - To the west, on the opposite side of High Street, are one and two storey shops.
 - To the north is a three storey mixed use development comprising a ground level shop fronting High Street and dwellings located at the upper two (2) levels. The building comprises a double storey brick wall built to the common boundary and interfacing with the car park on the subject site. The wall has blind window openings. The third level has balconies interfacing with the common boundary with doors and windows to the balconies set back approximately 4 metres from the common boundary.
 - To the south is the Northcote RSL which is constructed on the common boundary. The RSL is affected by a Heritage Overlay.
 - The site has access to public transport, including tram services on High Street until 1:00am and trains from Croxton Station (located approximately 225m to the east) operating until 12:20am (city bound) and 1:25am (north bound).

Proposal

- The application proposes to amend Condition No.26 of Planning Permit D/634/2014 which states:
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26. *The venue must not provide for any live music.*

To state:

26. *All live or pre-recorded music must comply with the requirement of SEPP N-2.*

- As a result of the peer review of the application documents, the applicant agreed to amend their original request as per the wording of Condition No.26 in the Recommendation on Page 7 of this report.
- It is proposed that the type of live music entertainment to be provided at the venue will be confined generally to quieter background acoustic style soloists, groups and bands.
- Live music is proposed to be played:

Outdoor

- Sunday-Thursday (and Public holidays) up to 8:00pm outdoors (acoustic only – no drums or percussive instruments)
- Friday and Saturday up to 10:00pm outdoors (acoustic only – no drums or percussive instruments)

Indoor

- During the allowable days of operation (identified in Condition No.6 of the Permit) until 11:00pm.
- The amended condition is not proposed to transform the current use of the site into a live music venue but instead provide the patrons of the existing restaurant and tavern use with complementary live music performance.
- It is proposed the venue remains compliant with Condition 28 of the permit which relates to the noise limit requirements of SEPP N-2.

The application is accompanied by acoustic reports from ARUP who conducted the initial acoustic assessment for the development.

Objections

- Seven (7) objections have been received.

Objections summarised

- Noise levels are currently excessive
 - Live bands performing at the venue during the 2016 Darebin Music Festival created excessive noise
 - No noise attenuation is possible in outdoor live music areas
 - How will compliance with SEPP-N2 be managed?
 - The live music will attract more patrons
 - Live music will increase in car parking demand
 - The venue is already busy and causes noise and traffic congestion in residential areas
 - Residential parking permits should be granted to residents
 - Welcome to Thornbury should increase its car parking capacity
 - Residents in nearby apartments cannot enjoy quiet amenity
 - Reduction in car parking not appropriate
 - Patron behaviour causes detrimental amenity to surrounding residential area
-

Officer comment on summarised objections

Noise levels are currently excessive

A search of Council records indicates that there have been no formal complaints lodged with Council since the commencement of the operation at Welcome to Thornbury, in particular with respect to noise impacts. As Council has not had the opportunity to review current noise levels through any planning enforcement action, it is not possible to verify whether existing noise levels do not comply with relevant limits set by Permit conditions. This notwithstanding, the current application relates to an amendment to the existing permit to introduce live music at the venue and Council's assessment is therefore to be limited to this aspect of the application. The use is otherwise expected to operate in compliance with existing permit conditions. Further conditions can be imposed to ensure that any live music internal and outdoor minimises impact on the nearest residential properties as per SEPP-N2 and complies with the relevant 'agent of change' requirements in Clause 52.43 of the Darebin Planning Scheme.

Live bands performing at the venue during the 2016 Darebin Music Festival created excessive noise

The Darebin Music Festival is an annual event organised by Council. This one-off event sponsors and supports the arts and entertainment industry in Darebin. Council allows venues to register their music event with Council so that it can be included and published in the promotional material created by Council for the event. It is expected that any venue registering for the event has the relevant planning permits (or existing use rights) in place to host live music.

Council's Arts and Entertainment Unit has confirmed that Welcome to Thornbury was included in the "Venue Hop" program in the event and this entailed the hosting of an outdoor live music performance at the venue for a period of approximately one hour during the afternoon period, with noise levels monitored by Council to comply with SEPP-N2.

However, given that Condition 26 of Welcome to Thornbury specifically excluded any live music at the venue, the venue/operator were in breach of the planning permit through any hosting of live music performance at the venue, whether this was through the Darebin Music Festival or any other event. It is the responsibility of the operator to comply with relevant permits and legislation in place.

No noise attenuation is possible in outdoor live music areas

The outdoor live music is required to achieve the SEPP-N2 noise limit which is a measurable entity. The measurable noise and compliance with SEPP-N2 takes into account not only the noise generated by music, but also the separation of a noise sensitive property from the noise source, any physical noise barriers or buffers such as buildings, and also takes into account the relevant levels of existing background noise, such as traffic, trams, public noise such as speech and laughter etc. Background noise levels have been measured by the applicant's acoustic consultant, and maximum dBA noise levels for live music have been recommended.

This is subject to confirmation through a further acoustic report to be prepared in line with the peer review undertaken by Council. This can be addressed via conditions.

In addition to a detailed acoustic report, conditions of any amended permit issued will ensure that the operator complies with SEPP-N2 at all times, and that this is measured at the beginning of a performance for a specified period of 15 minutes for both outdoor and indoor music. Furthermore, conditions of any approval will restrict the type of outdoor live music to prohibit drums and percussive instruments. The outdoor live music is intended to provide low level musical entertainment through live performance.

How will compliance with SEPP-N2 be managed?

This is a valid concern and live music noise from the venue will need to be carefully monitored and managed. It is expected that in the first instance compliance with SEPP-N2 is to be managed by the operator, through noise level readings taken by the operator during times of performance, and in accordance with Permit conditions.

It is also proposed that a noise limiter will be installed at the venue to ensure appropriate levels are maintained.

The operator, within three months of the commencement of the operation of the live music venue is to conduct SEPP-N2 noise measurements and provide to Council a music noise commissioning report. The report is to be peer reviewed at the cost of the owner/operator of the live music venue.

The noise and amenity management plan endorsed pursuant to Conditions No.15 and No.16 of the Permit on 6 July 2015 has been amended to include some additional measures to be incorporated to address live music. This should include in Paragraph 3.2 a clear and comprehensive public complaints procedure describing steps to be taken to effectively resolve complaints and to avoid similar future complaints associated with noise and amenity.

The live music will attract more patrons

Condition No.8 of the planning permit already restricts the number of patrons allowed at the venue at any one time. The amended application does not seek to increase patron numbers along with the introduction of live music. This ground of objection is therefore not considered to be a relevant concern.

Live music will increase car parking demand

Car parking demand is a function of patron numbers associated with the use and is not based on the nature of activities carried out within the scope of the allowable use. The car parking reduction considered under the planning permit has been based on the maximum number of patrons allowed on the site at any one time, and given this is not proposed to be varied, it is not considered that there will be a greater car parking demand beyond the maximum patron numbers already approved.

The venue is already busy and causes noise and traffic congestion to residential areas & Residents in nearby apartments cannot enjoy quiet amenity

The introduction of live music will result in a change in the kind of noise emanating from the venue but it should not result in an overall increase in the level of noise generated by the venue, given that the venue is already subject to the requirements of SEPP N-2 (State Environment Protection Policy No.N2 – Control of Music Noise from Public Premises). SEPP N-2 requirements will continue to apply to the site and live music noise will be required to be adjusted to fall in line with the limits set under this policy.

The land is in the Commercial 1 Zone adjoining a Road Zone Category 1 (High Street) and within an activity centre where policy supports commercial, retail and entertainment uses. The expectation for such areas is that nearby residential properties cannot enjoy the same level of amenity as residential properties more remote from activity centres. Nevertheless, noise limits are set by the Environment Protection Authority under SEPP-N2 to provide a reasonable level of amenity to nearby residential properties and it is expected that the use must comply with relevant regulations.

Residential parking permits should be granted to residents

This is a matter that sits outside of the scope of the assessment of this application.

Reduction in car parking not appropriate

This is not relevant ground of objection. The amended application does not seek any further reduction in car parking than that already granted under the original permit D/634/2014.

Patron behaviour causes detrimental amenity to surrounding residential area

Management of patron behaviour, including the sale and serving of alcohol, is the responsibility of the business operator. There are existing endorsed Venue Management Plan, Acoustic Assessment and Noise and Amenity Action Plan which remain applicable and may need to be amended any measures, as necessary, to include actions necessary to manage the inclusion of live music at the venue. It is expected that the venue complies with the responsibilities and specifications included in these plans.

PLANNING ASSESSMENT

Section 72 Amendment

Under section 72 of the Act, a person who is entitled to use or develop land in accordance with a permit may apply to the responsible authority for an amendment to the permit. A reference to a permit includes any plans, drawings or other documents approved under a permit.

Subject to this section, sections 47 to 62 apply to an application to the responsible authority to amend a permit as if -

- (a) The application were an application for a permit; and
- (b) Any reference to a permit were a reference to the amendment to the permit.

The applicant proposes to amend both Permit conditions as well as endorsed documents.

Clause 21.04-5 – Economic Development

Under Arts, Culture and Tourism at Clause 21.04-5 of the Darebin Planning Scheme, land use planning aims to support Darebin's cultural and artistic vitality. Council recognises there is ongoing demand for adequate space to accommodate cultural activities such as live music, theatre, and visual art creation and exhibition.

Key issues for live music performance include amenity considerations with residential uses within activity centres, particularly with regard to live music venues. These issues are covered by Clause 52.43 of the Darebin Planning Scheme and are covered in the following section of this report.

Clause 52.43 - Live Music and Entertainment Noise Assessment

The purpose of Clause 52.43 is:

- *To recognise that live music is an important part of the State's culture and economy.*
- *To protect live music entertainment venues from the encroachment of noise sensitive residential uses.*
- *To ensure that noise sensitive residential uses are satisfactorily protected from unreasonable levels of live music and entertainment noise.*
- *To ensure that the primary responsibility for noise attenuation rests with the agent of change.*

In line with the purpose of Clause 52.43, Welcome to Thornbury is defined as the "agent of change" and has to ensure that noise sensitive residential uses are protected from unreasonable levels of live music and entertainment noise.

The scope of Clause 52.43 of the Darebin Planning Scheme (Live Music and Entertainment Noise) applies to an application required under any zone of the scheme to use land for, or to construct a building or construct or carry out works associated with a live music entertainment venue or a noise sensitive residential use that is within 50 metres of a live music entertainment venue.

Clause 52.43 was introduced into the Darebin Planning Scheme on 04 September 2014. Therefore it is expected that any use for which a planning permit was sought is subject to the requirements of Clause 52.43 if the use also seeks to introduce a live music element.

Live music entertainment venue is defined as:

- A food and drink premises, nightclub, function centre or residential hotel that includes live music entertainment.
 - A rehearsal studio.
 - Any other venue used for the performance of music and specified in Clause 2.0 of the Schedule to this clause, subject to any specified condition or limitation.
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The use on the subject site is defined as a Restaurant and Tavern for which a permit is required. Both of these land use terms are nested under “Food and Drink” premises. The proposal is to introduce live music to a permit required use; therefore the venue is classified as a live music entertainment venue having regard to the definition of the same in Clause 52.43.

A live music entertainment venue must be designed, constructed and managed to minimise noise emissions from the premises and provide acoustic attenuation measures that would protect a noise sensitive residential use within 50 metres of the venue.

A noise sensitive residential use means a boarding house, dependent person's unit, dwelling, nursing home, residential aged care facility, residential village or retirement village.

The map below (Figure 1) shows properties within a 50 metre radius of the subject site’s boundaries and take in residential properties to the east, as well as some residential uses within the Commercial 1 Zone to the north and west.

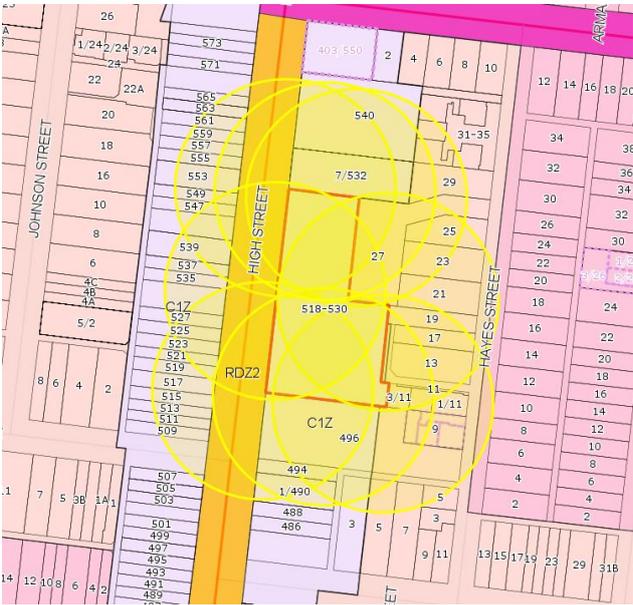


Figure 1: Properties within a 50 metre radius of the subject site’s boundaries highlighted in yellow

The application proposes to introduce live music, in two locations as shown on the plan accompanying the application. Arup Pty Ltd (Arup) was engaged by the applicant to provide an acoustic report to assess the introduction of live music performances both within the venue and in the existing outdoor dining area. Marshall Day Acoustics Pty Ltd (MDA) was engaged by the City of Darebin to undertake a peer review of the documents submitted by the applicant.

The comments provided by Council’s external consultant (Marshall Day) inform the discussions and assessment below, having regard to how residential land within 50 metres of the site is likely to be impacted.

Clause 52.43-3 - Requirements to be met

- *A live music entertainment venue must be designed, constructed and managed to minimise noise emissions from the premises and provide acoustic attenuation measures that would protect a noise sensitive residential use within 50 metres of the venue.*

The application does not propose to undertake any buildings and works to minimise noise transmission to nearby properties. Instead, it is proposed to regulate noise volumes to comply with SEPP-N2.

External Live Music

The application proposes to limit the hours of any **external** live music to 10pm on Friday and Saturday evenings (except for specified public holidays eve periods) and 8pm all other times. With respect to outdoor live music, the intention is to provide ambient live music with no drums or percussive instruments. The outdoor live music aspect of the application has been assessed by Council's external consultant, and has been supported subject to conditions that must require no drums or percussive instruments are to be played in the outdoor areas, and that external live music is limited to the stated hours of operation, that is:

- Sunday-Thursday (and Public holidays) up to 8:00pm outdoors (acoustic only - no drums or percussive instruments).
- Friday and Saturday up to 10:00pm outdoors (acoustic only - no drums or percussive instruments).

Outdoor live music is to be monitored by the operator for acoustic compliance with SEPP-N2 for the first 15 minutes of the performance, and as required by Clause 52.43-3 of the Darebin Planning Scheme. Music noise levels are to be adjusted as necessary for compliance. The monitoring and adjusting of noise levels during the periods allowed under any approval is to be carried out by a qualified noise technician and to be included as a condition of any approval.

Council is satisfied that noise impacts will be within an acceptable provided the above conditions are imposed as part of any approval.

Internal Live Music

The **internal** hours of live performances will coincide with the allowable days of operation (identified in Condition No.6 of the Permit) and proposed to conclude at 11:00pm on all days of operation. The indoor live music aspect of the application has been assessed by Council's external consultant. Based on the information provided, the finishing time of 11:00pm for indoor live music was not supported. This however is not consistent with other venues nearby and is incongruous with the purpose of the zone in regard to Friday and Saturday nights. Other measures within the permit allow Council to suitably protect the amenity of residential properties through the requirement to comply with SEPP-N2. It is recommended that Council impose conditions to restrict indoor live music to 10:00pm on Sundays through to Thursday with Friday and Saturdays being 11pm. Music noise levels during the periods allowed under any approval are to be adjusted as necessary for compliance. The monitoring and adjusting of noise levels is to be carried out by a qualified noise technician and to be included as a condition of any approval.

- *A noise sensitive residential use must be designed and constructed to include acoustic attenuation measures that will reduce noise levels from any:*
 - *Indoor live music entertainment venue to below the noise limits specified in State Environment Protection Policy (Control of Music Noise from Public Premises) No. N-2 (SEPP N2).*
-

- *Outdoor live music entertainment venue to below 45dB(A), assessed as an Leq over 15 minutes. For the purpose of assessing whether the above noise standards are met, the noise measurement point may be located inside a habitable room of a noise sensitive residential use with windows and doors closed (Schedule B1 of SEPP N2 does not apply).*

The above decision guideline is applicable in instances when a residential use is the 'agent of change'. As the agent of change in this instance is the live music venue, these decision guidelines are not strictly relevant to the application. However, it is clear that outdoor live music is required to be assessed over the first 15 minute period, and not 3-5 minutes as suggested by the applicant. This may form a condition of any approval.

PLANNING SCHEME SUMMARY

Darebin Planning Scheme clauses under which a permit is required

- Clause 52.43 (Live Music and Entertainment Noise) - A live music entertainment venue must be designed, constructed and managed to minimise noise emissions from the premises and provide acoustic attenuation measures that would protect a noise sensitive residential use within 50 metres of the venue.

Applicable provisions of the Darebin Planning Scheme

Section of Scheme	Relevant Clauses
SPPF	11.02
LPPF	21.04-5
Zone	34.01
Overlay	45.06, 43.02, 45.03
Particular provisions	52.43
General provisions	65.01

POLICY IMPLICATIONS

Environmental Sustainability

No new buildings are proposed. There is no relevant Sustainable Design Assessment associated with the existing Permit and there are no ESD requirements for the proposal to amend the Permit.

Social Inclusion and Diversity

Nil

Other

Nil

FINANCIAL AND RESOURCE IMPLICATIONS

There are no financial or resource implications as a result of the determination of this application.

FUTURE ACTIONS

Nil

DISCLOSURE OF INTERESTS

Section 80C of the *Local Government Act 1989* requires members of Council staff and persons engaged under contract to provide advice to Council to disclose any direct or indirect interest in a matter to which the advice relates.

The Manager authorising this report, having made enquiries with relevant members of staff, reports that no disclosable interests have been raised in relation to this report.

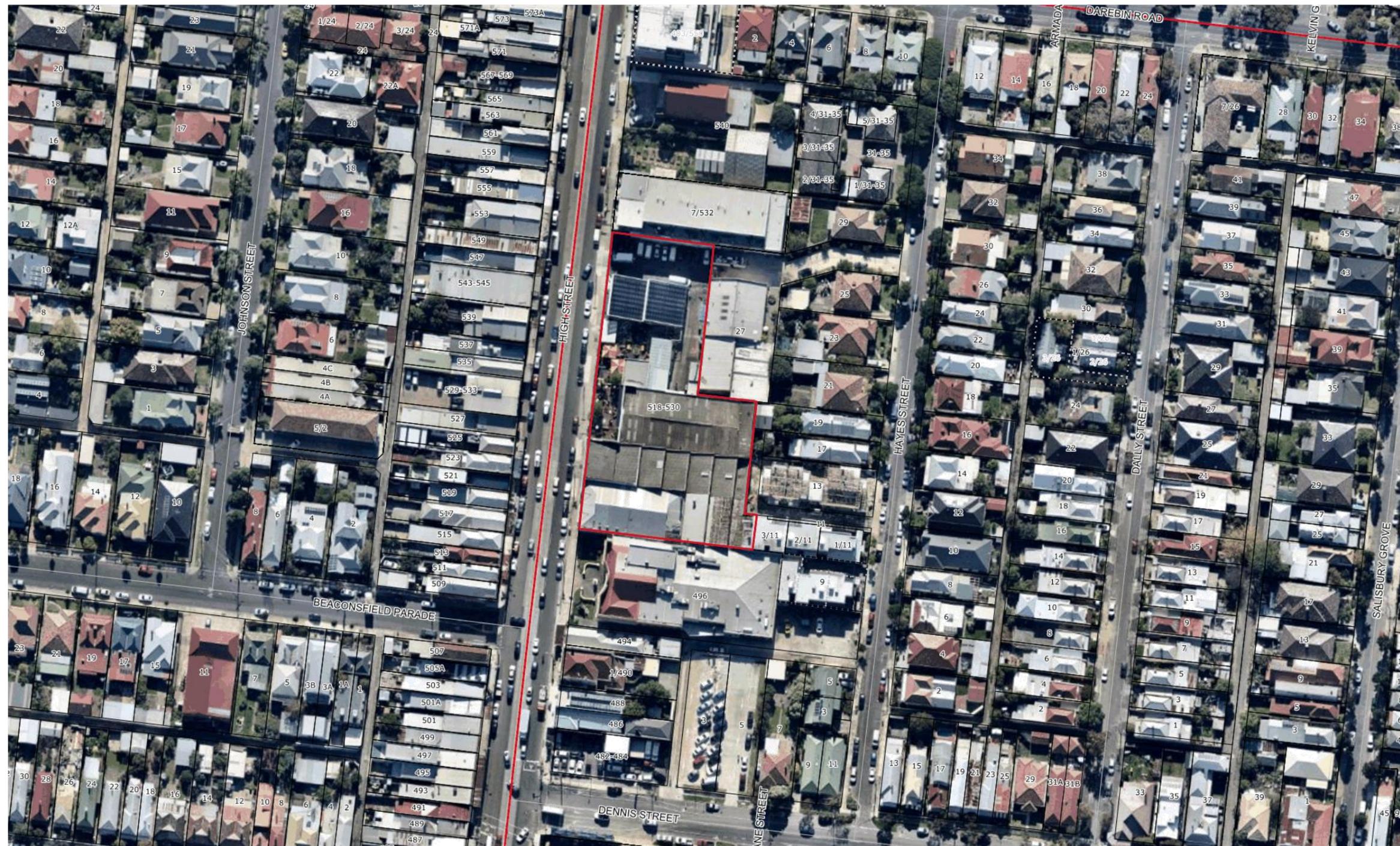
RELATED DOCUMENTS

Darebin Planning Scheme and the *Planning and Environment Act (1987)* as amended.

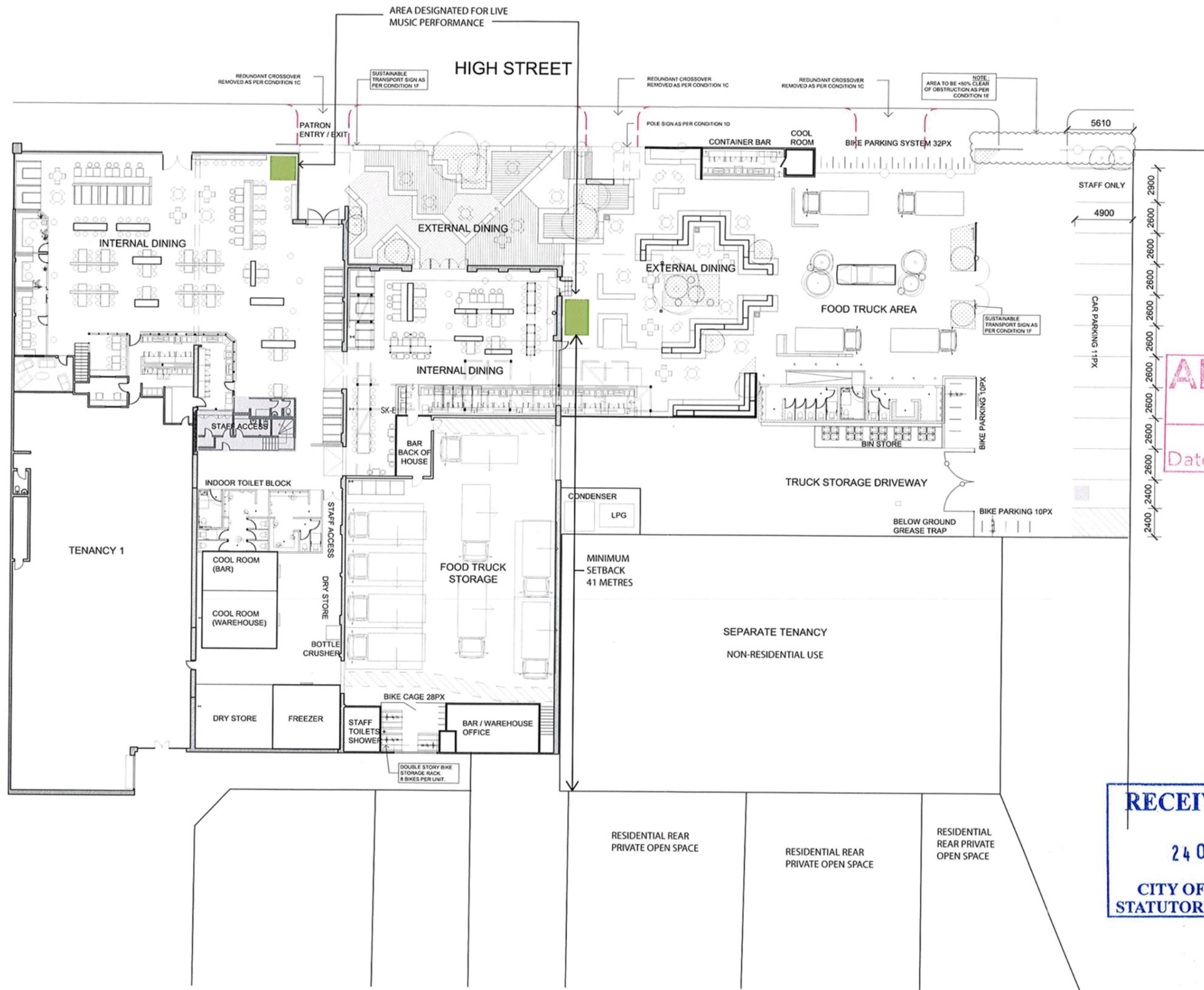
Attachments

- Aerial Photo (**Appendix A**)
 - Site Plan (**Appendix B**)
-

Darebin City Council
23/05/2017



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Rev	By	Description
24-02-15	A	ISSUED FOR INFORMATION
26-02-15	B	ISSUED FOR INFORMATION
17-03-15	C	ISSUED FOR INFORMATION
20-05-15	D	ISSUED FOR ENDORSEMENT
09-06-15	E	ISSUED FOR ENDORSEMENT
12-06-15	F	ISSUED FOR INFORMATION
29-06-15	G	ISSUED FOR INFORMATION

ADVERTISED
6 of 6
 Date **07 DEC 2016**

PROJECT MANAGEMENT BY
switch
 Level 16, 414 La Trobe St., Melbourne VIC 3000
 ph: (03) 9329 6878
 www.switchpm.com.au

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 Note
 Only use figured dimensions. Do not scale. If in doubt, consult the architect. Check all dimensions on site before fabrication or set-out.

Project
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 520 HIGH ST NORTHCOLE, VIC

RECEIVED ON
PROPOSED SITE PLAN
24 OCT 2016
CITY OF DAREBIN
STATUTORY PLANNING

Drawn by	JS
Designed by	-
Revision	
1094	SPM-200
	G

6. OTHER BUSINESS

6.1 GENERAL PLANNING INFORMATION: SCHEDULED VCAT APPLICATIONS, SIGNIFICANT APPLICATIONS AND APPLICATIONS FOR THE NEXT PLANNING COMMITTEE MEETING

The General Planning Information attached at **Appendix A** contains lists of:

- Scheduled VCAT appeals for the information of the Planning Committee. The table includes appeals heard as well as those scheduled for the coming months (but does not include mediations and practice day hearings).
- Where an appeal has been adjourned and a new hearing date not yet set, the details appear with the text „struck out“.
- Applications with a cost of construction of at least \$3,000,000 currently under consideration.
- Applications for the upcoming Planning Committee Meeting. The list of applications is based upon best available advice at the time of publishing the Planning Committee Agenda. For confirmation of agenda items reference should be made to the Planning Committee Agenda on Council's website the Friday prior to the scheduled meeting.

Recommendation

That the General Planning Information attached as **Appendix A** be noted.

Related Documents

- Nil

Attachments

- General Planning Information: Scheduled VCAT Applications, Significant Applications and Applications for the next Planning Committee meeting (**Appendix A**) [↓](#)

Delegate Decisions before VCAT

OCTOBER 2016					
Date of Hearing	App. No.	Property/Ward	Proposal	Council Decision/Nature of Appeal	VCAT Decision
4/10/2016	D/803/2015	340 Plenty Road, Preston Cazaly	Development of eight (8) three (3) storey dwellings and a reduction to the visitor car parking requirement.	Refusal - Applicant appeal	Adjourned to administrative mention in April 2017
Result					
5/10/2016	D/30/2016	40 Showers Street, Preston Cazaly	Construct a seven storey development plus basement comprising 39 dwellings (12 x 1 bedrooms and 27 x 2 bedrooms) and 39 car spaces with associated storage units.	Refusal - Applicant appeal	Council's decision affirmed – No permit granted.
Result					
The Tribunal was troubled by the lack of built form guidance relevant to properties in Showers Street when regard was had to the wording of DDO16. Nevertheless, the Tribunal considered that while 4 storeys may be able to be accommodated on the site, the design of the proposal did not respond to its context enough to be worthy of a permit.					
19/10/2016	D/423/2015	2 Leicester Street, Preston Cazaly	A medium density housing development comprised of the construction of a three (3) storey building accommodating eight (8) dwellings on land affected by the Special Building Overlay; a reduction in the car parking requirement; creation of access to a road in a Road Zone Category 1, as shown on the plans accompanying the application.	Refusal – Applicant Appeal	Council's decision set aside – Permit granted
Result					
The Tribunal did not provide written reasons.					

PLANNING COMMITTEE MEETING

13 JUNE 2017

OCTOBER 2016					
Date of Hearing	App. No.	Property/Ward	Proposal	Council Decision/Nature of Appeal	VCAT Decision
24/10/2016	D/1087/2015	12 Jackson Street, Northcote Rucker	Partial demolition and alterations and additions to an existing dwelling on land affected by a Heritage Overlay in accordance with the endorsed plans.	Notice of Decision – Objector Appeal	Not required as settled at an earlier Practice Day Hearing by consent.
Result					
28/10/2016	D/800/2015	68 St Vigeons Road, Reservoir	Construct a medium density housing development comprised of five (5) double storey dwellings; and Reduce the car parking requirements associated with the dwellings (1 visitor space)	Refusal - Applicant appeal	Council's decision set aside – Permit Granted
Result					
The Tribunal provided oral reasons, and only a summary of the reasons in writing. The Tribunal found that the amended plans in the proposal were worthy of support, and was satisfied Council's confined points of objection did not warrant refusing the application.					

PLANNING COMMITTEE MEETING

13 JUNE 2017

NOVEMBER 2016					
Date of Hearing	App. No.	Property/Ward	Proposal	Council Decision/Nature of Appeal	VCAT Decision
9/11/2016	D/10/2016	16-18 Clarendon Street, Thornbury Rucker	Construction of a three (3) storey apartment building and a waiver of visitor car parking	Refusal – Applicant Appeal	Council's Decision Affirmed – No Permit Granted
Result	Notwithstanding that the site enjoys the benefit of an existing planning permit that allows a 3 storey apartment building on the site, the Tribunal considered the design of the present proposal with reduced setbacks at upper levels (which the Tribunal considered unduly dominant, especially to properties to the south), a greater basement footprint (which limits landscaping opportunities) and insufficient justification for reduction of visitor parking, the Tribunal concluded the proposal was an overdevelopment and affirmed Council's refusal.				
16/11/2016	D/227/2016	150 Leamington Street, Reservoir La Trobe	A medium density housing development comprising three (3) double storey dwellings	Refusal – Applicant Appeal	Council's Decision Set Aside – Permit Granted
Result	The Tribunal did not accept Council's argument that the proposal did not contribute to the preferred character of the area – noting that the site was not located in an area of consistent open 'backyard-scapes'. What the Tribunal did consider relevant was amenity impacts resulting from the extensive upper levels of Unit 2 on the adjoining property's backyard. The Tribunal also noted the opportunity for landscaping along Unit 2's interface with adjoining property was limited – as a result it required Unit 2 to be further set back from the common boundary to allow room for landscaping. Otherwise, the Tribunal was satisfied the proposal was an acceptable response to neighbourhood character and had no unreasonable amenity impacts. While there was a slight shortfall in private open space when considered against the requirements of the General Residential Zone Schedule 1, the Tribunal did not consider this fatal to the proposal given the site's proximity to Edwardes Lake Park.				

PLANNING COMMITTEE MEETING

13 JUNE 2017

DECEMBER 2016					
Date of Hearing	App. No.	Property/Ward	Proposal	Council Decision/Nature of Appeal	VCAT Decision
6/12/2016 (Compulsory Conference)	D/444/2016	52-56 Clyde Street, Thornbury Rucker	20 Dwellings	Failure appeal (Council opposed the Application)	Council's Decision Set Aside – Permit Granted
Result	At the compulsory conference, the Permit Applicant was willing to make design changes to their proposal to address resident and Council concerns. As a result of these changes, the parties were able to reach agreement that a permit should issue.				
9/12/2016	D/889/2015	8 Doolan Street, Reservoir Cazaly	Medium density development comprising the construction of two (2) side by side dwellings	Refusal – Applicant appeal	Council's Decision Set Aside – Permit Granted
Result	The Tribunal did not agree that the design detailing of the proposal (which was argued by Council to be unacceptable due to its 'busy' interwar inspired appearance) was unacceptable from a character point of view – rather that such a response provided articulation to the proposal. The Tribunal was also satisfied that appropriate landscaping could be provided notwithstanding the double crossover. In the absence of any unsatisfactory amenity impacts, the Tribunal set aside Council's decision and granted a permit.				
12/12/2016	D/942/2015	11 Edith Street, Preston Cazaly	Development of seven (7) three (3) storey buildings and a reduction to the visitor car parking requirement	Refusal – Applicant appeal	Council's Decision Set Aside – Permit Granted
Result	The Tribunal was not persuaded that the proposal had unreasonable off site amenity impacts when regard was had to DDO16 which called for intensification in the area.				

PLANNING COMMITTEE MEETING

13 JUNE 2017

JANUARY 2017					
Date of Hearing	App. No.	Property/Ward	Proposal	Council Decision/Nature of Appeal	VCAT Decision
11/01/2017	D/81/2016	207-209 Separation Street, Northcote Rucker	Construction of eight (8) dwellings and waiver of a visitor car space	Refusal - Applicant Appeal	Council's decision set aside – Permit Granted
Result	It was not in dispute that the site could accommodate some form of redevelopment, given proximate transport and services. The critical issues for the Tribunal was whether there was policy support for the 3 storey proposal, the fit of the design into the neighbourhood and off site amenity impacts. Subject to additional conditions requiring the deletion of one of the three storey dwellings and provision of visitor parking on site, together with conditions that go to root barrier protection and species selection (for trees next to adjoining properties), the Tribunal was comfortable a permit could issue.				
17/01/2017	D/402/2016	38-40 Gisbourne Crescent, Reservoir La Trobe	Construction of eight (8) dwellings	Refusal - Applicant Appeal	Council's Decision Set Aside – Permit Granted
Result	When regard was had to developments approved and constructed in the area, together with the incremental change policy applicable to the site, the Tribunal was satisfied the proposal was an acceptable response to preferred character. Together with some minor additional conditions, the Tribunal was satisfied there was acceptable compliance with Clause 55 and no unreasonable off site amenity impacts, so it directed the grant of a permit.				
31/01/2017	D/121/2016	90 David Street, Preston Cazaly	Construction of two double storey dwellings	Notice of Decision - Objector Appeal	Resolved by way of Consent Order – Hearing no longer required – Permit Granted
Result					
31/01/2017	D/168/2016	411 Murray Road, Preston Cazaly	Construct a medium density housing development comprised of two (2) triple storey dwellings and two (2) double storey dwellings	Refusal - Applicant Appeal	Council's decision affirmed – No permit granted
Result	While the Tribunal considered the proposal was consistent with broader state and local policy, it nevertheless considered the proposal an overdevelopment of the site when regard to neighbourhood character and the visual bulk of the proposal. In particular, the Tribunal noted the 3 rd storey elements provided an excessive transition between adjoining properties and rear open spaces. The Tribunal was also critical of the lack of landscaping proposed along the rear of the site. As such, it affirmed Council's refusal.				

PLANNING COMMITTEE MEETING

13 JUNE 2017

FEBRUARY 2017					
Date of Hearing	App. No.	Property/Ward	Proposal	Council Decision/Nature of Appeal	VCAT Decision
1/02/2017	D/271/2016	766 Plenty Road, Reservoir Cazaly	Development of three (3) three (3) storey dwellings	Refusal - Applicant Appeal	Council's decision set aside – Permit granted
Result	Notwithstanding the Council's concerns the application was a piecemeal application that would result in an underdevelopment of the site (when regard was had to its physical and planning context), the Tribunal did not agree with such concerns there was a 'policy disconnect'. It considered that the proposal presented an acceptable interface to the balance of the Plenty Road site, responding to the previous Tribunal decision's criticism of this interface.				
2/02/2017	D/167/2016	25 Kenilworth Street, Reservoir La Trobe	Development of eight (8) three (3) storey dwellings and one (1) two (2) storey dwelling and a reduction to the visitor car parking requirement	Refusal - Applicant Appeal	Council's Decision Affirmed – No permit granted
Result	The Tribunal considered the proposed part 1, 2 and 3 storey reverse living townhouses (and one single storey unit) too intense for the site's location on the periphery of the Reservoir Activity Centre. The Tribunal in particular considered the proposal too big, and would have a jarring visual impact on the surrounding area. The Tribunal also had concerns with the quality of the design, areas left for landscaping and internal amenity.				
3/03/2017	D/16/2016	6 Elliot Street, Reservoir La Trobe	Variation of restrictive covenant and construction of three (3) dwellings	Refusal - Applicant Appeal	Council's decision affirmed – No permit granted
Result	The Tribunal considered that the permit applicant had not persuaded it that it had satisfied the very high legislative tests in the Act – namely, that no beneficiaries of the covenant would not suffer any detriment of any kind. In addition, the Tribunal had concerns about the extent of walls on boundary and built form in the back yard. As such, it affirmed Council's refusal.				

PLANNING COMMITTEE MEETING

13 JUNE 2017

FEBRUARY 2017					
Date of Hearing	App. No.	Property/Ward	Proposal	Council Decision/Nature of Appeal	VCAT Decision
3/02/2017	D/882/2015	10 Stymie Street, Kingsbury La Trobe	Construction of a medium density development comprising two (2) dwellings	Refusal - Applicant Appeal	Council's decision set aside (by consent) – Permit Granted
Result	The parties were able to negotiate a consent order on the basis of amended plans, thus avoiding the need for a contested hearing.				
15/02/2017	D/1301/2015	55 Nisbett Street, Reservoir Cazaly	Construction of a medium density housing development comprising one (1) single storey dwelling to the rear of the existing dwelling and alterations and additions to the existing dwelling	Refusal - Applicant Appeal	Council's decision set aside (by consent) – Permit Granted
Result	The parties were able to negotiate a consent order on the basis of amended plans, thus avoiding the need for a contested hearing.				
27/02/2017 (Compulsory Conference)	D/671/2016 Rucker	12 Hall Street, Fairfield	A medium density residential development comprising the construction of two (2) double storey dwellings	Refusal – Applicant Appeal	Council's decision set aside (by consent) – Permit Granted
Result	The permit applicant was willing to make changes to address Council concerns, accordingly a permit was able to be granted by consent.				

PLANNING COMMITTEE MEETING

13 JUNE 2017

MARCH 2017					
Date of Hearing	App. No.	Property/Ward	Proposal	Council Decision/Nature of Appeal	VCAT Decision
2/03/2017 (Compulsory Conference)	D/509/2016	512 Gilbert Road, Preston Cazaly	Proposed medium density housing development comprising the construction of 4 double storey and 1 single storey dwellings and a waiver of the visitor car space	Refusal – Applicant appeal	Council's decision set aside (by consent) – Permit Granted
Result	The Permit Applicant was willing to make changes to address Council concerns. As such, the parties were in agreement that a permit could issue.				
15/03/2017	D/959/2015	7 Separation Street, Fairfield Rucker	Medium density development comprising the construction of four (4) double storey dwellings	Refusal – Applicant appeal	VCAT Decision Pending
Result					
28/03/2017	D/1096/2015	113 Cheddar Road, Reservoir La Trobe	Proposed medium density development comprising the construction of four (4) double storey dwellings on a lot affected by the special building overlay	Refusal – Applicant appeal	Council's decision affirmed – No Permit granted.
Result	The Tribunal was satisfied that the development of the site with four reverse living dwellings was supported by state and local policy. It also considered the proposal was an acceptable response against neighbourhood character. Where the proposal fell short was internal amenity due to the extent of screening required at first floor to prevent overlooking. As such, the Tribunal affirmed Council's refusal.				
30/03/2017 (Compulsory Conference)	D/245/2015	3 Tharratt Street, Thornbury Rucker	Medium density development comprising the construction of six (6) dwellings within a two storey building and basement	Notice of Decision – Objector Appeal and Conditions Appeal	Council's decision varied – Permit Granted
Result	The Permit Applicant was willing to make changes to address Council and resident concerns. As such, the parties were in agreement that a permit could issue.				

PLANNING COMMITTEE MEETING

13 JUNE 2017

APRIL 2017					
Date of Hearing	App. No.	Property/Ward	Proposal	Council Decision/Nature of Appeal	VCAT Decision
4/04/2017 (Administrative Mention)	D/803/2015	340 Plenty Road, Preston Cazaly	Development of eight (8) three (3) storey dwellings and a reduction to the visitor car parking requirement.	Refusal – Applicant Appeal	Not Applicable
Result	The Tribunal advised the parties were in agreement as to the proposal. Final orders to come.				
26/04/2017	D/506/2016	102 Yarralea Street, Alphington Rucker	Display of two (2) business identification signs	Refusal – Applicant appeal	Council's decision affirmed – No permit granted
Result	While the Tribunal did not consider the site sat within a 'pristine residential area', it nevertheless considered its context was still primarily a residential one. When the Tribunal considered the prominence of the signage proposed, it considered the signage would result in a visual dominance that overwhelms the site and its surrounds.				
26/04/2017	D/486/2016	25 Clifton Grove, Preston Cazaly	Development of seven (7) dwellings within a Special Building Overlay and reduction in one (1) resident car space and waiver of one (1) visitor car space	Failure Appeal – To Oppose (Subsequently resolved to support)	Council's Decision Set Aside – Permit Granted
Result	The Permit Applicant lodged amended plans which addressed Council and resident concerns, therefore the parties were in a consent position by the time of the hearing.				

PLANNING COMMITTEE MEETING

13 JUNE 2017

APRIL 2017					
Date of Hearing	App. No.	Property/Ward	Proposal	Council Decision/Nature of Appeal	VCAT Decision
2/05/2017	D/696/2016	18 View Street, Reservoir La Trobe	A medium density development comprising the construction of four (4) double storey dwellings	Notice of Decision - Objector appeal	VCAT Decision Pending
Result					
3/05/2017 Compulsory Conference	D/818/2016	156 Rossmoyne Street, Thornbury Rucker	Construct two (2) double storey (plus basement level) dwellings on the lot	Refusal - Applicant Appeal	Council's Decision Set Aside – Permit Granted
Result	The Permit Applicant was willing to make changes to address Council and resident concerns, therefore the parties were in agreement that a permit could issue.				
3/05/2017 Administrative Mention	D/195/2003/C	36-46 Wingrove Street, Alphington Rucker	Amend the endorsed plans attached to planning permit D/195/2003 to alter the car parking layout	Notice of Decision - Objector Appeal	Council's Decision Set Aside – No Permit Granted
Result	The Permit Applicant determined not to proceed with their application to amend the permit – accordingly, VCAT set Council's decision aside. VCAT specifically noted it made no finding on the merits of the application.				

PLANNING COMMITTEE MEETING

13 JUNE 2017

APRIL 2017					
Date of Hearing	App. No.	Property/Ward	Proposal	Council Decision/Nature of Appeal	VCAT Decision
4/05/2017	D/368/2016	8 St Duthus Street, Preston Cazaly	A medium density development comprising the construction of a double storey dwelling to the rear of the existing dwelling	Refusal – Applicant Appeal	VCAT Decision Pending
Result					
5/05/2017	D/367/2016	10 Seston Street, Reservoir Cazaly	Construction of a medium density housing development comprising eight (8) dwellings and a waiver of visitor parking	Refusal – Applicant Appeal	VCAT Decision Pending
Result					
8/05/2017	D/127/2016	31 Best Street, Reservoir La Trobe	Proposed two (2) lot subdivision and construction of two (2) new dwellings	Refusal – Applicant Appeal	VCAT Decision Pending
Result					

PLANNING COMMITTEE MEETING

13 JUNE 2017

APRIL 2017					
Date of Hearing	App. No.	Property/Ward	Proposal	Council Decision/Nature of Appeal	VCAT Decision
10/05/2017	D/127/2016	21 Cuthbert Road, Reservoir La Trobe	Construct a medium density housing development comprised of four (4) double storey dwellings	Refusal – Applicant Appeal	VCAT Decision Pending
Result					
15/05/2017	D/453/2016	731 High Street, Preston Cazaly	Retrospective application to convert a garage to a dwelling	Refusal - Applicant Appeal	VCAT Decision Pending
Result					
19/05/2017	D/371/2016	28 Erskine Avenue, Reservoir La Trobe	A medium density housing development comprised of the construction of two (2) double storey dwellings to the rear of an existing dwelling providing two (2) bedroom accommodation	Refusal - Applicant Appeal	VCAT Decision Pending
Result					
31/05/2017	D/1103/2015	242 Gooch Street, Thornbury Rucker	Construct a medium density development comprising of three (3) double storey dwellings	Refusal - Applicant Appeal	
Result					

PLANNING COMMITTEE MEETING

13 JUNE 2017

JUNE 2017					
Date of Hearing	App. No.	Property/Ward	Proposal	Council Decision/Nature of Appeal	VCAT Decision
1/06/2017 (Compulsory Conference)	D/75/2011	161-187 & 195 High Street, Preston Cazaly	Seven storey mixed use apartment building	Section 87A Application – Position taken to Oppose	
Result					
1/06/2017	D/418/2016	18 Crispe Street, Reservoir Cazaly	A medium density housing development comprising the construction of three (3) double storey dwellings	Refusal – Applicant Appeal	
Result					
13/06/2017	D/173/2011	1091 Plenty Road, Bundoora La Trobe	Alterations to approved development	Section 87A Application	
Result					

PLANNING COMMITTEE MEETING

13 JUNE 2017

JUNE 2017					
Date of Hearing	App. No.	Property/Ward	Proposal	Council Decision/Nature of Appeal	VCAT Decision
14/06/2017	D/184/2014/B	112 Collins Street, Thornbury Rucker	Amend the permit which allows "a medium density housing development comprised of two (2) attached double storey dwellings".	Failure Appeal	
Result					
27/06/2017	D/195/2003/C	36-46 Wingrove Street, Alphington Rucker	Amend the endorsed plans attached to planning permit D/195/2003 to alter the car parking layout	Notice of Decision – Objector Appeal	Not required – Permit Applicant no longer wished to pursue their application
Result					
27/06/2017	D/787/2016	206 Dundas Street, Thornbury Rucker	Development of five (5) double storey dwellings and reduction to the visitor car parking requirement	Refusal – Applicant Appeal	
Result					

PLANNING COMMITTEE MEETING

13 JUNE 2017

JULY 2017					
Date of Hearing	App. No.	Property/Ward	Proposal	Council Decision/Nature of Appeal	VCAT Decision
7/07/2017	D/553/2016	112 Dundas Street, Thornbury Rucker	Construction of a medium density development consisting of five (5) dwellings and a reduction in the number of visitor car parking spaces associated with five (5) dwellings	Delegate – Conditions Appeal	
Result					
17/07/2017	D/75/2011	161-187 & 195 High Street, Preston Cazaly	Amend the existing permit to add an additional storey and re-arrangement of the proposed building	S87A Application to VCAT to amend Permit – Council's position is to oppose	
Result					
18/07/2017	N/A	731 High Street, Preston Cazaly	Planning enforcement proceedings due to owner not building in accordance with planning permit	Application for Enforcement Orders	
Result					

PLANNING COMMITTEE MEETING

13 JUNE 2017

JULY 2017					
Date of Hearing	App. No.	Property/Ward	Proposal	Council Decision/Nature of Appeal	VCAT Decision
18/072017	D/807/2016	4 Tambo Avenue, Reservoir La Trobe	Development of the land with three (3) double storey and one (1) single storey dwellings	Refusal – Applicant Appeal	
Result					
21/07/2017	D/496/2016	93 Mansfield Street, Thornbury Rucker	Construction of a medium density development comprising two (2) double storey dwellings	Refusal – Applicant Appeal	
Result					

Planning Committee Decisions before VCAT

OCTOBER 2016					
Date of Hearing	App. No.	Property/Ward	Proposal	Council Decision/Nature of Appeal	VCAT Decision
3/10/2016	D/655/2015	3 Gillies Street, Fairfield Rucker	Development of a 3 storey building comprising 9 dwellings and a reduction to the car parking requirement	Refusal (contrary to officer recommendation) - Applicant appeal	Council's decision set aside – Permit granted.
Result	This matter was a repeat appeal – with Council previously having a refusal affirmed in <i>Tsakmakis v Darebin CC</i> [2015] VCAT 462. Accordingly, the permit applicant sought to respond to the concerns raised by the Tribunal in the previous decision. The Tribunal considered that the present proposal was a better response to its northern neighbour (which was the critical failing of the previous proposal) in terms of amenity impact, however from a character point of view, the 3 rd level in this proposal actually came closer to the street than the previous proposal. The Tribunal considered that the third level needed to be made more recessive to be an acceptable character outcome to Gillies Street – as such it included a permit condition requiring this third level to be further set back from the street with no changes to any other setback. Otherwise, the Tribunal was satisfied that the design response adequately addressed amenity impacts to the site's northern neighbour.				
6/10/2016	D/629/2015	66-68 Waterloo Road, Northcote Rucker	Medium density housing development comprising the extension of 10 existing dwellings and construction of seven (7) new dwellings over a common basement car parking area.	Notice of Decision – Objector Appeal	Council's decision varied – Permit granted
Result	It was not in dispute that the site was suitable for redevelopment, therefore the primary focus of resident concerns was the proposal's reliance on Quarrion Lane to provide vehicle access to the development. Notwithstanding resident concerns, the Tribunal found that the use of Quarrion Lane for vehicle access was acceptable from a character point of view (as the front garden would not be dominated by car parking structures) as well as from a design point of view (in that if ramps from Waterloo Road were required to access a basement, a significant amount of the site would be given over to ramping). The Tribunal also had no concerns in respect of the condition of the laneway and the potential for impacts on amenity of surrounding residents from vehicle movements, given the low speed environs of the laneway in any event.				
12/10/2016	D/716/2015	255 Darebin Road, Thornbury Rucker	Construction of three (3) double storey dwellings	Refusal (contrary to officer recommendation) - Applicant appeal	Council's decision set aside – Permit Granted
Result	When the Tribunal had regard to the site's proximity to High Street, the Tribunal considered the design of the proposal, subject to a further modification (by way of condition) was an acceptable response to neighbourhood character and ResCode.				

PLANNING COMMITTEE MEETING

13 JUNE 2017

OCTOBER 2016					
Date of Hearing	App. No.	Property/Ward	Proposal	Council Decision/Nature of Appeal	VCAT Decision
13/10/2016	D/1109/2014	682-684 Bell Street, Preston Cazaly	Construction of six (6) dwellings, alter access to a Road Zone and a reduce the standard visitor car parking requirements.	Refusal (Contrary to Officer Recommendation) - Applicant appeal	Council's decision set aside – Permit granted
Result	The Tribunal considered the key issues were neighbourhood character, whether the front setback was acceptable and whether the proposal was an overdevelopment of the site. The Tribunal found the proposal an acceptable response to neighbourhood character given its finding that Bell Street has an eclectic character and main road setting. While the Tribunal was not troubled by the 3 storeys, it did require by way of condition the third storey to be set back so they do not sit forward of their lower floors. The Tribunal was otherwise not persuaded the application was an overdevelopment, or that the front setback needed to be changed.				
13/10/2016	D/949/2015	7 Highland Street, Kingsbury La Trobe	Proposed medium density development comprising the construction of 4 double storey dwellings as shown on the plans accompanying the application.	Failure Appeal – Council subsequently resolved not to support in line with officer recommendation.	Council's decision affirmed – No permit granted.
Result	The critical failing with the proposal was its response to neighbourhood character. In particular the Tribunal was concerned that the reverse living typology maximised the ground level site coverage and provided minimal landscape opportunities – as a result the Tribunal was not satisfied the proposal responded adequately to Council's preferred character outcome of encouraging additional planting in all gardens. Further, the Tribunal was critical of the internal amenity of the dwellings given their balconies were proposed to be fully screened to 1.7m in height, meaning such dwellings have poor outlook. Finally, the Tribunal considered car parking arrangements should be revisited as part of any new proposal.				
14/10/2016 and 24/10/2016	D/423/2015	12 Farnan Street, Northcote Rucker	Medium density development comprising the construction of five (5) double storey dwellings and reduction of the standard car parking rate, on land covered by a Special Building Overlay.	Refusal (Contrary to officer recommendation) – Applicant appeal	Council's decision set aside – Permit granted
Result	The Tribunal did not have concerns with the proposal's impact upon the character of the area, noting that change existed in the relevant part of Farnan Street already and there was an absence of planning controls to prevent demolition of building in the area. What troubled the Tribunal was the proposal's presentation to the street and to the Right-of-way, to that end the Tribunal placed conditions on the permit requiring the first floor of the dwelling which fronts the street to be set back behind the ground floor, and also for further setbacks to be provided to the first floors of units 3 and 4. The effect of these changes is that units 2 and 4 are now 2 bedroom dwellings, whereas at least dwelling 4 was a 3 bedroom dwelling. Otherwise, the Tribunal was not persuaded that there were any other unacceptable aspects of the proposal.				

PLANNING COMMITTEE MEETING

13 JUNE 2017

OCTOBER 2016					
Date of Hearing	App. No.	Property/Ward	Proposal	Council Decision/Nature of Appeal	VCAT Decision
26/10/2016	D/820/2015	283-291 Gilbert Road, Preston Cazaly	Development of a three (3) to four (4) storey building comprising 23 dwellings, a cafe and a reduction to the car parking requirement.	Refusal (in line with officer recommendation) – Applicant appeal	Council's Decision Affirmed – No permit granted.
Result	The Tribunal considered the critical issue was not whether the site could be redeveloped, but the execution of such redevelopment was in issue. Notwithstanding the site's designation as 'substantial change', the Tribunal noted that the site sat at the bottom end of the "substantial change hierarchy". When the Tribunal considered the design response of the proposal, the Tribunal was not satisfied the proposal responded adequately to its sensitive interfaces as well as what policy calls for on the site. Therefore the Tribunal was not satisfied the proposal struck the right balance and affirmed Council's refusal.				
31/10/2016	D/910/2015	65 Dundee Street, Reservoir La Trobe	A medium density housing development comprised of 4 double storey dwellings	Refusal (contrary to officer recommendation) – Applicant appeal	Council's Decision Set Aside – Permit Granted
Result	The Tribunal considered that with a condition requiring a greater setback of the first floor of Unit 2 from an adjoining property, it was satisfied the proposal was an acceptable response to neighbourhood character and generated no unreasonable off site amenity impacts.				

PLANNING COMMITTEE MEETING

13 JUNE 2017

NOVEMBER 2016					
Date of Hearing	App. No.	Property/Ward	Proposal	Council Decision/Nature of Appeal	VCAT Decision
3/11/2016 (Compulsory Conference)	D/748/2015	167-173 Station Street, Fairfield Rucker	Construction of a three storey (plus basement) apartment building comprising 20 dwellings, reduction in visitor car parking and alteration of access to a Road Zone Category 1	Refusal (contrary to officer recommendation) – Applicant appeal	Council's decision set aside – Permit Granted
Result	At the compulsory conference, the permit applicant was willing to make changes to address resident and Council concerns – as such, all parties were in agreeance and therefore a permit could issue.				
14/11/2016	D/285/2015	30 Cramer Street, Preston Cazaly	Construction of a part 9-storey, part 6-storey mixed use development comprised of three (3) ground floor shops and car parking and 95 dwellings at upper levels; a reduction in the car parking requirement and waiver of the loading bay requirement; creation and alteration of access to a Road Zone Category 1	Refusal (in line with officer recommendation) – Applicant appeal	Council's Decision Set Aside – Permit Granted
Result	The Tribunal considered that the design of the proposal was a suitable response to policy – in particular notwithstanding the lack of a tower and podium form, it represented a 'suitable landmark [building]' and provided activation to a hostile street environment (St Georges Road). The Tribunal considered the ESD credentials of the building acceptable, and subject to a number of conditions requiring internal rearrangements of dwellings to provide a more functional layout, the internal amenity of the dwellings was considered acceptable.				

PLANNING COMMITTEE MEETING

13 JUNE 2017

NOVEMBER 2016					
Date of Hearing	App. No.	Property/Ward	Proposal	Council Decision/Nature of Appeal	VCAT Decision
14/11/2016	D/483/2015	75 Gooch Street, Thornbury Rucker	Construct a medium density development comprising of four (4) double storey dwellings	Refusal (in line with officer recommendation) – Applicant appeal	Council's decision set aside – Permit granted
Result	The Tribunal provided oral reasons and only a short written summary of same. Originally, Council had sought an adjournment of the hearing on the basis it had not yet formed a view on amended plans lodged – this was due to the caretaker period during the election. Nevertheless, the adjournment request was refused, meaning Council had to attend the Tribunal without a formal position. The Tribunal was understanding of Council's predicament - calling Council's concern for due process to be followed "appropriate". The Tribunal however felt it was in a position to determine the matter, and did so. The Tribunal was otherwise comfortable with the merits of the proposal and directed a permit issue.				
23/11/2016	D/944/2015	704-706 Gilbert Road, Reservoir La Trobe	Construct a medium density housing development comprised of 10 dwellings over two (2) lots; and reduce the visitor car parking requirements associated with the dwellings	Refusal (contrary to officer recommendation) – Applicant appeal	Council's decision set aside – Permit granted
Result	The Tribunal was satisfied that the proposal presented an acceptable response to neighbourhood character and had acceptable off site amenity impacts but for impacts associated with parking and traffic movements on the adjoining neighbour. As a result, the Tribunal granted a permit subject to conditions requiring a significant redesign of the rear of the proposal to locate car parking there as opposed to proximate the adjoining dwelling.				

PLANNING COMMITTEE MEETING

13 JUNE 2017

NOVEMBER 2016					
Date of Hearing	App. No.	Property/Ward	Proposal	Council Decision/Nature of Appeal	VCAT Decision
28/11/2016	D/602/2015	13 Dean Street, Preston Cazaly	Proposed medium density housing development comprising the construction of six (6) dwellings in a two (2) storey building and reduction of visitor car space to zero (0)	Refusal (contrary to officer recommendation) – Applicant appeal	Council's decision set aside – Permit granted
Result	The Tribunal considered that the physical and policy setting of the site meant that an increase in residential density was considerable. In reaching the view that the proposal was acceptable, the Tribunal considered that Council's Neighbourhood Character Study was in need of review – in fact the Tribunal found the proposal, through its design had addressed many characteristics of preferred future character and did not generate unreasonable off site amenity impacts that couldn't be addressed by way of condition. Finally, contrary to the Council decision, the Tribunal considered the proposal was not an overdevelopment of the land when regard was had to ResCode standards.				
30/11/2016	D/1037/2015	38 Mansfield Street, Thornbury Rucker	A medium density housing development comprising the construction of five (5) double storey dwellings and a reduction of car parking requirements	Refusal (contrary to officer recommendation) – Applicant appeal	Council's decision affirmed – No permit granted
Result	While it was not in issue that the site could support some form of redevelopment, it was the execution that was in issue. The Tribunal disagreed with the Permit Applicant's expert that the site was located in an area with only a few period homes. As such, the Tribunal was of the view there was a high degree of consistency in the streetscape. As such, the Tribunal was of the view neighbourhood character policy called for interpretation of valued character elements in a contemporary manner. When regard was had to the contemporary, rectilinear design of the proposal, the Tribunal concluded the proposal failed to interpret prevailing building forms (for instance, the proposal included cantilevered elements), roof forms, siting and external materials of the original period dwellings. The Tribunal was also critical of the poor landscaping opportunities offered by the proposal, as well as the internal amenity to be received by the reverse living dwellings.				

PLANNING COMMITTEE MEETING

13 JUNE 2017

DECEMBER 2016					
Date of Hearing	App. No.	Property/Ward	Proposal	Council Decision/Nature of Appeal	VCAT Decision
8/12/2016 (Compulsory Conference)	D/1011/2012	195-209 St Georges Road, Northcote Rucker	Development of a 10 storey building comprising 168 dwellings, a supermarket (1500 square metres) and eight (8) shops and a reduction to the car parking requirement	Refusal (in line with Officer recommendation) – Applicant appeal	Compulsory Conference Vacated
Result	Prior to the Compulsory Conference, Council raised a legal issue (relating to the Metropolitan Planning Levy) that has the potential to result in the application for a planning permit being void. The Tribunal has sought the views of the Minister for Planning, who has until 21 December 2016 to make a submission to the Tribunal. Ultimately, the Tribunal determined the preliminary issue in favour of the Permit Applicant.				
8/12/2016	D/2/2016	72A Station Street, Fairfield Rucker	Construct and use a part six (6) and part five (5) storey building (plus ground floor mezzanine and including roof top communal terrace area, pergolas, lift, plant and equipment) associated with 20 dwellings, three (3) retail premises, a waiver of loading requirements and a reduction in car parking requirements to zero (0)	Notice of Decision (in line with Officer Recommendation) – Objector appeal	Council's decision varied – Permit granted
Result	The Tribunal granted a permit for the proposal on the basis it would provide housing and retail spaces consistent with what the Darebin Planning Scheme anticipates for the site. In particular, the Tribunal considered the design of the proposal to be a preferable outcome to the existing approved office building that could be constructed on site (and which has a similar built form to the proposal). As to the issue of the absence of car parking, the Tribunal was of the view the site had excellent access to public transport, access to an activity centre and nearby public open space. Further, the Tribunal noted Council was aware of issues in the vicinity of the site as a result of car parking – to that end the Tribunal was supportive of the condition agreed between the Applicant and Council requiring payment of a monetary security to do traffic surveys and establish restrictions, in future if required. The only change the Tribunal required to the application was a slight rephrasing of the monetary security condition as recommended by Council's own expert.				
14/12/2016	D/915/01 and CON/560/2015	1-9, 99 Helen Street, Northcote Rucker	Amend the permit to allow use of the 9 offices as dwellings with reduction in car parking and end the section 173 agreement which prevents the use of the 9 premises as dwellings	Failure Appeal (Council subsequently resolved to oppose in line with Officer Recommendation)	Council's decisions set aside – Permit amended and s173 directed to be ended
Result	The Tribunal was satisfied the section 173 agreement could be ended given that the use of the land for the purpose of dwellings is now as of right. In particular, it considered that no one would be disadvantaged by the ending of the agreement. In terms of the application to amend				

PLANNING COMMITTEE MEETING

13 JUNE 2017

DECEMBER 2016					
Date of Hearing	App. No.	Property/Ward	Proposal	Council Decision/Nature of Appeal	VCAT Decision
					the permit, the Tribunal considered it sufficient if a notation were placed on the plans requiring the room shown as an 'office' or 'store' to be used for the purpose of a study, home office or theatre, unless mechanical ventilation and borrowed light is installed in accordance with Building Code requirements. The Applicant was also successful in having the Tribunal order Council reimburse its filing fee. The Tribunal noted "the Council's failure to make a decision, the Council's deferral of the decision for no particular reason and the Council's failure to make a decision in a timely manner" led it to conclude the Applicant was entitled to be reimbursed.

PLANNING COMMITTEE MEETING

13 JUNE 2017

DECEMBER 2016					
Date of Final Order	App. No.	Property/Ward	Proposal	Council Decision/Nature of Appeal	VCAT Decision
19/12/2016 (Original hearing in August 2016)	D/742/2015	384-388 St Georges Road, Thornbury Cazaly	Development of four (4) storey building comprising forty-one (41) dwellings and a car parking reduction.	Refusal - Applicant appeal	Interim Decision – 17 August 2016 Final Decision – Council’s decision set aside – Permit Granted.
Result	<p>The Tribunal issued an interim decision giving the permit applicant an opportunity to lodge amended plans. In particular, the Tribunal was of the view that proposal could not be supported in its present form, but that a modified version could strike the right balance and be worthy of a permit. Some of the suggested changes the Tribunal has put to the applicant include meeting the 45 degree rear setback envelope, keeping the extent of basement excavation confined so as to allow for more landscaping and consolidation of a number of apartments that had poor internal amenity. The permit applicant has until 14 October 2016 to file and serve amended plans.</p> <p>Following receipt of the amended plans and further submissions from Council and a number of residents, the Tribunal considered that the proposal adequately responded to its Interim Decision and as a result was in a position to grant a permit for ultimately a 36 dwelling proposal; however it considered matters such as landscaping, waste management, screening, internal amenity and setbacks were now acceptable.</p>				

PLANNING COMMITTEE MEETING

13 JUNE 2017

JANUARY 2017					
Date of Hearing	App. No.	Property/Ward	Proposal	Council Decision/Nature of Appeal	VCAT Decision
9/01/2017	D/1102/2015	71 Miller Street, Thornbury Cazaly	A medium density housing development comprising the construction of six (6) double storey dwellings and a reduction of visitor car parking on land affected by a Special Building Overlay	Refusal (contrary to officer recommendation) – Applicant appeal	Council's decision set aside – Permit Granted
Result	The critical issue for the Tribunal in this instance was the tension between the site's designation as 'substantial change' (whereby increased housing densities are expected) viz a viz the policy objective of respecting neighbourhood character. The Tribunal formed the view that policy was explicit in establishing that if the Council were to meet its housing needs in substantial change areas (for instance), then less weight is given to neighbourhood character considerations. This, together with the Tribunal's view the proposal successfully integrated with the linear park and had no unreasonable off site amenity impacts led the Tribunal to grant a permit for the proposal.				
12/01/2017 & 7/02/2017	D/187/2015	305-307 Plenty Road, Preston Cazaly	Development of a five (5) storey building (plus basement) comprising 14 dwellings	Refusal (contrary to officer recommendation) – Applicant appeal	Part heard – resumed hearing on 7 February 2017
Result					
20/01/2017	D/1065/2015	9 Smith Street, Reservoir La Trobe	A medium density housing development comprised of the construction of five (5) dwellings, a reduction in the visitor car parking requirement	Refusal (contrary to officer recommendation) – Applicant appeal	Council's decision set aside – Permit granted
Result	The critical issue for the Tribunal was whether the proposal's reverse living typology was an acceptable fit in the neighbourhood. The Tribunal was satisfied reverse living was acceptable in this instance due to the site's context – in particular, the Tribunal was satisfied what had occurred 'on the ground' was not reflective of Council's preferred character statement. As such, the Tribunal was of the view site could accommodate the proposal.				

PLANNING COMMITTEE MEETING

13 JUNE 2017

FEBRUARY 2017					
Date of Hearing	App. No.	Property/Ward	Proposal	Council Decision/Nature of Appeal	VCAT Decision
13/02/2017 (Compulsory Conference)	D/319/2011/A	445-453 High Street & 1-13 Beavers Road, Northcote Rucker	Amendment so preamble reads: A mixed use development comprising a two - eight storey building (plus two basement levels) comprising 114 apartments, 3 shops, and a reduction to the car parking requirement	Failure Appeal (Council resolved to oppose in line with Officer Recommendation)	Council's decision set aside (by consent). Permit granted (by consent)
Result	The permit applicant was willing to make changes to address resident and Council concerns, as such all parties were in agreeance a permit could issue.				
22/02/2017 (Compulsory Conference)	D/400/2016	1056-1140 Plenty Road, Bundoora La Trobe	The construction of two or more dwellings on a lot in the MUZ; Buildings and works associated with the construction; reduction in statutory car parking requirement for visitor parking, construction of a front fence where associated with more than 2 dwellings on a lot and exceeds the maximum height of Clause 55.06-2	Failure Appeal (Council resolved to support in line with Officer Recommendation)	Council's decision set aside – Permit granted
Result	As the Council had resolved to support the application, the parties were able to enter into consent orders thereby avoiding the need for 4 days worth of hearings.				
22/02/2017	D/699/2015	34 Don Street, Reservoir La Trobe	Medium density development comprising the construction of three (3) double storey dwellings to the rear of the existing dwelling	Refusal - Applicant Appeal (Contrary to Officer Recommendation)	Council's decision affirmed – No permit granted
Result	While it was accepted the site was suitable for some form of redevelopment, it was the execution in this case that was fatal to the proposal. In particular, the Tribunal agreed with Council that the site did not have a high level of convenience to public transport – this meant that while change could be expected, it needed to be highly tempered and should fit comfortably into the neighbourhood. The 3 proposed double storey units, together with the existing double storey dwelling were considered by the Tribunal to be an unacceptable fit in terms of neighbourhood character, where double storey elements are located towards the street, as opposed to being in the rear of sites. The Tribunal was also critical of the poor landscaping opportunities, the limited articulation of the proposed units ground and first floors, insufficient upper storey setbacks and unbroken length of two storey form.				

PLANNING COMMITTEE MEETING

13 JUNE 2017

FEBRUARY 2017					
Date of Hearing	App. No.	Property/Ward	Proposal	Council Decision/Nature of Appeal	VCAT Decision
23/02/2017 (Compulsory Conference)	D/1011/2012	195-209 St Georges Road, Northcote Rucker	Development of a 10 storey building comprising 168 dwellings, a supermarket (1,500 square metres) and eight (8) shops and a reduction to the car parking requirement	Refusal - Applicant Appeal (in line with Officer Recommendation)	Matter did not settle.
Result	The matter did not settle at the Compulsory Conference, accordingly the matter is listed for hearing on 26 June 2017.				
28/02/2017 (Compulsory Conference)	D/1039/2015	658-664 High Street, Thornbury Rucker	A mixed use development comprising of ground floor office and shop tenancies and residential dwellings above, including a reduction in car parking	Failure Appeal (Council subsequently resolved to oppose in line with Officer Recommendation)	Council's decision set aside (by consent) – Permit Granted
Result	The Applicant was willing to make design changes to address Council concerns. As such, the parties were in agreement that a permit could issue.				

PLANNING COMMITTEE MEETING

13 JUNE 2017

MARCH 2017					
Date of Hearing	App. No.	Property/Ward	Proposal	Council Decision/Nature of Appeal	VCAT Decision
1/03/2017 (Compulsory Conference)	D/374/2004/B	63-71 Plenty Road, Preston Cazaly	1. Construction of an 14 storey building (plus basement levels) 2. Use of the land for the purpose of two (2) shops and 85 dwellings 3. Reduction of the car parking requirements 4. Waiver of the loading bay requirement	Refusal - Applicant Appeal (in line with Officer Recommendation)	Matter did not settle.
Result	The matter did not settle at the Compulsory Conference, accordingly the matter is proceeding to hearing.				
22/03/2017	D/934/2015	254-256 Murray Road, Preston Cazaly	Development of seven (7) dwellings and a reduction to the visitor car parking requirement	Refusal - Applicant Appeal (Contrary to Officer Recommendation)	VCAT Decision Pending
Result					
22/03/2017	D/400/2015	60 Burbank Drive, Reservoir La Trobe	A medium density housing development comprised of the construction of three (3) dwellings	Refusal - Applicant Appeal (Contrary to Officer Recommendation)	VCAT Decision Pending
Result					

PLANNING COMMITTEE MEETING

13 JUNE 2017

MARCH 2017					
Date of Hearing	App. No.	Property/Ward	Proposal	Council Decision/Nature of Appeal	VCAT Decision
27/03/2017	D/319/2011/A	445-453 High Street & 1-13 Beavers Road, Northcote Rucker	Amendment so preamble reads: A mixed use development comprising a two - eight storey building (plus two basement levels) comprising 114 apartments, 3 shops, and a reduction to the car parking requirement	Failure Appeal (Council subsequently resolved to oppose in line with Officer Recommendation)	No longer required – settled at Compulsory Conference Permit Granted by Consent
Result	Permit granted by consent.				
31/03/2017 (Compulsory Conference)	D/939/2015	314-316 St Georges Road, Thornbury Cazaly	Use and development of the land for the purpose of a 5-storey development comprised of four (4) commercial tenancies, one (1) restaurant and 46 dwellings; a reduction in the car parking requirement and waiver of the loading bay requirement	Refusal - Applicant Appeal (in line with Officer Recommendation)	No longer required – application for review withdrawn by Permit Applicant
Result	Hearing no longer required.				

PLANNING COMMITTEE MEETING

13 JUNE 2017

APRIL 2017					
Date of Hearing	App. No.	Property/Ward	Proposal	Council Decision/Nature of Appeal	VCAT Decision
4/04/2017	D/988/2015	2-4 Kelsby Street, Reservoir La Trobe	A medium density housing development comprising eight (8) double storey dwellings and a reduction of visitor car parking requirements	Refusal - Applicant Appeal (Contrary to Officer Recommendation)	Council's decision set aside – Permit granted
Result	The Tribunal considered the site's strategic and physical context lent itself towards achievement of urban consolidation goals, rather than respect of neighbourhood character due to the site's location adjacent a residential growth zone and proximity to shops and services (Reservoir Activity Centre). In respect of design and amenity impacts, the Tribunal was satisfied that these were acceptable and that the waiver of a visitor space was also acceptable.				
11/04/2017 (Compulsory Conference)	D/568/2015	1/72-74 Chifley Drive, Preston	Use of the land for the purpose of a Place of Worship and Indoor Recreation Facility	Notice of Decision (in line with Officer Recommendation) - Objector Appeal	Council's decision varied – Permit granted.
Result	The Applicant was willing to make design changes to address concerns of nearby businesses. As such, the parties were in agreement that a permit could issue.				
18/04/2017 (Not required)	D/1039/2015	658-664 High Street, Thornbury	A mixed use development comprising of ground floor office and shop tenancies and residential dwellings above, including a reduction in car parking	Failure Appeal (subsequently resolved to oppose in line with Officer Recommendation)	Council's decision set aside (by consent) – Permit Granted
Result	The Applicant was willing to make design changes to address Council concerns. As such, the parties were in agreement that a permit could issue.				

PLANNING COMMITTEE MEETING

13 JUNE 2017

APRIL 2017					
Date of Hearing	App. No.	Property/Ward	Proposal	Council Decision/Nature of Appeal	VCAT Decision
24/04/2017 (Compulsory Conference)	D/478/2016	36 Kelsby Street, Reservoir La Trobe	Medium density housing development comprising the construction of six (6) double storey dwellings and a reduction in car parking (visitor space)	Refusal - Applicant Appeal (Contrary to Officer Recommendation)	Council's Decision Set Aside (By Consent) – Permit Granted
Result	The parties were able to reach agreement as to a suitable form of development and have requested VCAT make a consent order.				
28/04/2017	D/770/2015	33 Joffre Street, Reservoir	A medium density housing development comprising eight (8) double storey dwellings and reduction of visitor car parking	Refusal - Applicant Appeal (in line with Officer Recommendation)	VCAT Decision Pending
Result					

PLANNING COMMITTEE MEETING

13 JUNE 2017

MAY 2017					
Date of Hearing	App. No.	Property/Ward	Proposal	Council Decision/Nature of Appeal	VCAT Decision
1/05/2017	D/1046/2015	50 Regent Street, Preston Cazaly	Construct a medium density housing development comprising four (4) double storey dwellings	Failure Appeal – Since resolved to oppose	VCAT Decision Pending
Result					
3/05/2017	D/197/2016	42 Banff Street, Reservoir La Trobe	Construction of a medium density development comprising two (2) double storey dwellings and two (2) single storey dwellings	Failure Appeal	VCAT Decision Pending
Result					
8/05/2017	D/1083/2015	375 St Georges Road, Thornbury Rucker	Construction of a three storey mixed use development comprising a takeaway food premises and four (4) dwellings, a reduction of car parking and loading facilities and alteration of access to a road zone category 1	Refusal (Contrary to Officer Recommendation) – Applicant Appeal	VCAT Decision Pending
Result					

PLANNING COMMITTEE MEETING

13 JUNE 2017

MAY 2017					
Date of Hearing	App. No.	Property/Ward	Proposal	Council Decision/Nature of Appeal	VCAT Decision
9/05/2017 Compulsory Conference	D/465/2015	36-46 High Street, Preston Cazaly	Mixed use development comprising: - Buildings and works consisting of a 12 storey building (plus three (3) levels of basement and part mezzanine); - Use as 90 dwellings; - A reduction in the car parking requirement associated with use as 90 dwellings and two (2) retail premises; - Waiver of the loading/ unloading requirements associated with use as two (2) retail premises; on land affected by a Design and Development Overlay - Schedule 3 (DDO3)	Refusal (Contrary to Officer Recommendation) – Applicant Appeal	Council’s decision set aside (by consent) – Permit granted
Result	The Permit Applicant was willing to make changes to the design of the proposal to address Council concerns. Accordingly, the parties were in a position to request VCAT grant a permit by consent.				
29/05/2017 Compulsory Conference	D/900/2016	16-20, 29-35 Stokes Street and 15-19 Penola Street, Preston	29-35 Stokes Street, Preston: Medium density housing development comprising the construction of a three (3) storey building comprising 22 Units and reduction of the standard car parking requirement on land partly covered by a Special Building Overlay. 16-20 Stokes Street and 15-19 Penola Street, Preston: Housing development comprising the construction of a four (4) storey building and additional underground basement comprising 46 Units and reduction of the standard car parking requirement on land covered by a Development Plan Overlay and Special Building Overlay	Failure Appeal - Council was going to refuse the matter but a failure appeal was lodged prior to refusal	

PLANNING COMMITTEE MEETING

13 JUNE 2017

MAY 2017					
Date of Hearing	App. No.	Property/Ward	Proposal	Council Decision/Nature of Appeal	VCAT Decision
30/05/2017	D/478/2016	36 Kelsby Street, Reservoir La Trobe	Medium density housing development comprising the construction of six (6) double storey dwellings and a reduction in car parking (visitor space)	Refusal – Applicant Appeal	Not required – settled at Compulsory Conference
Result					

PLANNING COMMITTEE MEETING

13 JUNE 2017

JUNE 2017					
Date of Hearing	App. No.	Property/Ward	Proposal	Council Decision/Nature of Appeal	VCAT Decision
2/06/2017	D/643/2015	50-52 Wales Street, Thornbury Rucker	The construction of a medium density housing development comprising five (5) double storey dwellings, use of land for dwellings and a waiver of a visitor car space	Refusal (Contrary to Officer Recommendation – Applicant Appeal	
Result					
5/06/2017	D/568/2015	1/72-74 Chifley Drive, Preston Cazaly	Use of land for the purpose of a Place of Worship and Indoor Recreation Facility	Notice of Decision – Objector Appeal	Matter resolved at Compulsory Conference – Hearing not Required
Result					
9/06/2017	D/404/2012	429 Heidelberg Road, Fairfield Rucker	Extension of Time (Grandview Hotel)	Refusal (Contrary to Officer Recommendation) – Applicant Appeal	
Result					

PLANNING COMMITTEE MEETING

13 JUNE 2017

JUNE 2017					
Date of Hearing	App. No.	Property/Ward	Proposal	Council Decision/Nature of Appeal	VCAT Decision
14/06/2017	POD/3/2015	198 Beavers Road, Northcote Rucker	Development Plan: Development of the site to accommodate a mix of medium density dwellings (including townhouses and/or apartments)	Refusal (Contrary to Officer Recommendation) – Applicant Appeal	Not Required
Result	The Applicant withdrew their appeal to VCAT.				
19/06/2017	D/757/2015	8-10 Pellew Street, Reservoir Cazaly	Development of six (6) double storey dwellings and a reduction to the visitor car parking requirement	Refusal (Contrary to Officer Recommendation) – Applicant Appeal	
Result					

PLANNING COMMITTEE MEETING

13 JUNE 2017

JUNE 2017					
Date of Hearing	App. No.	Property/Ward	Proposal	Council Decision/Nature of Appeal	VCAT Decision
22/06/2017 (Compulsory Conference)	D/393/2016	Preston Market – 1C	(Stage 1C) Development of a 14-storey building comprising 170 dwellings and a reduction to the car parking requirement, as shown on the plans accompanying the application.	Refusal (Contrary to Officer Recommendation) – Applicant Appeal	
Result					
22/06/2017 (Compulsory Conference)	D/398/2016	Preston Market – 1B	Development of two (2) 10-storey buildings comprising a total of 130 dwellings, the relocation of the existing Aldi supermarket, offices, retail tenancies, a food and drink premises, a reduction to the car parking requirement and alterations to the existing vehicle access to Murray Road, as shown on the plans accompanying the application.	Refusal (Contrary to Officer Recommendation) – Applicant Appeal	
Result					

PLANNING COMMITTEE MEETING

13 JUNE 2017

JUNE 2017					
Date of Hearing	App. No.	Property/Ward	Proposal	Council Decision/Nature of Appeal	VCAT Decision
26/06/2017	D/465/2015	36-46 High Street, Preston Cazaly	Mixed use development comprising: - Buildings and works consisting of a 12 storey building (plus three (3) levels of basement and part mezzanine); - Use as 90 dwellings; - A reduction in the car parking requirement associated with use as 90 dwellings and two (2) retail premises; - Waiver of the loading/ unloading requirements associated with use as two (2) retail premises; on land affected by a Design and Development Overlay - Schedule 3 (DDO3)		
Result					
26/06/2017	D/1011/2012	195-209 St Georges Road, Northcote	Development of a 10 storey building comprising 168 dwellings, a supermarket (1,500 square metres) and eight (8) shops and a reduction to the car parking requirement		
Result					
27/06/2017	D/255/2016	24 Claude Street, Northcote	A medium density developmet comprising partial demolition of the existing dwelling and construction of two (2) double storey dwellings on land affected y a Heritage Overlay and a Design and Development Overlay and a reduction in the statutory car parking requirement		
Result					

PLANNING COMMITTEE MEETING

13 JUNE 2017

JULY 2017					
Date of Hearing	App. No.	Property/Ward	Proposal	Council Decision/Nature of Appeal	VCAT Decision
4/07/2017	D/815/2015	22-24 Knox Street, Reservoir Cazaly	A medium density housing development comprising the construction of six double storey dwellings on land in the General Residential Zone Schedule 2	Refusal (Contrary to Officers Recommendation – Applicant Appeal	
Result					
4/07/2017	D/784/2015	666 Bell Street, Preston Cazaly	Construction of a three (3) storey building plus basement containing eight (8) dwellings	Refusal (Contrary to Officers Recommendation – Applicant Appeal	
Result					
10/07/2017	D923/2015	25 Gilbert Road, Preston Cazaly	Use and development of the land for the purpose of a four (4) storey development comprised of four (4) dwellings and a shop; a reduction in the car parking requirement	Failure Appeal – Subsequently resolved to oppose contrary to Officers Recommendation	
Result					

PLANNING COMMITTEE MEETING

13 JUNE 2017

JULY 2017					
Date of Hearing	App. No.	Property/Ward	Proposal	Council Decision/Nature of Appeal	VCAT Decision
12/07/2017	D/341/2016	2 Margaret Grove, Preston Cazaly	The construction of three (3) dwellings	Refusal (Contrary to Officers Recommendation – Applicant Appeal)	
Result					
17/07/2017	D/900/2016	16-20, 29-35 Stokes Street and 15-19 Penola Street, Preston Cazaly	29-35 Stokes Street, Preston: Medium density housing development comprising the construction of a three (3) storey building comprising 22 Units and reduction of the standard car parking requirement on land partly covered by a Special Building Overlay. 16-20 Stokes Street and 15-19 Penola Street, Preston: Housing development comprising the construction of a four (4) storey building and additional underground basement comprising 46 Units and reduction of the standard car parking requirement on land covered by a Development Plan Overlay and Special Building Overlay	Failure Appeal – Council subsequently resolved to oppose (Contrary to Officer Recommendation)	
Result					

PLANNING COMMITTEE MEETING

13 JUNE 2017

JULY 2017					
Date of Hearing	App. No.	Property/Ward	Proposal	Council Decision/Nature of Appeal	VCAT Decision
27/07/2017	D/173/2011	1091 Plenty Road, Bundoora La Trobe	TBA	TBA	
Result					
31/07/2017	D/389/2016	20-22 Thackeray Road, Reservoir La Trobe	Construct a medium density housing development comprising the construction of eight (8) double storey dwellings, with a reduction in the standard visitor car parking requirement to zero	Failure Appeal – Council subsequently resolved to oppose (in line with Officer Recommendation)	
Result					

Matters completed and to be heard to 31/07/2017

SIGNIFICANT APPLICATIONS UPDATE

Below is a list of applications with a cost of construction of at least \$3,000,000 and their status.

Address	Ward	Application No	Proposal Description	Date Received	Status
978 High Street, Reservoir	LaTrobe	D/966/2016	Mixed use development – five storey, 12 dwellings, food and drink premises and car parking reduction	25-Nov-16	On advertising
716 High Street, Thornbury	Rucker	D/247/2017	Mixed use development – six storey, 36 dwellings, ground level shops and car parking reduction	27-Mar-17	Further information requested
69 South Crescent, Northcote	Rucker	D/228/2017	Medium density – three levels, eight dwellings and visitor car parking reduction	24-Mar-17	Further information requested
435 High Street, Northcote	Rucker	D/1069/2016	Mixed use development of six levels – 23 dwellings, two commercial tenancies	23-Dec-16	Further information requested
196 Albert Street, Reservoir	Cazaly	D/80/2017	Residential development – four levels with 20 dwellings, reduction in car parking requirement and alteration to vehicular access	16-Feb-17	Request for further information
1/176-180 High Street, Preston	Cazaly	D/456/2015	Mixed use development – 74 dwellings plus commercial tenancies	29-Jun-15	Reported to Planning Committee 10 April 2017
7-9 Railway Place, Fairfield	Rucker	D/519/2015/B	Mixed use development and waiver of visitor and retail use parking	7-April-17	Initial assessment
6-34 High Street, Preston	Cazaly	D/1007/2012	Mixed use development containing 209 dwellings, seven retail tenancies and a gymnasium.	20-Dec-12	Advertising completed
55 Tyler Street Preston	Cazaly	D/87/2016	Construction of a swimming pool associated with an existing school.	16-Feb-16	Further information requested
234-235 Preston Market, Preston	Cazaly	D/398/2016	Stage 1B – 131 dwellings (nine & 10 storey buildings), relocation of Aldi and other tenancies, reduction of car parking and alterations to vehicle access to Murray Road.	18 May-16	Notice of Refusal issued
234-235 Preston Market, Preston	Cazaly	D/393/2016	Stage 1C – 193 dwellings (14 storey building), retail tenancies and car parking reduction	18 May-16	Notice of Refusal issued
32 Station Street, Fairfield	Rucker	D/459/2016	Relocation of heritage building and its use as a child care centre, display signs and construction of a four storey building with 62 dwellings	2 Jun-16	Advertising
387-393 High Street, Northcote	Rucker	D/377/2016	Mixed use development – 10 storey building with 93 dwellings and two retail tenancies, reduction in car parking and waiver of loading /unloading requirements	4 May-16	S50 Amendment Received
13 Oliver Street, Preston	Cazaly	D/432/2016	Medium density housing of four levels with 16 dwellings	31 May-16	Further information requested

Address	Ward	Application No	Proposal Description	Date Received	Status
345 Bell Street, Preston	Cazaly	D/566/2016	Mixed use development – six storey building with 30 dwellings and one retail tenancy	7 Jul-16	Advertising completed
61 Johnson Street, Reservoir	LaTrobe	D/603/2016	Mixed use development – four storey building containing 74 dwellings and 11 commercial tenancies	13-Jul-16	Awaiting advertising
95 Plenty Road, Preston	Cazaly	D634/2016	Mixed use development – six storey building with 17 dwellings and two retail tenancies	28-Jul-16	Report in progress
37 Cramer Street, Preston	Cazaly	D/867/2016	Medium density development development containing 25 dwellings	12-Oct-16	S50 Amendment received
29 Stokes Street, Preston	Cazaly	D/900/2016	Medium density development within a Development Plan Overlay	31-Oct-16	VCAT Appeal received
978 High Street, Reservoir	LaTrobe	D/966/2016	Mixed use development containing dwellings and a food and drink premises	25-Nov-2016	Further information requested
531 St Georges Road, Thornbury	Cazaly	D/1089/2016	Medium density development - 42 dwellings	28-Dec-16	Initial assessment
71 Station Street, Fairfield	Rucker	D/987/2016	Medium density development - 17 dwellings	30-Nov-16	Report in progress
629 Plenty Road, Preston	Cazaly	D/1083/2016	Mixed use development – four storey building containing 20 dwellings and two shops	23-Dec-16	Further information requested
435 High Street, Northcote	Rucker	D/1069/2016	Mixed use development – six storey building with 23 dwellings and two retail tenancies	23-Dec-16	Further information requested
112 Plenty Road, Preston	Cazaly	D/4/2017	Mixed use development – four storey building containing 17 dwellings, one shop and car parking reduction	11-Jan-17	Further information requested
546-550 High Street, Preston	Cazaly	D/53/2017	Mixed use development – five storey, 20 dwellings, retail tenancies and car parking reduction	7-Feb-17	Further information requested
196 Albert Street, Reservoir	Cazaly	D/80/2017	Multi-level residential development containing 20 dwellings	16-Feb-17	Further information requested
386 Bell Street, Preston	Cazaly	D/94/2017	Mixed use development – six storey building containing 55 dwellings and three commercial tenancies	20-Feb-17	Initial assessment
43 Station Street, Fairfield	Rucker	D/179/2017	Multi-level residential development containing 39 dwellings over four levels	20-Mar-17	Further information requested
74 Cramer Street, Preston	Cazaly	D/184/2017	Medium density development – 16 dwellings	22-Mar-17	Awaiting advertising
771-775 Gilbert, Reservoir	LaTrobe	D/201/2017	Mixed use development – three storey building containing 15 dwellings, and three commercial tenancies	25-Mar-17	Initial assessment
386 Bell Street, Preston	Cazaly	D/94/2017	Demolition of an existing dwelling; Construction of a six (6) storey building (plus basement level) comprising 55 dwellings and 300sqm of retail premises; on land affected by a Heritage Overlay	20-Feb-17	Initial assessment
1 – 5 Murray Road, Preston	Cazaly	D/300/2017	Mixed use development and waiver of the carparking requirement	11-Apr-17	Report in Process
143 High Street, Preston	Cazaly	D/364/2017	Multi level mixed use development, use of the land for accommodation and a reduction in the car parking	15-May-17	Allocated to officer

Address	Ward	Application No	Proposal Description	Date Received	Status
26 Pearl Street, Northcote	Rucker	D/347/2017	Proposed development of a Child Care Centre	15-May-17	Allocated to officer

LIST OF APPLICATIONS FOR THE NEXT MEETING

Below is a list of applications for the next meeting. Please note that this list of applications is based upon best available advice at the time of the next meeting Agenda. For confirmation of agenda items reference should be made to the next Agenda on Council's website the Thursday prior to the scheduled meeting.

Address	Ward	Application No.	Proposal Description	No. of Objections
40 Station Street, Fairfield	Rucker	D/459/2016	Demolition (including relocation of building outside of heritage overlay) and the construction of building works including a four storey plus two basement apartment building with 59 dwellings, use of the land as a child care centre, display of business identification signage, reduction of car parking requirements and alterations to an access road in a Road Zone Category 1.	21

7. CLOSE OF MEETING