

Agenda

Planning Committee Meeting

Wednesday, 20th October 2021

Commencing at 7.00pm

Council Chamber
1230 Nepean Highway, Cheltenham

kingston.vic.gov.au

Tim Tamlin
Interim Chief Executive Officer
Kingston City Council



**City of Kingston
Planning Committee Meeting**

Agenda

20 October 2021

Notice is given that Planning Committee Meeting of Kingston City Council will be held at 7.00pm at Council Chamber, 1230 Nepean Highway, Cheltenham, on Wednesday, 20 October 2021.

1. Apologies

2. Confirmation of Minutes of Previous Meetings

Minutes of Planning Committee Meeting 15 September 2021

3. Foreshadowed Declaration by Councillors, Officers or Contractors of any Conflict of Interest

Note that any Conflicts of Interest need to be formally declared at the start of the meeting and immediately prior to the item being considered – type and nature of interest is required to be disclosed – if disclosed in writing to the CEO prior to the meeting only the type of interest needs to be disclosed prior to the item being considered.

4. Planning and Development Reports

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5. Confidential Items

Nil

4. Planning and Development Reports

Planning Committee Meeting

20 October 2021

Agenda Item No: 4.1

TOWN PLANNING APPLICATION DECISIONS SEPTEMBER 2021

Contact Officer: Carly De Mamiel, Senior Customer Liaison and Administration Officer

Attached for information is the report of Town Planning Decisions for the month of September, 2021.

A summary of the decisions is as follows:

Type of Decision	Number of Decisions Made	Percentage (%)
Planning Permits	59	67
Notice of Decision	12	14
Refusal to Grant a Permit	2	2
Other - Withdrawn (11) - Prohibited (0) - Permit not required (2) - Lapsed (2) - Failure to Determine (0)	15	17
Total	88	100

(NB: Percentage figures have been rounded)

OFFICER RECOMMENDATION

That the report be noted.

Appendices

Appendix 1 - Town Planning Application Decisions September 2021 (Ref 21/244995) [↓](#)

Author/s: Carly De Mamiel, Senior Customer Liaison and Administration Officer

Reviewed and Approved By: Naomi Crowe, Team Leader City Development Administration
Alfred Carnovale, Manager City Development

4.1

TOWN PLANNING APPLICATION DECISIONS SEPTEMBER 2021

1	Town Planning Application Decisions September 2021	9
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Planning Decisions September 2021							
APPL. No.	PROPERTY ADDRESS	SUBURB	APPL. DATE	DATE DECIDED	PROPOSAL DESCRIPTION	DECISION	VCAT DECISION
KP-2019/834	SHOP 216 Charman Road	CHELTENHAM	23/12/2019	1/09/2021	In accordance with the endorsed plans: Construction of a four storey mixed-use building, use of the land for shops and dwellings and a reduction in the standard car parking requirement	Permit	Yes
KP-2008/562/A	293A Station Street	CHELSEA	27/05/2021	1/09/2021	The development of this site for two (2) dwellings, subject to the following conditions	Permit	No
KP-2021/494	1 4 Clare Street	PARKDALE	28/07/2021	1/09/2021	Buildings and Works in an Overlay	Permit	No
KP-2020/775	42 McLeod Road	CARRUM	23/12/2020	1/09/2021	Use and development of the land for a child care centre, reduction in car parking requirements pursuant to Clause 52.06, alteration of access to a Road Zone Category 1 and associated works generally in accordance with the submitted plans	Withdrawn	No
KP-2021/503	26 Newcombe Court	CLARINDA	4/08/2021	2/09/2021	Subdivide the land into Two (2) Lots	Permit	No
KP-2021/250	83 Broadway	BONBEACH	5/05/2021	3/09/2021	The development of a dwelling to the rear of an existing dwelling; and the development of a carport to the existing dwelling.	Permit	No
KP-2020/722	1 704 Nepean Highway	CARRUM	17/01/2021	3/09/2021	Develop the land for the construction of two (2) dwellings	Notice of Decision	No
KP-2021/122	20 McIvor Street	CHELTENHAM	16/03/2021	3/09/2021	The development of two (2) double storey dwellings and associated works	Notice of Decision	No

KP-2021/391	45-47 Tootal Road	DINGLEY VILLAGE	25/06/2021	3/09/2021	Construction of a shed associated with an existing dwelling in a Public Acquisition Overlay	Permit	No
KP-2021/161	150 Rowans Road	MOORABBIN	6/04/2021	3/09/2021	The development of two (2) dwellings	Notice of Decision	No
KP-2021/511	Warehouse 13 1-5 Lake Drive	DINGLEY VILLAGE	6/08/2021	3/09/2021	The development of an extension to the existing warehouse and a reduction in the car parking requirement	Permit	No
KP-2013/702/D	61-69 Clarinda Road	OAKLEIGH SOUTH	16/06/2021	3/09/2021	Develop the land for the construction of buildings and works to an existing industry (pharmaceutical products) with a reduction in the car parking requirements.	Permit	No
KP-2020/691	Lot 2 Clarinda Road	OAKLEIGH SOUTH	24/11/2020	6/09/2021	Use and develop the land for community care accommodation	Permit	No
KP-2005/905/A	200 Como Parade West	PARKDALE	1/09/2021	6/09/2021	BUILDING & WORKS	Withdrawn	No
KP-2021/84	25 Brindisi Street	MENTONE	24/02/2021	6/09/2021	The use and development of the land for four (4) double storey dwellings	Withdrawn	No
KP-2000/231/A	297A Nepean Highway	PARKDALE	14/07/2021	6/09/2021	The construction of three (3) dwellings on this site, in accordance with the plans to be submitted pursuant to Condition 1 hereof	Permit	No
KP-2021/372	1 366 Nepean Highway	CHELSEA	18/06/2021	7/09/2021	Create access to a road in a Road Zone, Category 1	Refused	No
KP-2020/768	13 Laburnum Street	PARKDALE	23/12/2020	7/09/2021	Development of the land for the construction of two (2) dwellings	Permit	No
KP-2020/295	9 Hadkinson Street	CLAYTON SOUTH	1/06/2020	7/09/2021	Develop the land for the construction of two (2) dwellings	Notice of Decision	No
KP-2021/542	7 Plunkett Street	CHELTENHAM	6/09/2021	7/09/2021	Subdivide the Land into Two (2) Lots	Permit	No

KP-2021/567	17 Laura Street	ASPENDALE	30/08/2021	8/09/2021	Display of business identification signage	Permit	No
KP-2020/512	23 Grandview Grove	MOORABBIN	1/09/2020	8/09/2021	The development of two (2) double storey dwellings	Permit	No
KP-2021/447	26 Main Road	CLAYTON SOUTH	20/07/2021	8/09/2021	Subdivide the Land into Three (3) Lots	Permit	No
KP-2021/446	28 Main Road	CLAYTON SOUTH	20/07/2021	9/09/2021	Subdivide the Land into Three (3) Lots	Permit	No
KP-2021/468	2 Bay Street	MORDIALLOC	27/07/2021	9/09/2021	Subdivide the Land into Three (3) Lots in the Design and Development Overlay and the Special Building Overlay	Permit	No
KP-2021/219	8 Barilla Road	MOORABBIN	20/04/2021	9/09/2021	The development of two (2) dwellings	Notice of Decision	No
KP-2021/329	Shop 542 Main Street	MORDIALLOC	1/06/2021	9/09/2021	Use of land for the sale of packaged liquor	Permit	No
KP-2021/420	69 Northcliffe Road	EDITHVALE	7/07/2021	9/09/2021	Subdivide the Land into Four (4) Lots	Permit	No
KP-2021/361	1 17 Westall Road	CLAYTON SOUTH	16/06/2021	10/09/2021	Boundary re-alignment	Withdrawn	No
KP-2021/599	Warehouse 5 143 Keys Road	MOORABBIN	6/09/2021	10/09/2021	Develop the land for the construction of buildings and works	Permit	No
KP-2021/421	28 Mernda Avenue	BONBEACH	8/07/2021	10/09/2021	Development of the land for two (2) dwellings	Permit	No
KP-2019/832	19A Sydney Street	CLAYTON SOUTH	30/12/2019	13/09/2021	Subdivide existing dwellings into Two (2) Lots	Withdrawn	No
KP-2021/367	2 177 Nepean Highway	ASPENDALE	17/06/2021	13/09/2021	Develop the land for the construction of alterations and additions to an existing dwelling	Permit	No
KP-2020/604	6 Springfield Avenue	CLAYTON SOUTH	12/10/2020	13/09/2021	The development of two (2) dwellings	Permit	No
KP-2020/624/A	14 Elizabeth Street	MENTONE	26/04/2021	13/09/2021	The development of four (4) dwellings	Permit	No
KP-2021/381	266 Osborne Avenue	CLAYTON SOUTH	22/06/2021	14/09/2021	Use the land for car sales	Permit	No

KP-2021/423	1 54 Rae Avenue	EDITHVALE	7/07/2021	14/09/2021	Development of two (2) double storey dwellings	Permit	No
KP-2016/97/C	123 Como Parade East	PARKDALE	13/09/2020	14/09/2021	In accordance with the endorsed plans The construction of a three storey building containing thirteen (13) dwellings	Permit	Yes
KP-2021/315	15A The Esplanade	EDITHVALE	31/05/2021	14/09/2021	Buildings and works associated with a ramp to Boatshed 928	Permit	No
KP-2018/1017/B	1 Fraser Avenue	EDITHVALE	13/08/2021	14/09/2021	The development of two (2) dwellings	Permit	No
KP-2021/242	13 Gale Street	ASPENDALE	30/04/2021	14/09/2021	Develop the land for the construction of two (2) dwellings	Notice of Decision	No
KP-2021/479	179-217 Centre Dandenong Road	DINGLEY VILLAGE	27/07/2021	15/09/2021	Tree Removal - Tree ID 1006	Permit Not Required	No
KP-2021/472	179-217 Centre Dandenong Road	DINGLEY VILLAGE	27/07/2021	15/09/2021	Tree Removal - Tree ID 1481	Permit Not Required	No
KP-2021/202	35B Roberna Street	MOORABBIN	15/04/2021	15/09/2021	Use of the land for a Restricted Recreational Facility (Martial Arts Gymnasium)	Permit	No
KP-2020/773	7 Teague Avenue	MENTONE	24/12/2020	16/09/2021	The development of three (3) dwellings and front fence exceeding 1.2 metres in height	Permit	No
KP-2021/14	42-46 Cochranes Road	MOORABBIN	14/01/2021	16/09/2021	Use of the land for Office	Permit	No
KP-2021/565	Warehouse 4 1-5 Lake Drive	DINGLEY VILLAGE	8/09/2021	16/09/2021	The construction of a mezzanine level in an existing warehouse building	Permit	No
KP-2021/597	21 Bradshaw Street	MORDIALLOC	7/09/2021	16/09/2021	The construction of an extension to an existing dwelling in a Special Building Overlay	Permit	No

KP-2021/534	48 Clay Street	MOORABBIN	18/08/2021	17/09/2021	Subdivide the Land into Two (2) Lots in a Special Building Overlay (SBO)	Permit	No
KP-2021/144	57 Thames Promenade	CHELSEA	23/03/2021	17/09/2021	Development of four (4) double storey dwellings	Notice of Decision	No
KP-2021/152	15 Graham Road	CARRUM	26/03/2021	17/09/2021	Develop the land for five (5) dwellings	Refused	No
KP-2021/624	54 107 Wells Road	CHELSEA HEIGHTS	15/09/2021	20/09/2021	1. Construct Mezzanine floor with ancillary storage & office space as per the proposed plan. Council Approved ancillary office plan for the development doesn't suit our requirement. 2. Seeking a variation for the number of car parks required Please note, this is a new warehouse we are purchasing.	Withdrawn	No
KP-2020/772	32-44 Keys Road	CHELTENHAM	23/12/2020	21/09/2021	The construction of buildings up to three storeys containing twenty five (25) warehouses and associated offices and alterations to the access to a road in a Road Zone, Category 1	Permit	No
KP-2018/263/A	3 Third Avenue	CHELSEA HEIGHTS	10/08/2021	21/09/2021	Develop the land for the construction of two (2) double storey dwellings	Permit	No
KP-2021/440	101 Keys Road	MOORABBIN	16/07/2021	21/09/2021	Develop the land for construction of building and works	Permit	No
KP-2021/156	1080-1082 Centre Road	OAKLEIGH SOUTH	26/03/2021	21/09/2021	To Use the land for an Indoor Recreation Facility (Personal Training Studio), with associated buildings and works	Permit	No
KP-2021/278	2A Allandale Road	MENTONE	18/05/2021	21/09/2021	The development of a first floor extension to the existing dwelling on a lot less than 300sqm.	Permit	No
KP-2021/99	23 First Avenue	CHELSEA HEIGHTS	2/03/2021	21/09/2021	The development of an additional dwelling to the rear of an existing dwelling	Lapsed	No

KP-2020/435	644-652 Clayton Road	CLAYTON SOUTH	30/07/2020	21/09/2021	Use and development of the land for industry (materials recycling) and a reduction of the required car parking spaces	Permit	No
KP-2017/711/C	321 Warrigal Road	CHELTENHAM	10/08/2021	22/09/2021	Develop the land for the construction of buildings and works	Withdrawn	No
KP-2021/261	506 Station Street	CARRUM	10/05/2021	22/09/2021	The development of alterations to the existing building in accordance with the endorsed plans	Permit	No
KP-2020/244	374A Warrigal Road	CHELTENHAM	12/05/2020	22/09/2021	Development of two (2) dwellings, subdivision of the land into two (2) lots and associated works in accordance with the endorsed plans	Permit	No
KP-2019/196/B	21-31 Malcolm Road	BRAESIDE	27/04/2021	22/09/2021	Buildings and works to an existing warehouse	Permit	No
KP-2021/171	31 McKay Street	PARKDALE	8/04/2021	23/09/2021	Develop the land for the construction of two (2) dwellings	Permit	No
KP-2021/120	30 Bridges Avenue	EDITHVALE	15/03/2021	23/09/2021	The development of two (2) double storey dwellings and associated works	Permit	No
KP-2021/467	1-5 Lake Drive	DINGLEY VILLAGE	27/07/2021	23/09/2021	Subdivide the Land into Sixteen (16) Lots	Permit	No
KP-2021/392	45-47 Tootal Road	DINGLEY VILLAGE	25/06/2021	23/09/2021	Construction of a driveway, earthworks and drainage works in a Public Acquisition Overlay	Permit	No
KP-2021/612	630 Heatherton Road	CLAYTON SOUTH	13/09/2021	23/09/2021	The construction of an awning to an existing warehouse	Permit	No
KP-2020/730	104 Station Street	ASPENDALE	10/12/2020	23/09/2021	The construction of three (3) triple storey dwellings	Notice of Decision	No
KP-2001/648/B	131-132 Bay Trail	PARKDALE	29/04/2021	24/09/2021	This application seeks to Amend Planning Permit KP-2001/648 by proposing alterations and an extension to the existing Restricted Club License (liquor license) and associated Red Line Plan.	Notice of Decision	No

KP-2020/649	52 Scotch Parade	BONBEACH	4/11/2020	24/09/2021	The development of two (2) double storey dwellings and associated works in accordance with the endorsed plans	Notice of Decision	No
KP-2020/712	10 Owen Street	MORDIALLOC	2/12/2020	27/09/2021	The development of alterations and additions to the existing dwelling	Lapsed	No
KP-2005/841/B	1 9 Kalimna Street	CARRUM	29/06/2021	27/09/2021	ALTERATIONS & ADDITIONS	Withdrawn	No
KP-2021/293	25 107 Wells Road	CHELSEA HEIGHTS	20/05/2021	27/09/2021	The use of the land for an indoor recreation facility (Brazilian Jiu Jitsu studio)	Permit	No
KP-2021/165	2E Troy Street	BONBEACH	6/04/2021	28/09/2021	Removal of Drainage Reservation, removal of Drainage and Sewerage Easements and Subdivide land into sixteen (16) lots	Permit	No
KP-2020/14	1 Murdock Street	CLAYTON SOUTH	8/01/2020	29/09/2021	Subdivide into Two Lots	Withdrawn	No
KP-2021/349	Unit 3 16 Edsall Street	HIGHETT	10/06/2021	29/09/2021	Development of a Vergola	Withdrawn	No
KP-2021/149	8A Citrus Street	BRAESIDE	25/03/2021	29/09/2021	The use of the land for a restricted recreation facility (gym)	Permit	No
KP-2021/346	9 Jacaranda Avenue	CHELTENHAM	8/06/2021	29/09/2021	Development of two (2) dwellings	Permit	No
KP-2021/351	31 Mulkarra Drive	CHELSEA	10/06/2021	29/09/2021	The construction of two (2) double storey dwellings	Permit	No
KP-2005/401/A	372A Warrigal Road	CHELTENHAM	5/08/2021	29/09/2021	The development of this site for two (2) dwellings and the subdivision of land into two (2) lots and common property	Withdrawn	No
KP-2021/414	19 Hinkler Road	MORDIALLOC	6/07/2021	29/09/2021	Use of land for car sales	Permit	No
KP-2020/614	37A Genoa Street	MOORABBIN	15/10/2020	29/09/2021	The use of the land for shops and the construction of a five storey building containing 33 dwellings and 3 shops.	Permit	No
KP-2021/643	126 Bourke Road	CLARINDA	21/09/2021	30/09/2021	Subdivide the Land into Two (2) Lots	Permit	No

KP-2021/158	2 Lincoln Parade	ASPENDALE	27/03/2021	30/09/2021	Develop two (2) dwellings	Notice of Decision	No
KP-2021/200	37 Kurrawa Crescent	PATTERSON LAKES	9/04/2021	30/09/2021	The development of a dwelling to the rear of an existing dwelling and to subdivide the land into two (2) lots	Permit	No
KP-2021/640	17 Norland Street	CHELTENHAM	21/09/2021	30/09/2021	Subdivide the Land into Two (2) Lots	Permit	No
KP-2020/450	15 Rae Avenue	EDITHVALE	11/08/2020	30/09/2021	The development of two (2) dwellings	Notice of Decision	No

Planning Committee Meeting

20 October 2021

Agenda Item No: 4.2

KP-2013/645/B - 11 PIER ONE DRIVE AND PART 107 - 109 MCLEOD ROAD, PATTERSON LAKES

Contact Officer: James Leonard, Planning Appeals Coordinator

Purpose of Report

This report is for the Planning Committee to consider Planning Permit Application No. KP-2013/645/B - 11 Pier One Drive and Part 107 - 109 McLeod Road, Patterson Lakes.

Disclosure of Officer / Contractor Direct or Indirect Interest

No Council officer/s and/or Contractor/s who have provided advice in relation to this report have declared a Conflict of Interest regarding the matter under consideration.

RECOMMENDATION

That the Planning Committee determine to support the proposal and issue a Notice of Decision to amend the planning permit KP-2013/645 (*to use and develop the land for a six storey building comprising seventy-two dwellings and associated car parking within a land subject to inundation overlay, with reduction of the car parking requirement pursuant to Clause 37.02*) by amending the Conditions of the Permit by deleting Condition 1a, relating to the removal of the requirement for a deceleration lane at 11 Pier One Drive and Part 107 - 109 McLeod Road, Patterson Lakes.

This application requires a decision by the Planning Committee as it is a significant application.

EXECUTIVE SUMMARY			
Address	11 Pier One Drive and Part 107 - 109 McLeod Road, Patterson Lakes		
Legal Description	Lot S38 on PS337700		
Applicant	Terrain Consulting Group Pty Ltd		
Planning Officer	James Leonard		
PLANNING REQUIREMENTS			
Planning Scheme	Kingston		
Zoning	Clause 37.02 – Comprehensive Development Zone		
Overlays	Clause 44.04 – Land Subject to Inundation		
Particular Provisions	Clause 52.29 – Land adjacent to a Road Zone Category 1		
Permit Trigger/s	Clause 37.02 – A planning permit is required for the use of a dwelling with car parking concession Clause 44.04 – Buildings and works on Land Subject to Inundation		
APPLICATION / PROCESS			
What the permit allows:	To use and develop the land for a six storey building comprising seventy-two dwellings and associated car parking within a land subject to inundation overlay, with reduction of the car parking requirement pursuant to Clause 37.02		
Proposed Amendment:	Amending the conditions of the permit by: <ul style="list-style-type: none"> • Deleting Condition 1a relating to the removal of the requirement for a deceleration lane 		
Reference No.	KP-2013/645/B	RFI Received	N/A
App. Received	27 October 2020	App. Amended	N/A
Site inspection	Yes		
S.52 Advertising Commenced	11 January 2021	Advertising Completed	8 February 2021
S.55 Referrals	Department of Transport		
Internal referrals	Traffic		
Objection(s)	Three (TRIM checked on 27/09/2021)		
LEGISLATIVE			
Covenant/other Restriction	Section 173 Agreement R267674N Section 173 Agreement T373318H Section 173 Agreement T699113E Section 173 Agreement AQ165586G		Complies: YES
CHMP	Yes - Exempt		

**City of Kingston
Planning Committee Meeting**

Agenda

20 October 2021

1.0 RELEVANT HISTORY

- 1.1 The application was considered and a Notice of Decision issued following the decision made at the council meeting held on the 25 May 2015.
- 1.2 Planning Permit KP-2013/645 was issued by Kingston City Council on 29 July 2015 at 11 Pier One Drive and Part 107-109 McLeod Road, Patterson Lakes, which allows:
- ‘To use and develop the land for a six storey building comprising seventy-two dwellings and associated car parking within a land subject to inundation overlay, with reduction of the car parking requirement pursuant to Clause 37.02’*
- 1.3 Plans which satisfied the conditional requirements of the planning permit were endorsed on the 26 May 2016.
- 1.4 The Permit was not a permit issued at the direction of the Victorian Civil and Administrative Tribunal (**Tribunal**) or a permit issued under Division 6 (Powers of Minister in relation to applications) of the *Planning and Environment Act 1987 (Act)*.
- 1.5 A Section 72 amendment KP-2013/645/A was lodged on the 6 July 2016 and subsequently approved on the 15 August 2016. This amendment approved the following:
- *Change the preamble to read ‘To use and develop the land for a six storey building comprising dwellings and associated car parking within a land subject to inundation overlay, with a reduction in the car parking requirement pursuant to Clause 37.02’*
 - *Condition 1c to include at the end of the condition the words ‘ exempt car spaces 307 and 409’*
 - *Delete stormwater conditions 9 - 14*
- 1.6 In addition to the above, this amendment sought to reduce the number of apartments from seventy-two (72) to sixty-four (64), the inclusion of eight (8) three bedroom apartments and increase the overall height of the development by 400mm.
- 1.7 Plans which satisfied the conditional requirements of the planning permit were endorsed on the 15 August 2016. Sheets 1-14 of the previously endorsed plans dated 26 May 2016 were superseded. Sheet 12 (previously sheet 14) of the amended plans retains the previously endorsed date being the 26 May 2016. This sheet is the Functional Layout Plan (FLP) required by Condition 1a.
- 1.8 On the 5 February 2019, correspondence was sent from the City of Kingston’s Planning Compliance department to the permit applicant, advising that whilst the Functional Layout Plan (FLP) for the left-turn deceleration lane had been submitted and endorsed pursuant to Condition 1a, the associated works had not been undertaken or completed as required by Conditions 12 and 14 of the Planning Permit.
- 1.9 Correspondence between the applicant and council demonstrated there was a willingness for the applicant to undertake the road works, however following independent consultation between the applicant and the Department of Transport, it became apparent that the Department of Transport did not recommend or support the construction of the left-turn deceleration lane into Pier One Drive from McLeod Road.
- 1.10 Following receipt of this correspondence, Council undertook independent preliminary consultation with the Department of Transport to better understand their position. Initial advice indicated that following further review of the Functional Layout Plan, it was deemed

the provision of a deceleration lane in this location was no longer required. The report below will go into further detail on these reasons.

- 1.11 Council sent a letter (dated 9 June 2020) to the applicant which advised that on review of the Planning Scheme and Council records, it had been identified that there was a number of existing and potential non-compliances with the Scheme and relevant planning permits and endorsed plans held by the applicant. The letter included the following in regard to the construction of the left-turn deceleration lane required for the development at the subject site:

Given the position of the Department of Transport (VicRoads) that the construction of a deceleration lane is not required or supported, Council no longer requires the deceleration lane to be delivered. However, Council is of the view that the development is technically non-compliant with the Permit and endorsed plans and that the permit must be amended to bring it in line with the as-built development. This can be achieved by applying to delete Condition 1a and marking the FLP plan as “void” or by removing it from the endorsed plans set.

- 1.12 On receiving this advice, the applicant lodged this planning permit amendment, seeking to delete condition 1a and subsequently remove the Functional Layout Plan from the endorsed set of plans.

SUBDIVISION HISTORY

- 1.13 Planning Permit KP-2014/551 was issued by Kingston City Council on 31 March 2015 at 107-109 McLeod Road, Patterson Lakes to ‘Subdivide the land into two (2) lots in a Land Subject to Inundation Overlay’.
- 1.14 This subdivision application created Lots S37 and S39 on Plan of Subdivision S337700R / S28.
- 1.15 Planning Permit KP-2017/171 was issued by Kingston City Council on 2 June 2017 at 107-109 McLeod Road, Patterson Lakes to ‘Subdivide the land into sixty five (65 lots)’.
- 1.16 This subdivision application approved the subdivision of the residential apartment building approved in KP-2013/645 into separate allotments on Plan of Subdivision 337700R / S39.

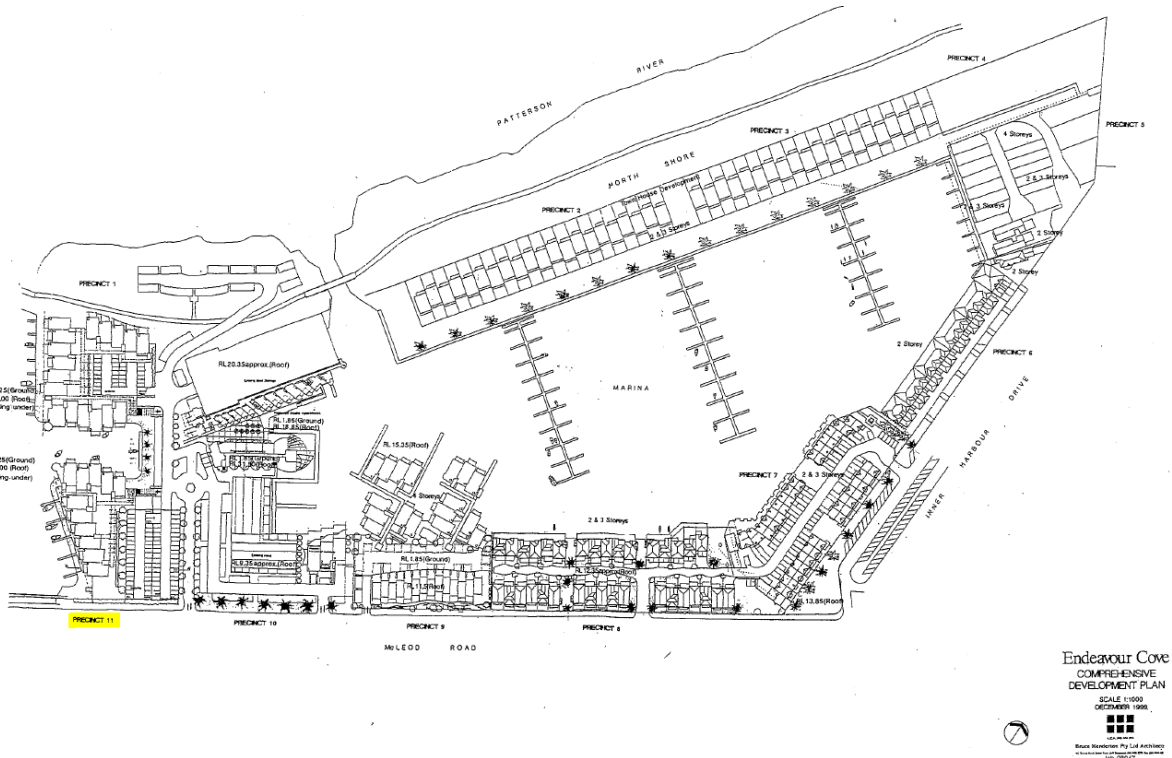
2.0 SITE PARTICULARS

Built form	A six (6) storey residential apartment building containing sixty-four (64) dwellings known as Pier 1.
Size (m²)	1681m ²
Topography	The land is generally flat. Beyond the title boundaries to the south, there is a change of level from McLeod Road, increasing towards the west, away from Pier One Drive.
Fencing	The built form is constructed within proximity to the north, east and west property boundaries. The front boundary is delineated by a retaining wall and associated low open steel fence.

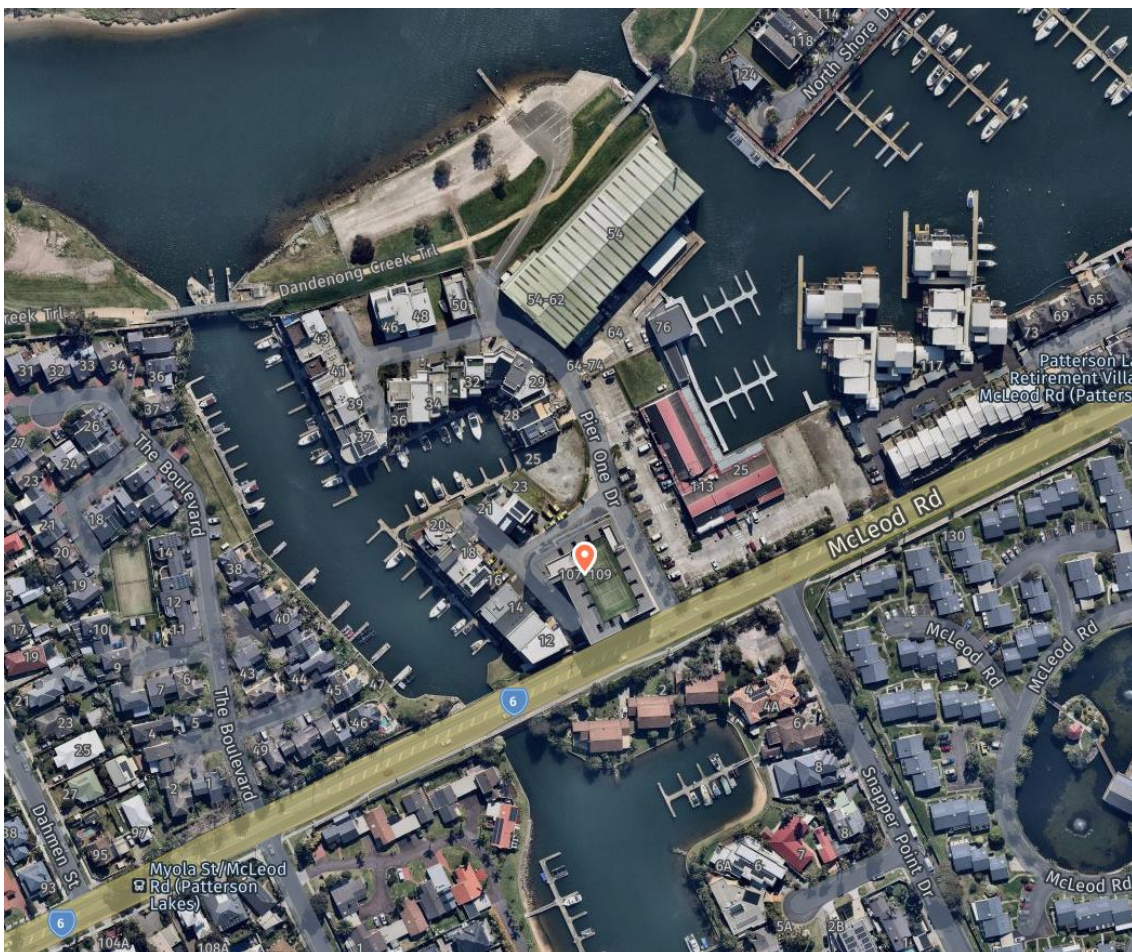
Vegetation	Void of any vegetation
Easement(s)	<p>A 0.32m wide E-48 easement is located along the site's east (Pier One Drive side) property boundary for the purpose of Sewerage in favour of South East Water.</p> <p>A 3.0m wide E-55 easement is located along the site's south (McLeod Road front) property boundary for the purpose of Drainage and Carriageway in favour of the City of Kingston. This easement has a height limit of 7m AHD.</p>
Footpath assets / access	<p>Pier One Drive is located to the north, east and west of the subject site. McLeod Road is located to the south. A footpath is located along the McLeod Road frontage, extending along the eastern boundary adjacent to Pier One Drive.</p> <p>Vehicle access into the Pier 1 residential apartment building is located in the north-western corner, with a gated entry from Pier One Drive.</p> <p>No power poles, bollards or street trees are located along the McLeod Road frontage.</p>
Covenant(s) / Restrictions	<p>The following Section 173 agreements are registered on title for Lot S38:</p> <ul style="list-style-type: none"> • Section 173 Agreement R267674N • Section 173 Agreement T373318H • Section 173 Agreement T699113E • Section 173 Agreement AQ165586G <p>The proposal does not result in any breach of restriction</p>

3.0 SURROUNDING ENVIRONS

3.1 The subject site is located within the south-western side of the Endeavour Cove Comprehensive Development Plan (within Precinct 11).



3.2 The following map illustrates the subject site in its surrounding context.





*Photo Point A
Corner of McLeod Road & Pier One Drive – facing west*



*Photo Point B
McLeod Road – facing east*



*Photo Point C
Pier One Drive – facing south*

3.3 Land directly abutting the subject site and opposite is described as follows:

North

- Pier One Drive – Restricted / Gated access into this section of Pier Once Drive.
- 21 Pier One Drive – A four storey single residential dwelling.
- 22 Pier One Drive – A four storey single residential dwelling.
- 23 Pier One Drive – Vacant land.

	<p>24 Pier One Drive – Vacant land.</p> <p>Beyond the abovementioned dwellings is the waterway associated with the marina.</p>
East	<p>Pier One Drive – The primary access to McLeod Road.</p> <p>113 & 115 McLeod Road – Land developed with ‘The Cove’ hotel and associated car parking.</p>
South	<p>McLeod Road – A Road Zone Category 1 road.</p> <p>2 Snapper Point Drive. Six (6) dwellings contained within three (3) detached buildings. Access is via Snapper Point Drive, separated from McLeod Road via a common driveway, fence and landscaping.</p>
West	<p>Pier One Drive – Restricted / Gated access into this section of Pier Once Drive. No access is available to McLeod Road.</p> <p>12 Pier One Drive – A three storey single residential dwelling.</p> <p>13 Pier One Drive – A three storey single residential dwelling.</p> <p>14 Pier One Drive – A double storey single residential dwelling.</p> <p>15 Pier One Drive – A double storey single residential dwelling.</p> <p>16 Pier One Drive – Vacant land.</p> <p>17 Pier One Drive – A four storey single residential dwelling.</p> <p>Beyond the abovementioned dwellings is the waterway associated with the marina.</p>

4.0 PROPOSAL

4.1 The Section 72 Amendment seeks to amend the conditions of the permit by deleting Condition 1a, which reads:

1. *Before the development starts amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be substantially in accordance with the plans submitted to Council on 17 November 2014, but modified to show:*

a. *a functional layout plan (FLP) of a left-turn treatment for vehicles entering Pier One Drive from McLeod Road;*

4.2 The Functional Layout Plan forms part of the endorsed plans, currently sheet 12 (of 12), dated 26 May 2016. The deletion of this condition would remove this endorsed plan from the endorsed set.

5.0 LEGISLATIVE PROVISIONS

5.1 The amendment has been requested pursuant to section 72 of the Act.

5.2 Section 72 of the Act states:

- (1) *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.*
- (2) *This section does not apply to-*
 - a. *a permit or a part of a permit issued at the direction of the Tribunal, if the Tribunal has directed under section 85 that the responsible authority must not amend that permit or that part of the permit (as the case requires); or*
 - b. *a permit issued under Division 6.*

5.3 It has been established that the Permit:

- was not issued at the direction of the Tribunal.

5.4 Section 73 of the Act states that sections 47 to 62 of the Act apply to the amendment application. This allows the Responsible Authority to apply the abovementioned sections of the Act to the amendment application as if it was an application for a permit. This includes reference to the permit expiry date, allowing the amended permit to be acted upon without needing to amend the expiry condition.

6.0 PLANNING PERMIT PROVISIONS

Zone

6.1 Clause 37.02 Comprehensive Development Zone (Schedule 1): The purpose of Schedule 1 of the Comprehensive Development Zone (CDZ) includes:

- *To encourage the development of land south of the Patterson River and north of McLeod Road, Patterson Lakes as a marina-based mixed use area.*
- *To assist the coordinated development of the land for marina facilities, boat storage, boat servicing and residential, tourism, office, entertainment, retailing and associated uses.*
- *To ensure that the combination of uses, their overall density and the scale, character and level of development are compatible with:*
 - *The amenity of the surrounding area and the nature of the surrounding uses.*
 - *The skyline as seen from and along the Patterson River and the river's general environs and from McLeod Road, allowing however for the development to establish a distinctive identity.*
 - *The capacity of the existing road system and any proposed modifications to accommodate an increase in traffic.*
 - *The capacity of existing essential services and any proposed modifications.*
 - *The health and safety of nearby residential areas, contribute to a high standard of urban and landscape design and are intended to serve people who are using the marina-based or recreation-related uses or who work or live in the zone.*
- *To ensure retailing in the zone complements the Patterson Lakes Shopping Centre, servicing the existing and future residents in the surrounding area.*
- *To provide greater public access, in particular for pedestrians and cyclists, to and along the Patterson River bank.*
- *To ensure the land is developed in an orderly manner.*
- *To encourage a high standard of urban design.*

- *To avoid adverse wind conditions in pedestrian areas.*
- *To ensure that buildings and works along the Patterson River do not adversely affect drainage or flooding.*

6.2 Pursuant to Clause 37.02 of the Kingston Planning Scheme, a planning permit is required for the use of a dwelling and the car parking reduction.

6.3 The approved Planning Permit was considered against the purpose and decision guidelines of Clause 37.02. The amendment to remove the left-turn deceleration lane as required by Condition 1a of the Planning Permit does not have any additional permit requirements that were not previously considered.

Overlay

6.4 Land Subject to Inundation: Pursuant to Clause 44.04 of the Kingston Planning Scheme, a planning permit is required to construct a building or construct and carry out works.

6.5 The proposal does not alter any approved/existing works relevant to the requirements of the Land Subject to Inundation Overlay (LSIO). No further consideration is necessary regarding this provision, nor is a referral to Melbourne Water required.

Particular Provisions

6.6 Land Adjacent to a Road Zone, Category 1: Pursuant to Clause 52.29 of the Kingston Planning Scheme, a planning permit is required to construct or alter an access to a Road Zone Category 1.

6.7 The relevant purpose of this particular provision is '*To ensure appropriate access to identified roads*'.

6.8 The following decision guidelines are relevant to this assessment:

Before deciding on an application, in addition to the decision guidelines in Clause 65, the responsible authority must consider:

- *The Municipal Planning Strategy and the Planning Policy Framework.*
- *The views of the relevant road authority.*
- *The effect of the proposal on the operation of the road and on public safety.*
- *Any policy made by the relevant road authority pursuant to Schedule 2, Clause 3 of the Road Management Act 2004 regarding access between a controlled access road and adjacent land.*

6.9 Whilst vehicle access to the subject site is not direct from McLeod Road, the left-turn deceleration lane is proposed within the McLeod Road road reserve, which is a Road Zone Category 1, Department of Transport road. For this reason, it is considered this particular provision is relevant, and the views of the relevant road authority must be considered.

6.10 The views of the Department of Transport, their concerns with the operation of the road and concerns regarding public safety are addressed in the report below.

General Provisions

6.11 The Decision Guidelines of Clause 65.01 of the Kingston Planning Scheme are relevant to this application and require consideration to be given to a variety of matters including planning scheme policies, the purpose of the zone, orderly planning and the impact on amenity.

7.0 ADVERTISING

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- 7.1 The proposal was advertised by sending notices to adjoining and surrounding property owners and occupiers and by maintaining two (2) notices on site.
- 7.2 A revised notification was provided to all recipients providing additional information in the description of what the amendment was seeking on the cover letter and notices. As a result, the notification period was extended beyond the standard fourteen (14) day requirement for a total period of twenty-nine (29) days, occurring between 11 January 2021 and 8 February 2021.
- 7.3 Three (3) objections to the proposal were received. The grounds of objection raised are summarised as follows:
- Safety concerns with the current Pier One Drive road conditions;
 - Removal of the conditions (and deceleration lane) will not improve safe ingress or egress to Pier One Drive;
 - Future increased number of residents within the CDZ and subsequent vehicle movements require the deceleration lane to be constructed; and
 - Non-compliance with the permit requirements.

8.0 PLANNING CONSULTATION MEETING

- 8.1 The objectors were contacted by the planning officer to discuss their concerns, with this information then being relayed to the applicant.
- 8.2 The objector concerns were unable to be resolved, and the objections still stand.

9.0 SECTION 50 / 50A / 57A – AMENDMENT TO APPLICATION

- 9.1 There were no formal amendments made by the permit applicant post the advertising period.

10.0 REFERRALS

- 10.1 The application was referred as set out below.

Internal Referrals

- 10.2 The application was referred to Council's Traffic Engineering Department. The following comments were received:
- Traffic has no objection of removing the requirement to construct a deceleration lane from the condition of the permit for the development at 107 to 109 McLeod Road, Patterson Lakes given that the Department of Transport has agreed that the deceleration lane is no longer required.

External Referrals

- 10.3 Following submission of the amendment, the application was referred to the Department of Transport pursuant to Section 55 of the *Planning and Environment Act 1987*.
- 10.4 The Department of Transport provided a response stating there was no objection to the proposal to remove the conditional requirement for the Functional Layout Plan (FLP) of a left-turn treatment for vehicles entering Pier One Drive from McLeod Road. This is discussed in detail below.

11.0 PLANNING CONSIDERATION

Planning Policy Framework

- 11.1 The State Planning Policy Framework sets out the relevant state-wide policies at Clause 11 (Settlement), Clause 13 (Environmental Risks and Amenity), Clause 15 (Built Environment and Heritage), Clause 16 (Housing) and Clause 18 (Transport).
- 11.2 Essentially, the provisions within these clauses seek to achieve the fundamental objectives and policy outcomes sought by 'Plan Melbourne 2017-2050: Metropolitan Planning Strategy' (Department of Environment, Land, Water and Planning, 2017).
- 11.3 The original assessment KP-2013/645 had consideration for all relevant Planning Policy listed above. Given the scope of the amendment, assessment is limited against the above mentioned provision, except for Clause 18 (Transport).
- 11.4 Clause 18.02-3S (Road System) includes the objective to '*manage the road system to achieve integration, choice and balance by developing an efficient and safe network and making the most of existing infrastructure*'.
- 11.5 Relevant strategies to achieve this objective include:
- *Plan and regulate the design of transport routes and nearby areas to achieve visual standards appropriate to the importance of the route with particular reference to landscaping, the control of outdoor advertising and, where appropriate, the provision of buffer zones and resting places.*
 - *Make better use of roads for all road users through the provision of wider footpaths, bicycle lanes, transit lanes (for buses and taxis) and specific freight routes.*
 - *Selectively expand and upgrade the road network to provide for:*
 - *High-quality connections between Metropolitan Melbourne and regional cities, and between regional cities.*
 - *Upgrading of key freight routes.*
 - *Ongoing development in outer suburban areas.*
 - *Higher standards of on-road public transport.*
 - *Improved key cross-town arterial links in the outer suburbs including circumferential and radial movement*
 - *Ensure that road space complements land use and is managed to meet community and business needs.*
- 11.6 The Department of Transport have identified concerns with the implications to the existing Shared User Path located on McLeod Road, which will occur from the construction of the left-turn deceleration lane. They have advised the path will be required to be narrowed or removed completely and have stated the deceleration lane '*would impact more so on the efficiency and public safety of the arterial road network particularly as it relates to the safety of the users of the shared path*'.
- 11.7 It is considered the implications to the road network and shared user path is at odds with the strategies listed within Clause 18.02-3S and its construction would be detrimental to the objectives of this policy.

Local Planning Policy Framework

- 11.8 The City of Kingston's MSS at Clause 21.09 (Transport) of the Kingston Planning Scheme seeks to provide guidance for Integrated Transport (Clause 21.09-1), Walking and Cycling (Clause 21.09-2) and Road System and Car Parking (Clause 21.09-4).
- 11.9 Relevant key issues identified within Clause 21.09 include:
- *A balanced and integrated transport network based on public transport, road, pedestrian and cycle systems is important in providing access for Kingston residents to commercial and activity centres, community facilities, education and recreation areas.*
 - *Greater consideration of transport and physical access issues is required to ensure accessibility to open space areas for an ageing population.*
 - *Kingston offers extensive opportunities for both cycling and walking, with 13 kilometres of coastline, open space corridors, internationally recognised wetlands, parklands and close proximity to the city.*
 - *Cycling and walking are popular activities within Kingston as modes of transport and recreational activities. Kingston also attracts a great number of cyclists from other municipalities who enjoy Beach Road, the coastal bike path, and inland cycling routes.*
- 11.10 Similar to the consideration of the State Planning Policy Framework above, the removal or significant alteration to the Shared User Path along McLeod Road would have implications to pedestrian links between Carrum and Patterson Lakes. This also creates an interruption to pedestrian links to the publicly accessible open space and Dandenong Creek Trail located to the north of the site along Patterson River, which can be accessed via the shared user path along Pier One Drive.
- 11.11 The requirement to undertake the works associated with the left-turn deceleration lane is considered to be at odds with the policy contained within Clause 21.09.

12.0 FURTHER CONSIDERATION

- 12.1 On review of the original application, the Functional Layout Plan (FLP) for a left-turn deceleration lane was suggested by the applicant (and their traffic consultant Traffix Group) on the 13 January 2015, being in response to third party objections.
- 12.2 The documentation submitted to council identified that a FLP left-turn deceleration treatment plan was prepared by Traffix Group in December 2010 (Ref: G11609A-01) and was 'understood to form part of the proposal' (wording used by Traffix Group).
- 12.3 This information submitted to Council by the applicant (prepared by Traffix Group) recommended any permit issued include a condition referencing this Functional Layout Plan.
- 12.4 The assessing planning officer for the application KP-2013/645 included a condition 1 requirement for the submission and endorsement of the Functional Layout Plan (FLP) for a left-turn lane on McLeod Road.
- 12.5 On review of the referral response for the original application KP-2013/645, provided by the Department of Transport on the 27 March 2014, the following comments were provided:
- *VicRoads has considered the application and has no objection to the proposal.*
- 12.6 The referral response does not go into any further detail regarding the assessment. It is noted the referral response was provided prior to the applicant suggesting a condition be included on the planning permit requiring the left-turn deceleration lane.

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- 12.7 The Department of Transport have advised that the officer's assessment of the initial application KP-2013/645 did not have consideration for the left-turn deceleration lane. Therefore, at the time the condition was included on the planning permit, the Department of Transport did not have an opportunity to provide comment on the appropriateness, or suitability of the left-turn deceleration lane.
- 12.8 It is acknowledged the requirement for the provision of a left-turn deceleration lane in KP-2013/645 was not a specific requirement of the City of Kingston's Traffic Department nor the Department of Transport and was a request from the permit applicant.
- 12.9 As previously mentioned, prior to the lodgement of the amendment application, the applicant had undertaken independent consultation with the Department of Transport, seeking advice on the construction of the left-turn deceleration lane. The applicant was informed that the deceleration lane was not a preference of the Department of Transport, then relaying this advice to Council.
- 12.10 Following receipt of this information, Council also undertook independent consultation with the Department of Transport, to better understand the position of the Department and the requirements regarding the current non-compliance with the permit conditions.
- 12.11 The following preliminary advice was provided to Council on the 30 March 2020 from Kimberley Lee, Acting Team Leader Statutory Referrals (Department of Transport):
- *I recall the officer's assessment report noting that a deceleration lane in this location would not be feasible as it can only provide a very short length due to its proximity with the bridge and the limited frontage the subject site had to play with.*
 - *As such, a 'no objection' response was issued (for the original application KP-2013/645). In hindsight, it may have been worthwhile if the assessing officer at the time had provided some comments in their referral response regarding the provision of a deceleration lane.*
 - *Regardless of that, sometime late last year, we requested for the Project Advice team to re-assess the Functional Layout Plan and to advise us on its constructability and what the risks will be if the decel (deceleration) lane should be provided or not. The Project Advice team's comments noted that the section of Macleod (McLeod) Road in Patterson Lakes has a limited carriageway width of approx. 12 metres.*
 - *The construction of a decel (deceleration) lane in this location especially when the site is now already built up will result in a narrowing of the shared use path on Macleod (McLeod) Road.*
 - *In light of the fact that left turn decel (deceleration) lanes on Macleod (McLeod) Road have been sparingly provided with the exception of Mariners View and the shopping plaza (where Macleod (McLeod) Road changes to Thompsons Road), it was considered that the provision of a decel (deceleration) lane in this location would impact more so on the efficiency and public safety of the arterial road network particularly as it relates to the safety of the users of the shared path.*
 - *As such VicRoads (now part of the Department of Transport) does not deem the provision of a deceleration lane in this location to be required.*
- 12.12 The amendment application was referred on the 18 November 2020. The Department of Transport provided a referral response on 14 December 2020 with the following comments:
- *The Head, Transport for Victoria has considered this application and **does not object** to the deletion of Condition 1 (a) from the planning permit.*
 - *The following existing conditions are to remain on the permit:*

9. *The permit holder must take all reasonable steps to ensure that disruption to bus operation along McLeod Road / Thompson Street is kept to a minimum during the construction of the development. Foreseen disruptions to bus operations and mitigation measures must be communicated to the Head, Transport for Victoria fourteen (14) days prior.*

12.13 Council sought further justification and reason from the Department of Transport to support their position of no objection. The following comments were provided on the 15 February 2021:

- *DoT (then VicRoads) received notice of the 10-storey development in 2014. A statutory referral response was not required as the development gained vehicle access via a local road (Pier One Drive).*
- *The development site's limited frontage and verge width along Macleod (McLeod) Road, as well as its proximity to the nearby bridge, means a left-turn lane into Pier One Drive would be difficult to accommodate.*
- *The traffic generation of the development is not dissimilar to turning traffic into other residential streets along McLeod Road, which do not have left-turn lanes.*
- *VicRoads did not suggest any permit conditions. However, when the planning permit was issued in 2015, Council included their own condition requiring plans to be amended to show a left-turn deceleration lane into Pier One Drive from McLeod Road.*
- *Council requested DoT consider the merits of providing a left-turn lane at this location in 2020. Further to the above points, at this time it was also noted that the provision of a left-turn lane could only be achieved at the expense of the existing Shared Use Path (SUP), which would have to be narrowed or removed altogether.*
- *Given the posted speed environment of 60km/h where deceleration lanes are not common with the exception of large commercial land uses, DoT considered the provision of a left-turn deceleration lane in this location would not be desirable, particularly in terms of the safety of the users of the existing SUP.*
- *DoT responded to Council's request for comment in March 2020 noting that the left-turn lane was not a requirement of DoT, and for the reasons above it was considered that removing it from the planning permit requirements was acceptable.*

12.14 It is noted the first point above references a '10-storey development'. Clarification was sought on this on the 23 September 2021, with confirmation provided that this is a typo error on the written response and the original assessment report did not make explicit mention of a number of storeys. An officer from the Department of Transport confirmed that the description of what was assessed matches the then referral from Council.

12.15 For the reasons above, Council is satisfied that the Department of Transport have had thorough consideration of the left-turn deceleration lane and its subsequent removal through this planning permit amendment application.

12.16 Given the deceleration lane would be constructed within the Road Zone Category 1 zoned area, it is considered the position of the Department of Transport is relevant and should be supported by Council.

13.0 RESPONSE TO GROUNDS OF OBJECTIONS

13.1 The objector concerns have largely been addressed in the body of this report.

- 13.2 Whilst the three (3) objectors raised concern with vehicle movements in and out of Pier One Drive, the Department of Transport have provided a response indicating the inclusion of the left-turn deceleration lane would not be beneficial in this particular location.
- 13.3 The application currently being assessed must have regard for the existing conditions which include the completed Pier 1 development on the subject site. Potential increased demand on the road network from any future development may be required to undertake further assessment of the road infrastructure and the suitability of the current conditions at the time of assessment.
- 13.4 Whilst the objectors are of the view that the permit conditions and associated works must be undertaken by the permit holder, the applicant can exercise their right to amend the permit, as the case here. This is not unique to this particular application and has come as a result of extensive consultation with the Department of Transport. The Section 72 amendment can be considered.

14.0 CONCLUSION

- 14.1 On balance, the proposal is considered to substantially comply with the relevant planning policy and therefore should be supported.
- 14.2 As outlined above, it has been determined that prior to deciding on this application all factors pursuant to section 60(1) of the Act have been considered. Further to this, the proposal does not give rise to any significant social and economic effects.
- 14.3 The proposed amendment is considered appropriate, as evidenced by:
- The mitigation of off-site amenity impacts.
 - A suitable level of compliance with all relevant policies of the Kingston Planning Scheme.
 - Support from the relevant road management authority being the Department of Transport.

15.0 RECOMMENDATION

- 15.1 That the Planning Committee determine to support the proposal and issue a Notice of Decision to Grant a Permit to use and develop the land for a six storey building comprising dwellings and associated car parking within a land subject to inundation overlay, with a reduction in the car parking requirement pursuant to Clause 37.02' at 11 Pier One Drive and Part 107 - 109 McLeod Road, Patterson Lakes subject to the following conditions:
1. Before the development starts amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be substantially in accordance with the plans submitted to Council on 17 November 2014, but modified to show:
 - a. **DELETED**
 - b. Areas of secluded private open space to be no less than 8 square metres for all apartments with exception of apartments 215, 315, 415 and 515;
 - c. The car park layout and access arrangements to be in accordance with the relevant standards of Clause 52.06 of the Planning Scheme and AS2890.1-2004 exempt car spaces 307 and 409;

- d. Intercom to be noted on the ground floor and elevation plan;
 - e. One (1) disabled car parking space provided on the site compliant with Australian Standards;
 - f. Line marking and signage for visitor car parking is to be provided in accordance with Clause 52.06 Car Parking of the Kingston Planning Scheme and Australian Standards;
 - g. The surface material of all driveways / accessways and car parking spaces nominated in all-weather concrete sealcoat, or similar;
 - h. The provision of a full colour, finishes and building materials schedule, including samples (illustrated on an A4 or A3 sheet), for all external elevations and driveways of the development.
2. The development and use as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.

Site Management Plan

3. Prior to commencement of the development hereby permitted, a Site Management Plan, to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority and when approved shall thereafter be complied with. The Site Management Plan must clearly set out measures to prevent amenity loss to surrounding properties during the construction period. The Plan is to include, but limited to, measures to control the emission of dust/sand, rubbish on site, loading/unloading times, construction times, and parking of builder's vehicles etc. This plan when endorsed must not be varied without the prior approval of the Responsible Authority. It must also be implemented to the satisfaction of the Responsible Authority.

Construction Management Plan

4. Before the commencement of any buildings and works on the Land, a Construction Management Plan (CMP), to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority and when approved shall thereafter be complied with. The CMP must specify and deal with the parking of vehicles during construction, delivery of materials, containment of waste on site and suppression of dust, business operations on the site during construction.

Waste Management Plan

5. Before the commencement of any buildings and works on the Land, a Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. Three copies of the plan must be submitted. The plan must include but is not limited to:
- a. The manner in which waste will be stored and collected including: type, size and number of containers.
 - b. Spatial provision for on-site storage.

- c. Details whether waste collection is to be performed by Council's services or privately contracted.
- d. The size of the collection vehicle and the frequency, time and point of collection.
The waste management plan must be implemented to the satisfaction of the Responsible Authority. The waste management plan must not be modified unless without the written consent of the Responsible Authority.

Melbourne Water

- 6. The finished ground floor level must be constructed no lower than 1.85 metres to Australian Height Datum (AHD). The applicable flood is 1.55 metres to AHD.
- 7. Pollution and sediment laden runoff shall not be discharged directly or indirectly into Melbourne Water's drains or waterways.

Lighting

- 8. Exterior lighting must be installed in such positions as to effectively illuminate all communal areas to the satisfaction of the Responsible Authority. Such lighting must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on neighbouring land.

Public Transport Victoria (PTV)

- 9. The permit holder must take all reasonable steps to ensure that disruption to bus operation along McLeod Road / Thompson Street is kept to a minimum during the construction of the development. Foreseen disruptions to bus operations and mitigation measures must be communicated to Public Transport Victoria fourteen (14) days prior.

Maintenance

- 10. All works on or facing the boundaries of adjoining properties must be finished and surface cleaned to a standard that is well presented to neighbouring properties in a manner to the satisfaction of the Responsible Authority.
- 11. All piping and ducting above the ground floor storey of the development (other than rainwater guttering and downpipes) must be concealed to the satisfaction of the Responsible Authority.

Completion

- 12. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.
- 13. Prior to the occupation of the dwellings hereby permitted, the landscaping works as shown on the endorsed plans must be completed to the satisfaction of the Responsible Authority. The landscaping must then be maintained to the satisfaction of the Responsible Authority.
- 14. Prior to the occupation of the dwellings hereby permitted, all buildings and works and the conditions of this permit must be complied with, unless with the further prior written consent of the Responsible Authority.

Expiry

15. In accordance with section 68 of the *Planning and Environment Act 1987 (Act)*, this permit will expire if one of the following circumstances applies:

- The development is not started before within (2) years from the date of this permit.
- The development is not completed within four (4) years from the date of permit issue.

In accordance with section 69 of the Act, the responsible authority may extend the periods referred to if a request is made in writing:

- before the permit expires; or
- within six (6) months after the permit expiry date, where the use or development allowed by the permit has not yet started; or
- within twelve (12) months after the permit expiry date, where the development allowed by the permit has lawfully started before the permit expires.

Note: Separate consent from Council and the relevant service authority maybe required to build over the easement and will need to be obtained prior to the issue of a building permit.

Note: Prior to the commencement of the development, you are required to obtain the necessary Building Permit.

Note: The applicant/owner must provide a copy of this planning permit to any appointed Building Surveyor. It is the responsibility of the applicant/owner and Building Surveyor to ensure that all building development works approved by any building permit is consistent with the planning permit.

Note: If further information is required in relation to Melbourne Water’s permit conditions shown above, please contact Melbourne Water on telephone 9235 2517, quoting Melbourne Water’s reference 149721.

Note: The applicable floor level for the property is 1.55 metres to Australian Height Datum (AHD).

Note: Environment Protection Authority (EPA) Victoria set out the requirements pertaining to site construction hours and permissible noise levels.

Note: The allocation of street numbering and addressing of properties is vested in Council. Any reference to addressing or dwelling/unit/apartment and street numbers or street names on any endorsed plan is indicative only. The onus is on the Permit Applicant/Land Owner to contact Council’s Property Data Department to determine the official dwelling/unit/apartment street numbers, street name details and the like for the approved development.

If the Permit Applicant/Land Owner adopts the street numbering or addressing from the endorsed plans, or where advertising and/or sales transact (off the plan) prior to Council’s official allocation of the street numbering and addressing, it will be viewed to be non-compliant with the guideline and standard applied (*Australian/New Zealand Standard for Rural & Urban Addressing / AS/NZS 4819:2011*).

THIS PERMIT HAS BEEN AMENDED PURSUANT TO SECTION 72 OF THE PLANNING AND ENVIRONMENT ACT 1987 AS FOLLOWS:

Amendment	Date of Amendment	Description of Amendment	Name of responsible authority that approved

**City of Kingston
Planning Committee Meeting**

Agenda

20 October 2021

			the amendment
A	15-Aug-2016	<ul style="list-style-type: none"> • Change the preamble to read 'To use and develop the land for a six storey building comprising dwellings and associated car parking within a land subject to inundation overlay, with a reduction in the car parking requirement pursuant to Clause 37.02' • Condition 1c to include at the end of the condition the words ' exempt car spaces 307 and 409' • Delete stormwater conditions 9 – 14 	Kingston City Council
B	**Same as the date of approval**	<p>Amending the conditions of the permit by:</p> <ul style="list-style-type: none"> • Deleting condition 1a. <p>Sheet 12 of the endorsed plans dated 26 May 2016, being the Functional Layout Plan is deleted from the endorsed set.</p>	Kingston City Council

Appendices

Appendix 1 - KP-2013/645/B - 11 Pier One Drive and Part 107 - 109 McLeod Road, Patterson Lakes - Considered Documents (Ref 20/262452) [↓](#)

Author/s: James Leonard, Planning Appeals Coordinator
 Reviewed and Approved By: Alfred Carnovale, Manager City Development

4.2

KP-2013/645/B - 11 PIER ONE DRIVE AND PART 107 - 109 MCLEOD ROAD, PATTERSON LAKES

- 1 KP-2013/645/B - 11 Pier One Drive and Part 107 - 109 McLeod Road, Patterson Lakes - Considered Documents..... 41



City of
KINGSTON

ePathway Application to Amend Permit S72

109 McLeod Road, PATTERSON LAKES

Application Number	KP-2013/645/B
Lodgement Date/Time	27/10/2020 10:27 AM
ePathway ID	TERRAIN CONSULTING GROUP
ePathway User Name	
ePathway Transaction ID	AP-110427

The Applicant

Name	Terrain Consulting Group Pty Ltd
Address	PO BOX 3018, COTHAM VIC 3101
Email Address	kevin.a@terrainconsulting.com.au
Mobile Phone	

The Contact

Name	Terrain Consulting Group Pty Ltd
Address	PO BOX 3018, COTHAM VIC 3101
Email Address	kevin.a@terrainconsulting.com.au
Mobile Phone	

Pre-Application Meeting

Has there been any formal pre-application advice	
Officer Name	
Date	

The Land

Owner	Cavendish Properties Pty Ltd
Lot No.	38
Lodged Plan, Title Plan or Plan of Subdivision No.	337700R
Does the proposed breach, in any way, an encumbrance on title such as a restrictive covenant, section 173 agreement or other obligation such as an easement or building envelope?	No

Application Type

Application Type	ePathway Application to Amend Permit S72
Originating Application Type	Amend Development of Land
Class (VicSmart only)	

The Proposal

What is the application/permit number?	KP-645/2013A
What is the amendment being applied for?	Current conditions of the permit
List details of proposed changes	It is proposed to delete condition 1 a. Refer to cover letter prepared by Terrain Consulting Group dated 26 October 2020.
Have the conditions of the land changed since the time of the original permit?	Yes
Provide details of existing conditions	The development has been constructed (apartments).

Does your proposal involve the removal of any tree/s, including street trees?	No
Is the tree/s proposed to be removed greater than 8m in height? (from natural ground level to the highest part of the tree)	No

Estimated Cost of Works	0
-------------------------	---

Attachments

Attachment Description	Attachment File
	\\\\pwap\Attachments\Online Attachments\EAP_110427_groupfield_1_attachmentfile_Volume_11925_Folio_449_Vic PackageSearch_1603679683.pdf
Attachment 1	\\\\pwap\Attachments\Online Attachments\EAP_110427_groupfield_2_attachmentfile_20185L04 - S72 App Lodgement Covering Letter..pdf
Attachment 2	\\\\pwap\Attachments\Online Attachments\EAP_110427_groupfield_3_attachmentfile_KP-645.2013A Amended Permit dated 15 August 2016.pdf
Attachment 3	\\\\pwap\Attachments\Online Attachments\EAP_110427_groupfield_4_attachmentfile_Council letter dated 9 June 2020.pdf

Terrain Consulting Group Pty Ltd
Land Development Services**Office:**
12 Parkhill Road
Kew 3101 Victoria**Postal Address:**
P.O. Box 3018
Cotham 3101**Phone:** (03) 9853 3352
Fax: (03) 9853 8907
Email: admin@terrainconsulting.com.au

Ref. 20185-L04

26 October 2020

City of Kingston
PO Box 1000
MENTONE VIC 3194

ATT: Statutory Planning Coordinator

Dear Sir/Madam,

Application No: KP-645/2013**Address: 109 McLeod Road, Patterson Lakes (Lot S38 on PS337700)****Proposal: Section 72 Amendment**

We advise that this office acts for Cavendish Properties Pty Ltd who is the owner of the above property. As instructed by the City of Kingston in the letter dated 9 June 2020 (refer to extract below), it is sought to lodge a planning application under Section 72 of the Planning and Environment Act 1987 to delete condition 1 a) of Planning Permit KP-645/2013 issued 29 July 2015 (amended 15 August 2016).

In accordance with Condition 1a of Planning Permit KP-645/2013, the endorsed plans for this development include a functional layout plan (FLP) showing a left-turn treatment for vehicles entering Pier One Drive from McLeod Road. Conditions 12 and 14 of the Permit require that once the development is started, it must be completed to the satisfaction of the Responsible Authority (c.12) and that all buildings and works must be complied with prior to occupation (c.14). Given the position of the Department of Transport (VicRoads) that the construction of a deceleration lane is not required or supported, Council no longer requires the deceleration lane to be delivered. However, Council is of the view that the development is technically non-compliant with the Permit and endorsed plans and that the permit must be amended to bring it in line with the as-built development. This can be achieved by applying to delete Condition 1a and marking the FLP plan as "void" or by removing it from the endorsed plans set.

Councils advice in their letter dated 9 June 2020 is noted with relation to superfluous condition 1a) of Planning Permit KP-645/2013 issued 29 July 2015 (Amended 15 Aug 2026).

Accordingly, as requested an application to delete condition 1a) via Section 72 of the Planning and Environment Act 1987, is hereby made.

We further advise that we consent to Council marking the Functional Layout Plan (FLP) on Councils file as "void".

Accordingly, find attached:

- Copy of land title;
- Planning Permit KP-645/2013 issued 29 July 2015 (amended 15 August 2016); and
- City of Kingston Letter dated 9 June 2020.

We trust that the information provided to Council is satisfactory and that if you have any queries concerning this matter you will not hesitate to contact Kevin Azzopardi from this office or myself on 9853 3352.

Yours faithfully,



Lorenzo Rigoni

Terrain Consulting Group

Encl.

**PLANNING PERMIT
(AMENDED)**

Permit Number: **KP-645/2013**

Planning Scheme: **KINGSTON**

Responsible Authority: **KINGSTON CITY
COUNCIL**

ADDRESS OF THE LAND:

11 Pier One Drive and Part 107 - 109 McLeod Road, Patterson Lakes

THE PERMIT ALLOWS:

To use and develop the land for a six storey building comprising dwellings and associated car parking within a land subject to inundation overlay, with a reduction in the car parking requirement pursuant to Clause 37.02

THE FOLLOWING CONDITIONS APPLY TO THIS PERMIT:

1. Before the development starts amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be substantially in accordance with the plans submitted to Council on 17 November 2014, but modified to show:
 - a. a functional layout plan (FLP) of a left-turn treatment for vehicles entering Pier One Drive from McLeod Road;
 - b. areas of secluded private open space to be no less than 8 square metres for all apartments with exception of apartments 215, 315, 415 and 515;
 - c. the car park layout and access arrangements to be in accordance with the relevant standards of Clause 52.06 of the Planning Scheme and AS2890.1-2004 exempt car spaces 307 and 409;
 - d. Intercom to be noted on the ground floor and elevation plan;
 - e. one (1) disabled car parking space provided on the site compliant with Australian Standards;
 - f. line marking and signage for visitor car parking is to be provided in accordance with Clause 52.06 Car Parking of the Kingston Planning Scheme and Australian Standards;

Date Issued: 29-Jul-2015
Date Amended: 15-Aug-2016

Signature for the
Responsible Authority.....

PLANNING PERMIT (AMENDED) NO. KP-645/2013
ADDRESS: 11 Pier One Drive and Part 107 - 109 McLeod Road, Patterson Lakes

- g. the surface material of all driveways / accessways and car parking spaces nominated in all-weather concrete sealcoat, or similar;
 - h. the provision of a full colour, finishes and building materials schedule, including samples (illustrated on an A4 or A3 sheet), for all external elevations and driveways of the development.
2. The development and use as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.

Site Management Plan

3. Prior to commencement of the development hereby permitted, a Site Management Plan, to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority and when approved shall thereafter be complied with. The Site Management Plan must clearly set out measures to prevent amenity loss to surrounding properties during the construction period. The Plan is to include, but limited to, measures to control the emission of dust/sand, rubbish on site, loading/unloading times, construction times, and parking of builder's vehicles etc. This plan when endorsed must not be varied without the prior approval of the Responsible Authority. It must also be implemented to the satisfaction of the Responsible Authority.

Construction Management Plan

4. Before the commencement of any buildings and works on the Land, a Construction Management Plan (CMP), to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority and when approved shall thereafter be complied with. The CMP must specify and deal with the parking of vehicles during construction, delivery of materials, containment of waste on site and suppression of dust, business operations on the site during construction.

Waste Management Plan

5. Before the commencement of any buildings and works on the Land, a Waste Management Plan to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plan will be endorsed and will then form part of the permit. Three copies of the plan must be submitted. The plan must include but is not limited to:
- a. The manner in which waste will be stored and collected including: type, size and number of containers.
 - b. Spatial provision for on-site storage.
 - c. Details whether waste collection is to be performed by Council's services or privately contracted.

Date Issued: 29-Jul-2015
Date Amended: 15-Aug-2016

Signature for the
Responsible Authority.....

PLANNING PERMIT (AMENDED) NO. KP-645/2013
ADDRESS: 11 Pier One Drive and Part 107 - 109 McLeod Road, Patterson Lakes

- d. The size of the collection vehicle and the frequency, time and point of collection.
 The waste management plan must be implemented to the satisfaction of the Responsible Authority. The waste management plan must not be modified unless without the written consent of the Responsible Authority.

Melbourne Water

6. The finished ground floor level must be constructed no lower than 1.85 metres to Australian Height Datum (AHD). The applicable flood is 1.55 metres to AHD.
7. Pollution and sediment laden runoff shall not be discharged directly or indirectly into Melbourne Water's drains or waterways.

Lighting

8. Exterior lighting must be installed in such positions as to effectively illuminate all communal areas to the satisfaction of the Responsible Authority. Such lighting must be designed, baffled and located to the satisfaction of the Responsible Authority to prevent any adverse effect on neighbouring land.

Public Transport Victoria (PTV)

9. The permit holder must take all reasonable steps to ensure that disruption to bus operation along McLeod Road / Thompson Street is kept to a minimum during the construction of the development. Foreseen disruptions to bus operations and mitigation measures must be communicated to Public Transport Victoria fourteen (14) days prior.

Maintenance

10. All works on or facing the boundaries of adjoining properties must be finished and surface cleaned to a standard that is well presented to neighbouring properties in a manner to the satisfaction of the Responsible Authority.
11. All piping and ducting above the ground floor storey of the development (other than rainwater guttering and downpipes) must be concealed to the satisfaction of the Responsible Authority.

Completion

12. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.
13. Prior to the occupation of the dwellings hereby permitted, the landscaping works as shown on the endorsed plans must be completed to the satisfaction of the Responsible Authority. The landscaping must then be maintained to the satisfaction of the Responsible Authority.

Date Issued: 29-Jul-2015
 Date Amended: 15-Aug-2016

Signature for the
 Responsible Authority.....

PLANNING PERMIT (AMENDED) NO. KP-645/2013
ADDRESS: 11 Pier One Drive and Part 107 - 109 McLeod Road, Patterson Lakes

14. Prior to the occupation of the dwellings hereby permitted, all buildings and works and the conditions of this permit must be complied with, unless with the further prior written consent of the Responsible Authority.

Expiry

15. In accordance with section 68 of the *Planning and Environment Act 1987 (Act)*, this permit will expire if one of the following circumstances applies:

- The development is not started before within (2) years from the date of this permit.
- The development is not completed within four (4) years from the date of permit issue.

In accordance with section 69 of the Act, the responsible authority may extend the periods referred to if a request is made in writing:

- before the permit expires; or
- within six (6) months after the permit expiry date, where the use or development allowed by the permit has not yet started; or
- within twelve (12) months after the permit expiry date, where the development allowed by the permit has lawfully started before the permit expires.

Note: Separate consent from Council and the relevant service authority maybe required to build over the easement and will need to be obtained prior to the issue of a building permit.

Note: Prior to the commencement of the development you are required to obtain the necessary Building Permit.

Note: The applicant/owner must provide a copy of this planning permit to any appointed Building Surveyor. It is the responsibility of the applicant/owner and Building Surveyor to ensure that all building development works approved by any building permit is consistent with the planning permit.

Note: If further information is required in relation to Melbourne Water's permit conditions shown above, please contact Melbourne Water on telephone 9235 2517, quoting Melbourne Water's reference 149721.

Note: The applicable floor level for the property is 1.55 metres to Australian Height Datum (AHD).

Note: Environment Protection Authority (EPA) Victoria set out the requirements pertaining to site construction hours and permissible noise levels.

Date Issued: 29-Jul-2015
Date Amended: 15-Aug-2016

Signature for the
Responsible Authority.....

PLANNING PERMIT (AMENDED) NO. KP-645/2013
ADDRESS: 11 Pier One Drive and Part 107 - 109 McLeod Road, Patterson Lakes

Note: The allocation of street numbering and addressing of properties is vested in Council. Any reference to addressing or dwelling/unit/apartment and street numbers or street names on any endorsed plan is indicative only. The onus is on the Permit Applicant/Land Owner to contact Council's Property Data Department to determine the official dwelling/unit/apartment street numbers, street name details and the like for the approved development.

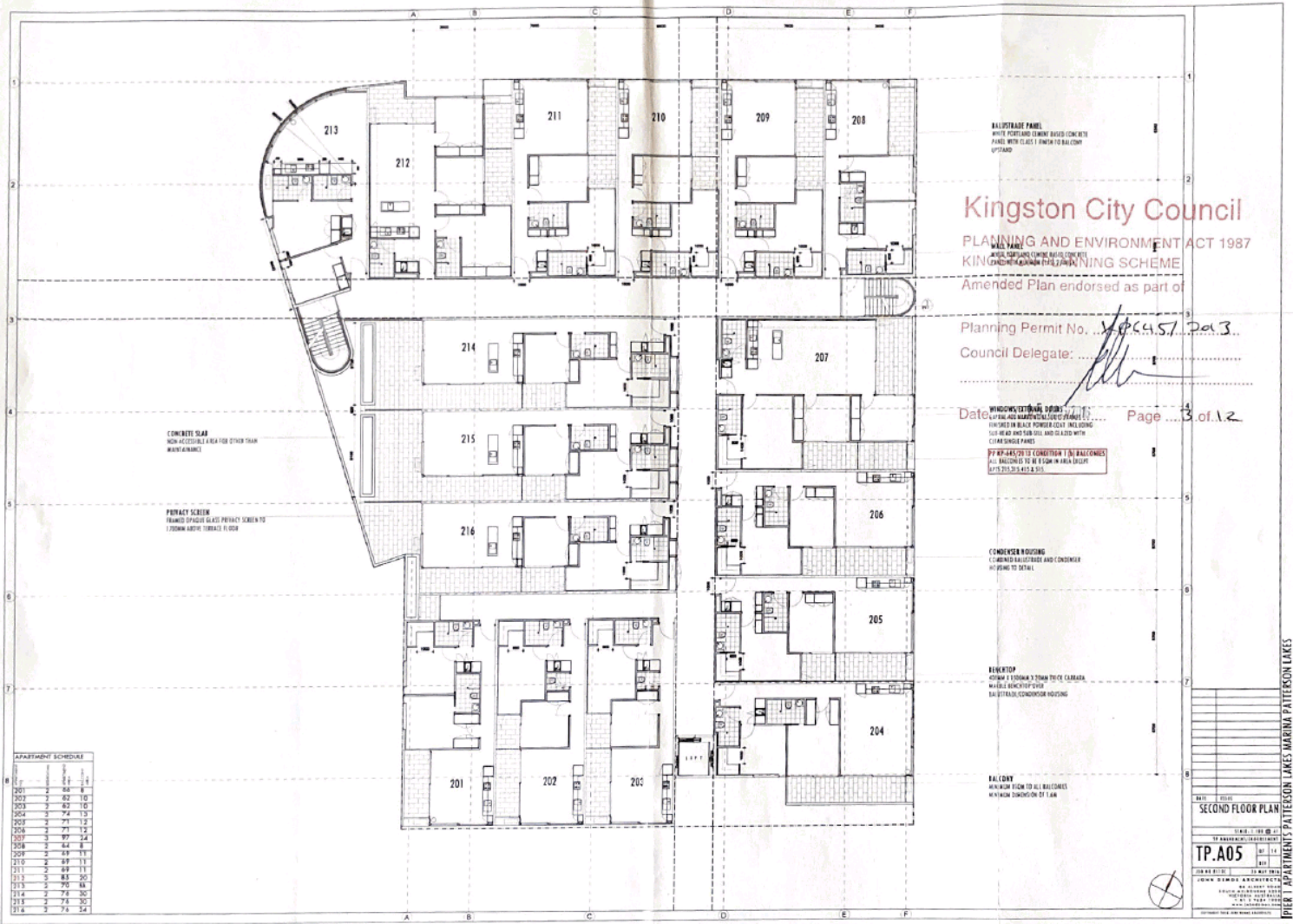
If the Permit Applicant/Land Owner adopts the street numbering or addressing from the endorsed plans, or where advertising and/or sales transact (off the plan) prior to Council's official allocation of the street numbering and addressing, it will be viewed to be non-compliant with the guideline and standard applied (*Australian/New Zealand Standard for Rural & Urban Addressing / AS/NZS 4819:2011*).

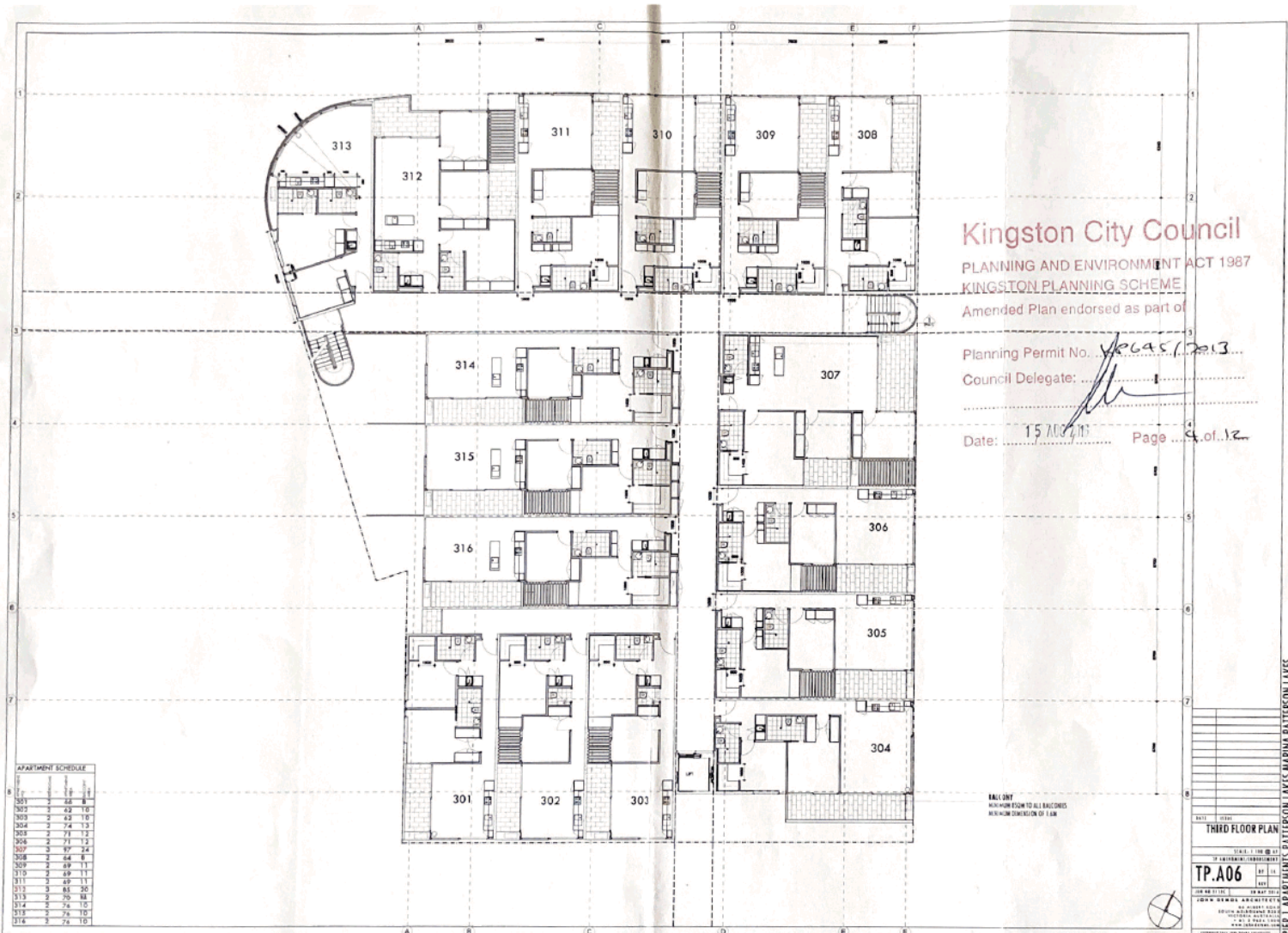
THIS PERMIT HAS BEEN AMENDED PURSUANT TO SECTION 72 OF THE PLANNING AND ENVIRONMENT ACT 1987 AS FOLLOWS:

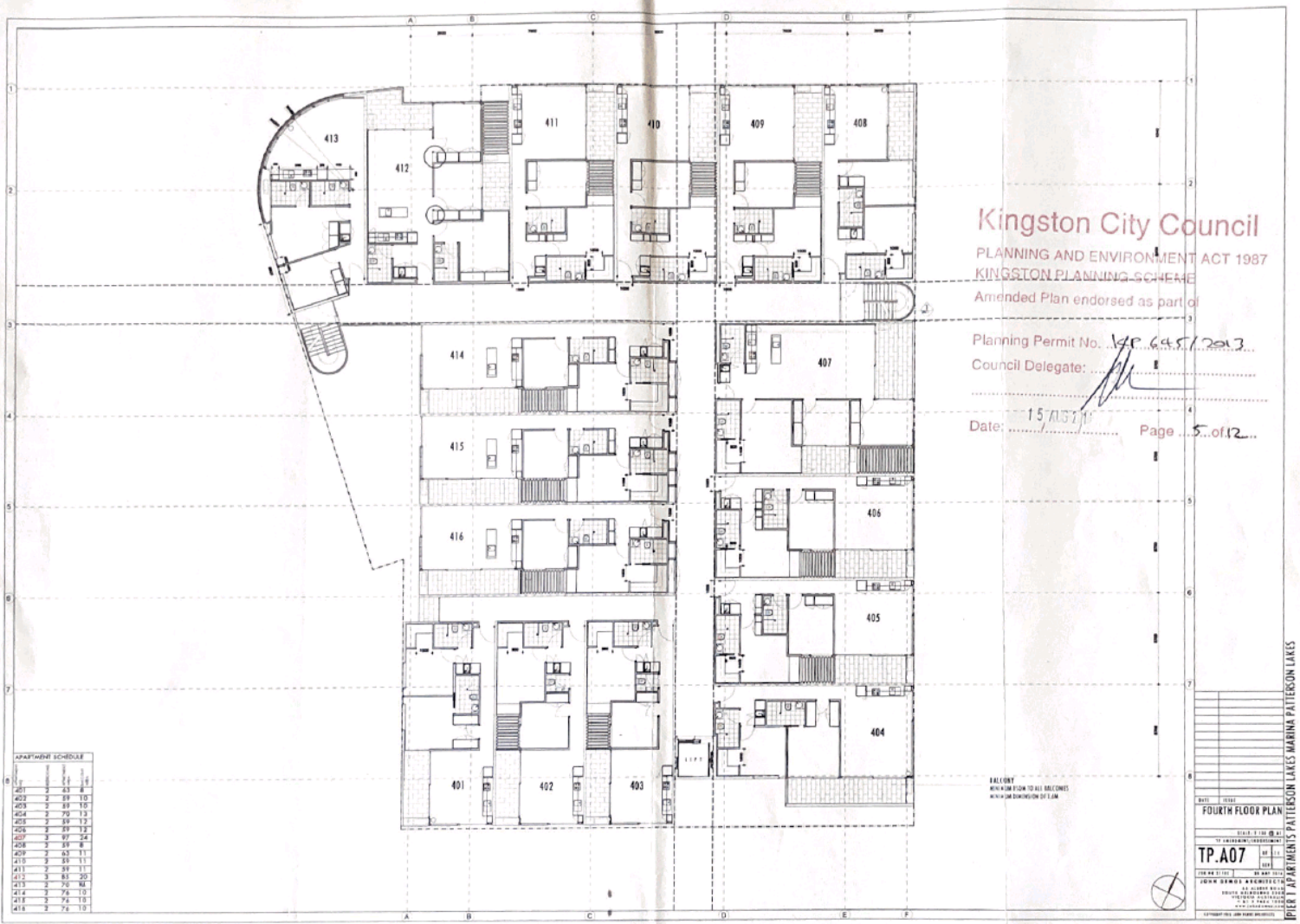
Amendment	Date of Amendment	Description of Amendment	Name of responsible authority that approved the amendment
A	15-Aug-2016	<ul style="list-style-type: none"> • Change the preamble to read 'To use and develop the land for a six storey building comprising dwellings and associated car parking within a land subject to inundation overlay, with a reduction in the car parking requirement pursuant to Clause 37.02' • Condition 1c to include at the end of the condition the words ' exempt car spaces 307 and 409' • Delete stormwater conditions 9 - 14 	Kingston City Council

Date Issued: 29-Jul-2015
Date Amended: 15-Aug-2016

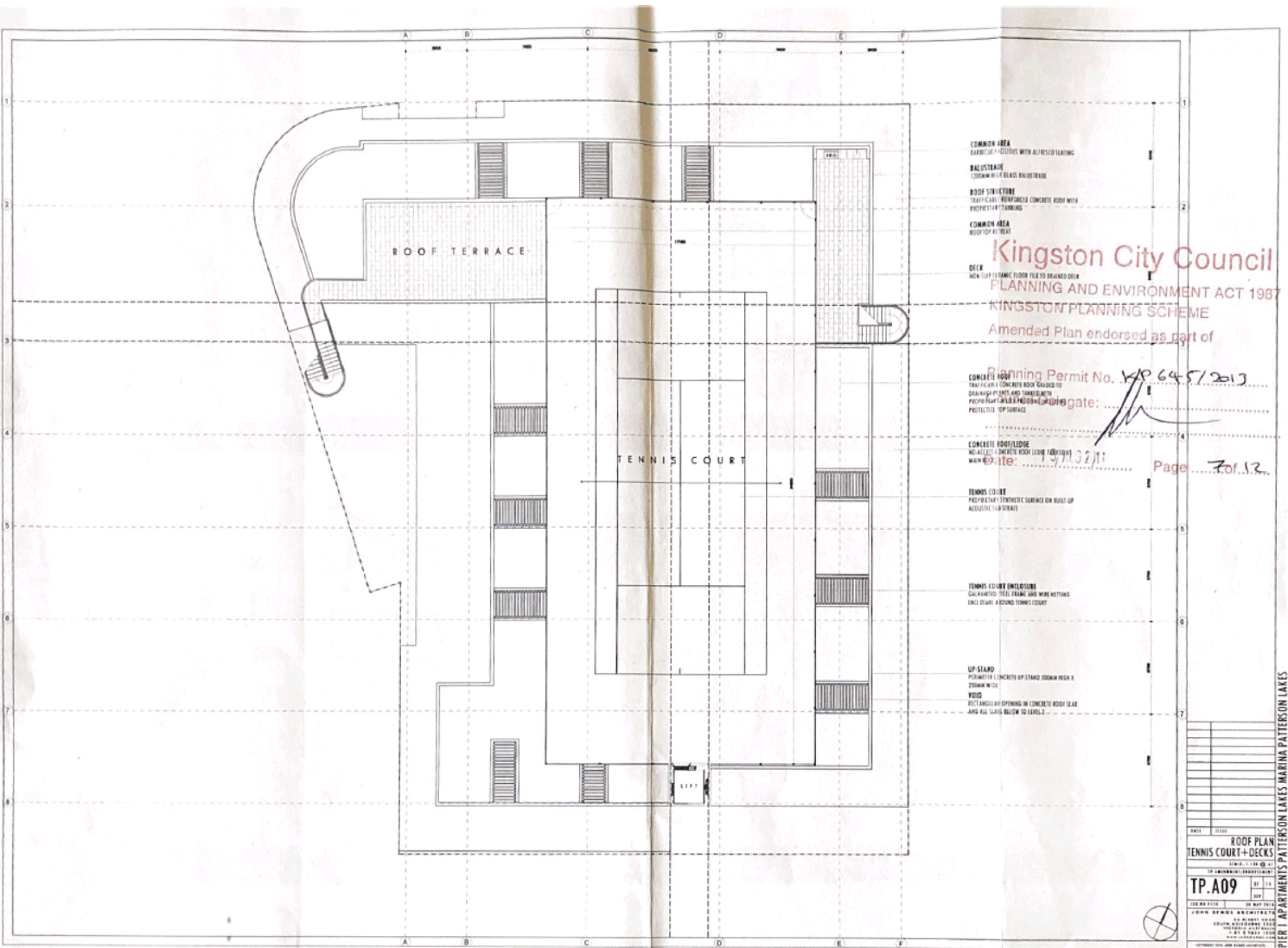
Signature for the
Responsible Authority.....

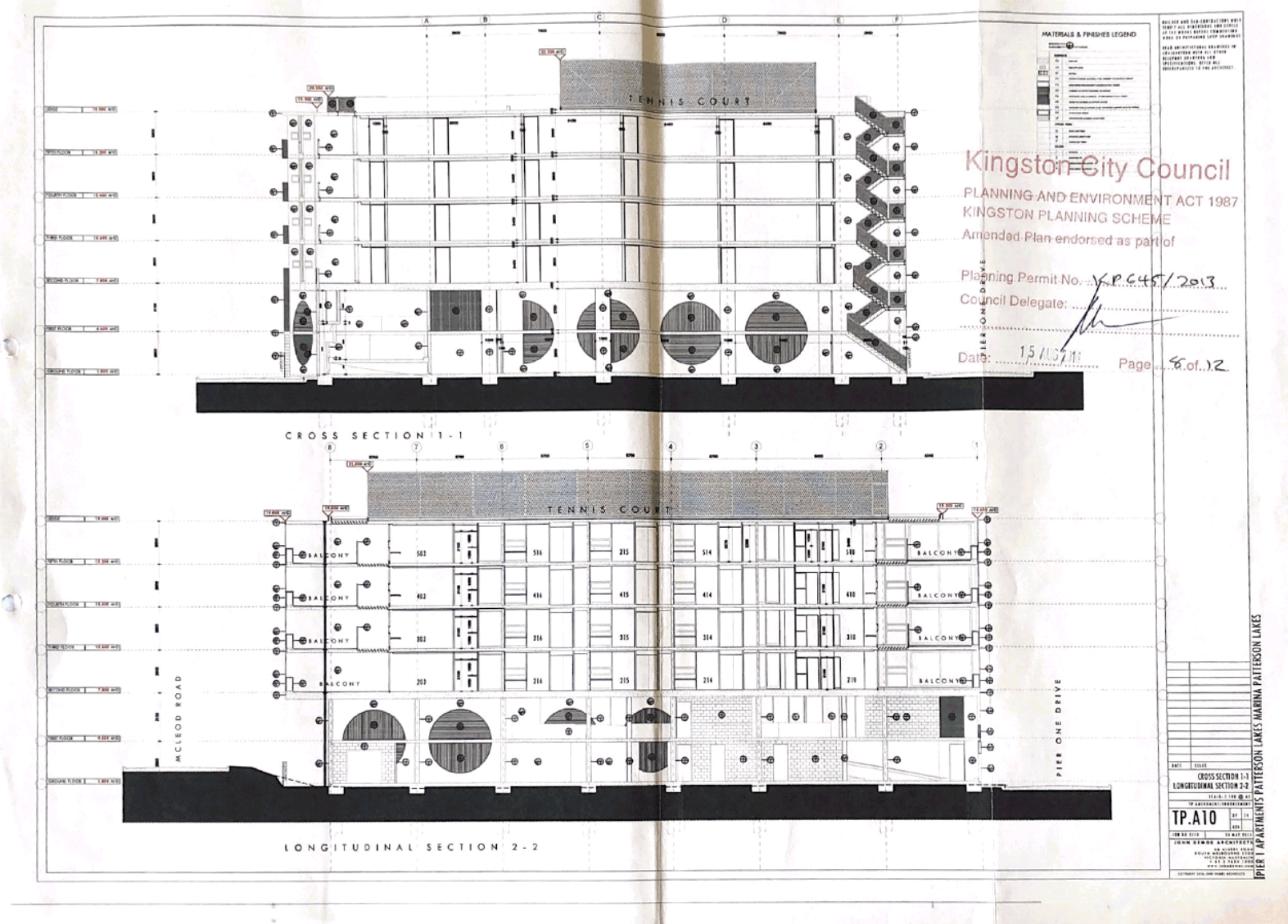


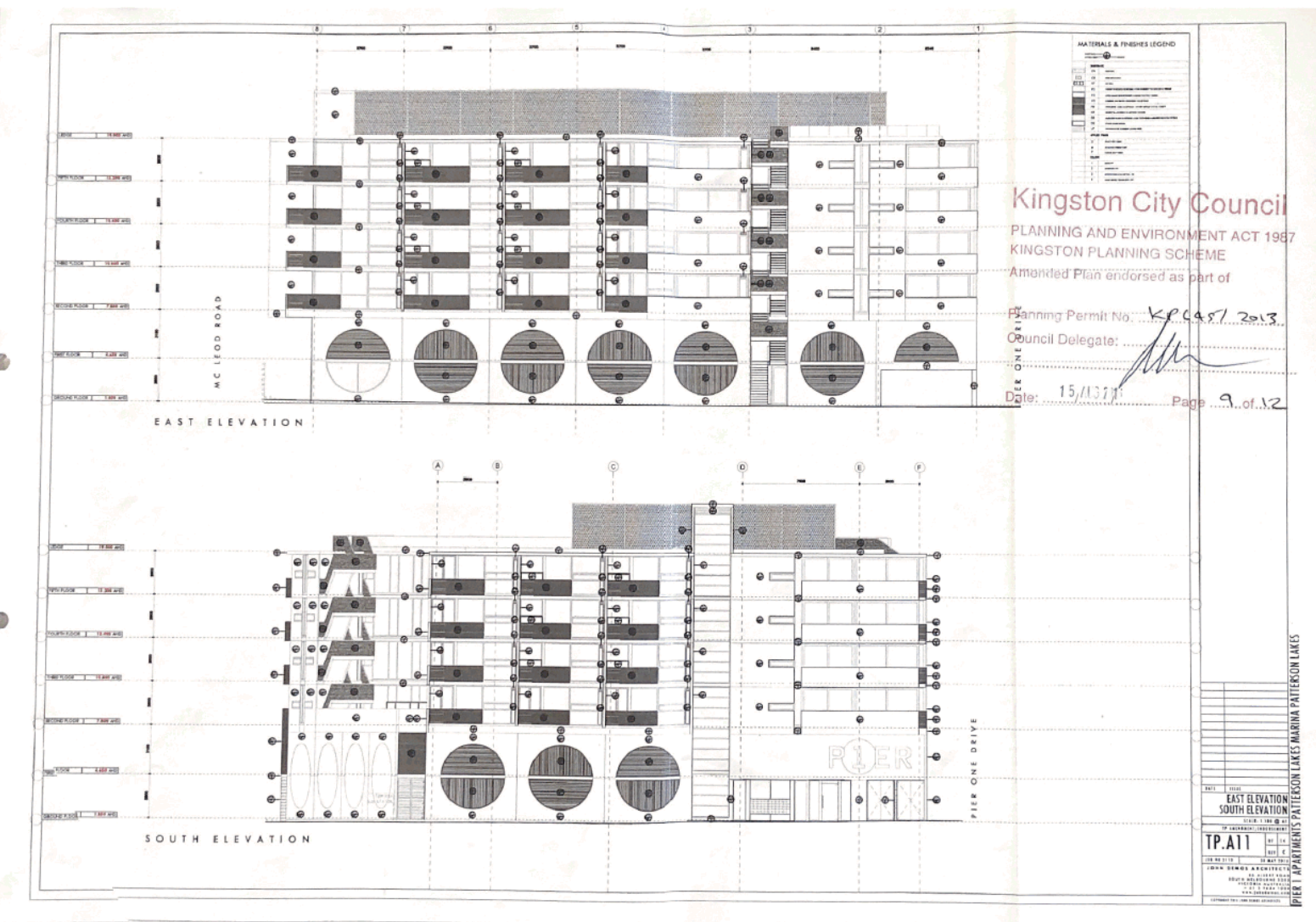


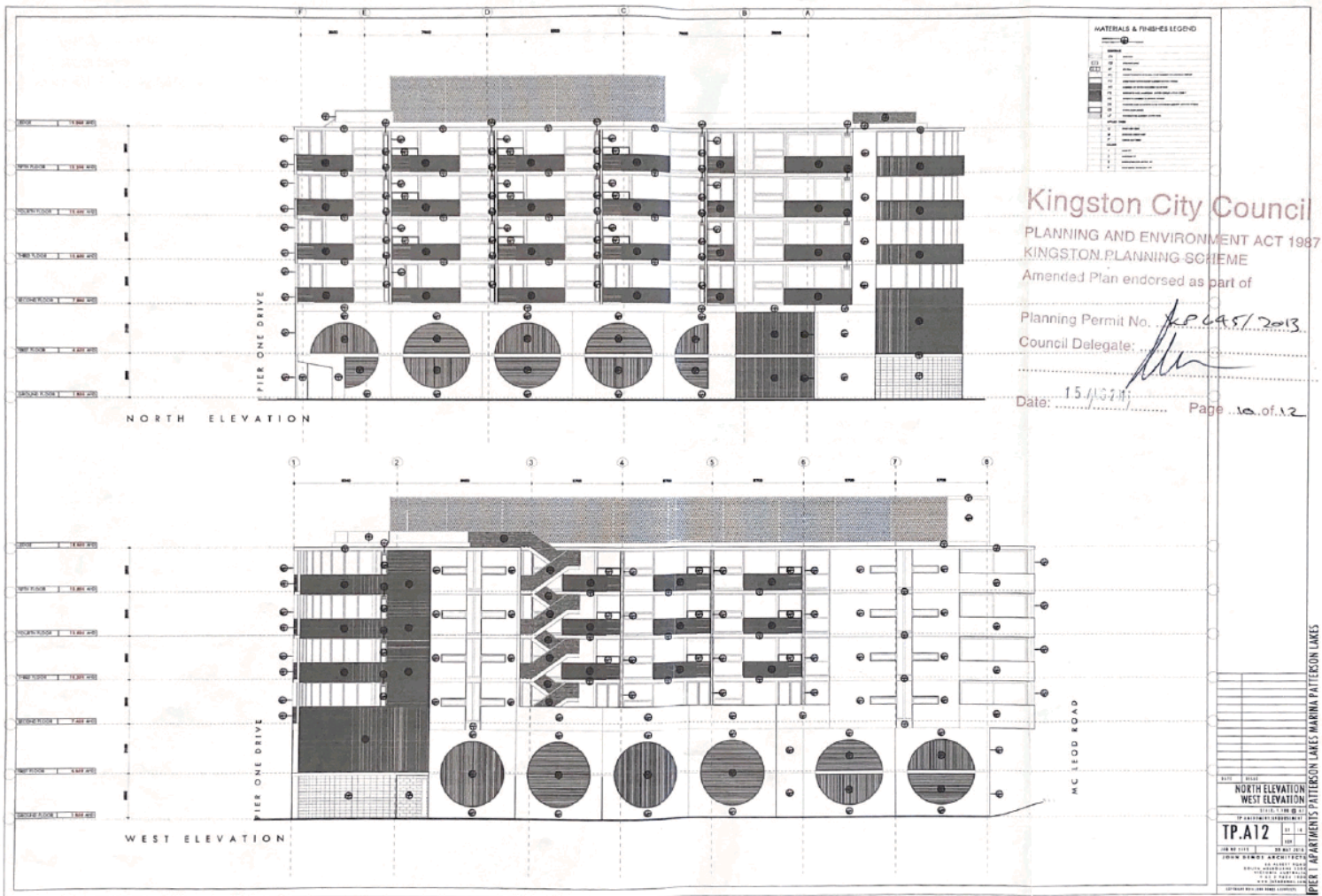



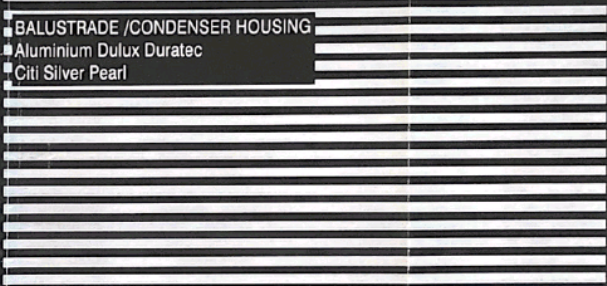










BALUSTRADE PANEL Concrete Panel White Portland Cement Class 1 Finish		BALUSTRADE / GRILLE Steel Dulux Duratec Lunar Eclipse		ENTRANCE PANEL Mosaic Tiles		Kingston City Council ACT 1987 Amended Plan endorsed as part of Planning Permit No. <u>KP 2013/2913</u> Council Delegate: <u>[Signature]</u> Date: <u>19/11/2013</u> Page <u>12</u> of <u>12</u>
WALL PANEL Concrete Panel White Portland Cement Min Class 2 Finish				VENTILATION LOUVRES Aluminium Dulux Duratec Cool Intensity		
SLAB EDGE Off-Form Concrete				BALUSTRADE /CONDENSER HOUSING Aluminium Dulux Duratec Citi Silver Pearl		
SLAB EDGE Corten						
STAIRS BALUSTRADE Galvanised Steel Dulux Duratec Citi Silver Pearl				VISOR Aluminium Dulux Duratec Citi Silver Pearl		
WINDOWS / EXTERNAL DOOR FRAMES Black Powdercoated Capral 400 Series				GLAZING / BALUSTRADE Toughened Glass Viridian		
SERVICE CUPBOARD DOOR Alucobond White	EXTERNAL WALL Split Face Boral Blockwork Designer Block Charcoal	ACCESSWAYS & PARKING BAYS SLAB Coated With Shalex Industries Drive GP (Clear Coat) Solvent Based Acrylic Sealer	EXTERNAL PANEL Prec-cast Concrete Panel Medium Gray Minimum Class 2 Finish	COLUMNS Class One Off Form Concrete	SECURITY GRILL Steel Dulux Duratec Dulux Luna Eclipse	

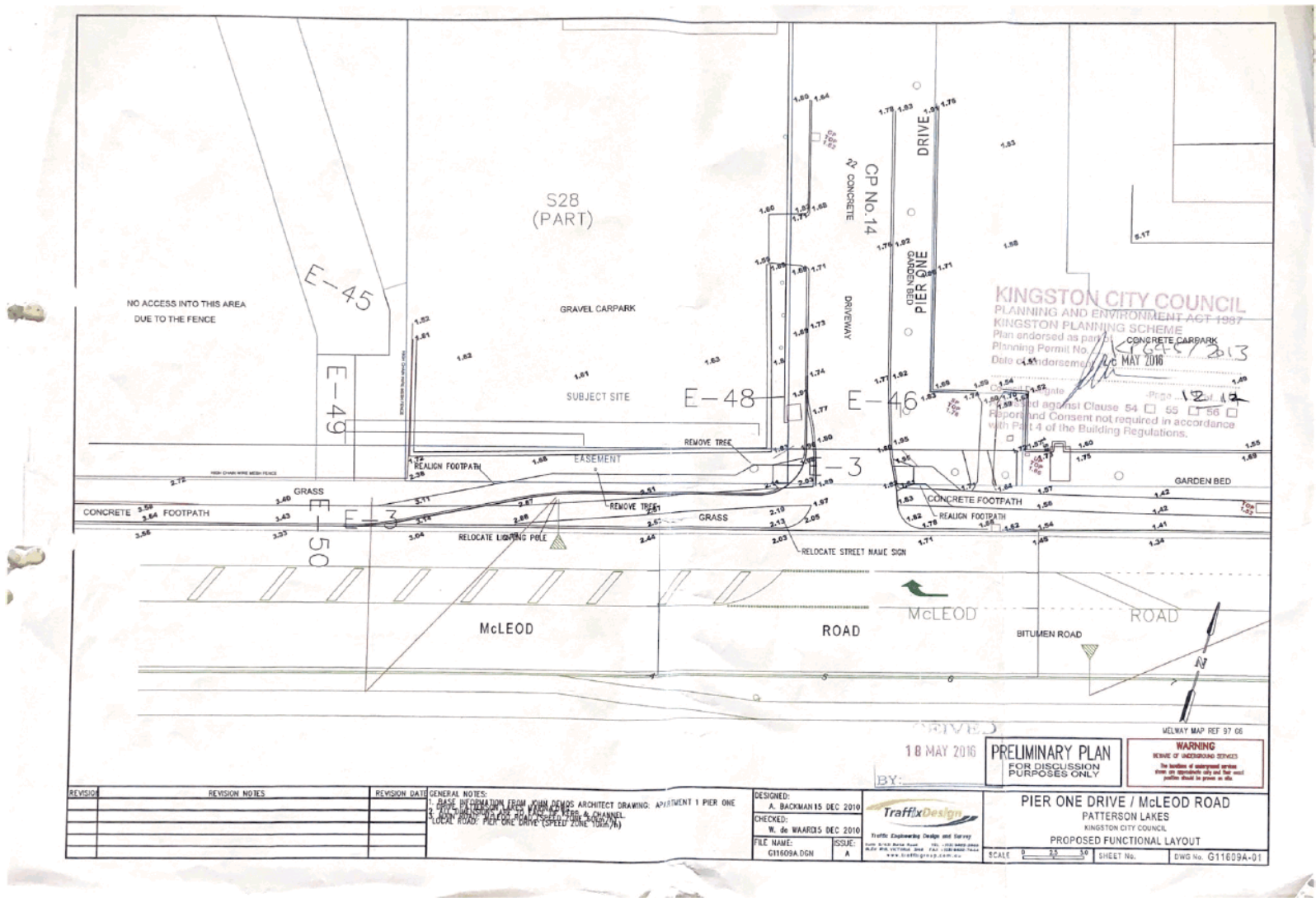
PP 01-04-01-010
 (CONSTRUCTION & 01)
 FINISHES & MATERIALS
 SCHEDULE FOR ALL EXTERIOR
 BUILDINGS & DRIVEWAYS

DATE: 15/04/13

EXTERNAL FINISHES & COLOUR PALETTE

TP.A13

PIER 11 APARTMENTS PATTERSON LAKES MARINA PATTERSON LAKES





Traffic Engineers and Transport Planners

Reference: 10609L#9

Traffix Group Pty Ltd
ABN 32 100 481 570

13th January, 2015

Address

Suite 8, 431 Burke Road
Glen Iris Victoria 3146

David Lock Associates
Level 2/166 Albert Road
SOUTH MELBOURNE VIC 3205

Contact

Telephone 03 9822 2888
Facsimile 03 9822 7444
admin@traffixgroup.com.au
www.traffixgroup.com.au

Attention: Mr Danny Haesy

Dear Sir,

**BUILDING 1, PIER ONE DRIVE, PATTERSON LAKES: PROPOSED RESIDENTIAL DEVELOPMENT
TRAFFIC ENGINEERING REVIEW – THIRD PARTY OBJECTIONS**

1. Introduction

Further to your instructions, please find following a response to the traffic engineering matters raised in third party objections. Specifically, the matters being responded to are as follows:

- Assessment of car parking provision against Schedule 1 to the Comprehensive Development Zone (CDZ1).
- Discussion of the Pier One Drive/McLeod Road intersection including impact of the development on traffic conditions.
- Left-turn treatment for vehicles entering Pier One Drive from McLeod Road.

We note that Traffix Group have previously submitted a number of assessments which support this development. The most recent assessment being at the town planning application stage (Ref. 10609L#8, dated January, 2014).

Our assessment of the parking layout and access arrangements are based on the development plans prepared by John Demos Architects (dated, October, 2013) a copy of which is attached at Appendix A.

2. Car Parking Assessment

A key concern raised by objectors relates to the provision of car parking and the reduction sought as part of the development. A detailed assessment against the relevant requirement of the Planning Scheme is provided as follows.

Clause 52.06 of the Planning Scheme states that '*The car parking requirement specified in Table 1 does not apply if there is a car parking requirement for the particular use under another provision or if a schedule to the Parking Overlay or the schedule to Clause 52.06 varies the number of car parking spaces required.*'

The site is located within Comprehensive Development Zone 1 (CDZ1) under the Kingston Planning Scheme (Clause 37.02 of the Planning Scheme). Schedule 1 to the CDZ1 sets out that For the land use 'dwelling' no permit is required if '*car parking must be provided at the ratio of at least 2 covered spaces and 1 visitor space to each dwelling*'.

Application of this rate to the proposed 72 dwelling development results in a car parking requirement of 216 car spaces which includes 144 resident car spaces and 72 visitor car spaces. The provision of 86 spaces results in a car parking reduction of 130 car spaces.



Clause 37.02 allows for the car parking requirement to be reduced (including to zero). Specifically, the clause states the following in relation to car space concessions (**relevant sections highlighted**):

A permit may be granted to reduce the number of car spaces required for a particular use in Section 1 of Clause 1 of this Schedule if the responsible authority is satisfied that the number of spaces required:

- ***Is unnecessary in the circumstances.***
- *Could create or aggravate traffic congestion in the locality.*
- *Can be provided on nearby land.*

Before deciding on an application, the responsible authority must consider:

- ***The likely demand for car parking spaces.***
- *The extent to which the various uses of the land are likely to generate different levels of demand for car parking at different times.*
- *The possible multi-use of the car spaces.*
- *The demand for car spaces generated by the uses established in previous stages of the development.*
- *The accessibility of the site to vehicle traffic.*
- *The proposed layout of parking areas.*

Car Parking Demand Assessment

The car parking requirement outlined in Schedule 1 to the CDZ1 is grossly overstated compared with current guidelines and expectations for apartment buildings throughout metropolitan Melbourne. In practice this schedule is expected to be aimed at larger style townhouses and stand alone dwellings in the precinct (i.e. larger 3+ bedroom dwellings).

More recently, Clause 52.06 has been updated which provides a more accurate parking requirement, particularly for apartment style dwellings. We are satisfied that the rates set out at Clause 52.06 are appropriate for assessing the actual car parking demands and requirements associated with the apartment development.

An assessment against the car parking rates set out at the car parking table at Clause 52.06-5 of the Planning Scheme is provided in the following table (includes comparison to the Schedule 1 to the CDZ1 rates).

Table 1. Comparison of Car Parking Requirement

Use	No.	Clause 52.06		Schedule CDZ1	
		Parking Rate (Column A)	Requirement	Parking Rate	Requirement
Two-bedroom Apartment	72	1 space to each 2 bedroom dwelling	72	2 spaces per dwelling	144
Visitor	72	0.2 spaces per dwelling	14	1 space per dwelling	72
TOTAL			86 spaces	-	216 spaces

Note (1): Clause 52.06 specifies that where a car parking calculation results in a requirement that is not a whole number, the number of spaces should be rounded down to the nearest whole number.

Accordingly, under Clause 52.06 of the Planning Scheme, the parking requirement is 86 car spaces, which is met on-site as part of the development.

Further to the above, a review of car ownership statistics for various two-bedroom Flat/Unit/Apartment (in one or more storey block) within the suburb of Patterson Lakes and City of Kingston recorded by the Australian Bureau of Statistics (ABS) in the 2011 Census has been undertaken. The data identified the following car ownership statistics:

- Patterson Lakes State Suburb – 0.9 car spaces per two-bedroom Flat/Unit/Apartment (in one or more storey block).

Based on the above, we are satisfied that adequate resident parking is provided as part of the development to accommodate the expected resident parking demands (1 space per dwelling).

Middle Harbour, Patterson Lakes Marina
Proposed Residential Development



Visitor Parking

Based on the size of the dwellings and location of the site, we are satisfied that the Clause 52.06 rate of 0.2 car spaces per dwelling is indicative of the peak visitor car parking demands. This equates to a peak demand of 14 spaces.

A total of 14 visitor car parking spaces are proposed for this development which will accommodate all visitor parking demands.

Typically, the peak time for any visitor demands will be in the evening and on weekends. During normal business hours, residential visitor demands are typically less than 30% of the peak demand (4 spaces only).

Overall, we are satisfied that the Clause 52.06 rates represent a more appropriate assessment in this case and requiring the applicant to provide parking at rates in line with Schedule 1 to the Comprehensive Development Zone is unreasonable. Based on the provision of car parking which complies with the requirements of Clause 52.06 we are satisfied that all parking demands will be accommodated on-site.

Further to the above, it is understood that Council is satisfied with the car parking provision currently proposed.

3. Other Traffic Engineering Matters

A response to the other outstanding matters raised within the objections prepared by third parties is detailed in the following table.

Table 2: Response to Third Party Traffic Related Objections

Conclusion	Response
<i>Discussion of the Pier One Drive/McLeod Road intersection including impact of the development on traffic conditions.</i>	<p>Two schemes have been previously endorsed by Council. These are outlined as follows:</p> <ul style="list-style-type: none"> • Scheme 1 (Plans endorsed 28th February, 2012): 112 apartments (combination of one and two bedroom apartments) in two buildings (including 72 on development site) with 128 cars of which 13 were designated for visitors (visitor spaces provided as indented on-street parking along Pier One Drive). • Scheme 2 (Plans endorsed 21st December, 2012): 84 apartments (combination of one, two and three bedroom apartments) in two buildings (including 56 on development site) with 153 cars of which 119 were provided in car stackers and 30 in a basement (including 15 visitor spaces). <p>It is noted that if assessed against the car parking requirements as outlined under Clause 52.06, Scheme 1 had a shortfall of 9 visitor spaces (requirement of 22 and only 13 provided).</p> <p>The revised development represents a minor change to dwelling numbers on the development site and a decrease in associated car parking spaces. Accordingly, the variation in traffic impacts would be negligible (approximately 1 vehicle movement every 10 minutes during peak hours) and reassessment of the traffic impacts to the Pier One Drive/McLeod Road intersection are not warranted.</p> <p>It is noted that the impacts were previously assessed by Council and VicRoads who were satisfied that signalisation of the intersection was not warranted. Accordingly, there is no reason it would now be required in association with the amended development proposed.</p> <p>In the event that traffic volumes along Pier One Drive are increased further as a result of the redevelopment of other lots, Council in conjunction with VicRoads would undertake the required investigations at that stage to determine whether or not an intersection treatment (i.e. signals) are warranted.</p> <p>We are satisfied that further traffic assessments are not required given a similar sized development is approved for the site with impacts previously assessed and accepted by the responsible authorities.</p>
<i>Left-turn treatment for vehicles entering Pier One Drive from McLeod Road.</i>	<p>A Functional Layout Plan (FLP) of a left-turn treatment for vehicles entering Pier One Drive from McLeod Road was prepared by Traffix Design in December, 2010 (Ref: G11609A-01).</p> <p>It is understood that this intersection treatment still forms part of the proposal and accordingly, the requirement to undertake these works to the satisfaction of Council/VicRoads could be included as a condition of any permit issued.</p> <p>The FLP is attached at Appendix B which shows the treatment currently proposed. Any permit condition could reference this drawing.</p>

Middle Harbour, Patterson Lakes Marina
Proposed Residential Development



4. Conclusions

Based on our various assessments we are satisfied that:

- the provision of car parking for residents and visitors is appropriate and will accommodate all car parking demands on-site,
- the traffic impacts associated with the development are generally consistent with an approved residential development at the site and accordingly, additional assessment of impacts are not warranted,
- based on traffic impact assessments previously undertaken by Traffix Group the traffic volumes associated with the current development can be comfortably accommodated at the intersection between Pier One Drive and McLeod Road,
- a Functional Layout Plan (FLP) of a left-turn treatment for vehicles entering Pier One Drive from McLeod Road had been prepared by Traffix Design in December, 2010 (Ref: G11609A-01). If required by Council the provision of this treatment could be included as a condition of permit, and
- there are no traffic engineering reasons why the proposed development should not be approved in its current arrangement.

We trust this information meets with your requirements. If you require further information, please contact David Beaton (Senior Traffic Engineer) at Traffix Group on 9822 2888.

Yours faithfully,

TRAFFIX GROUP PTY LTD

A handwritten signature in black ink, appearing to read 'David Beaton'.

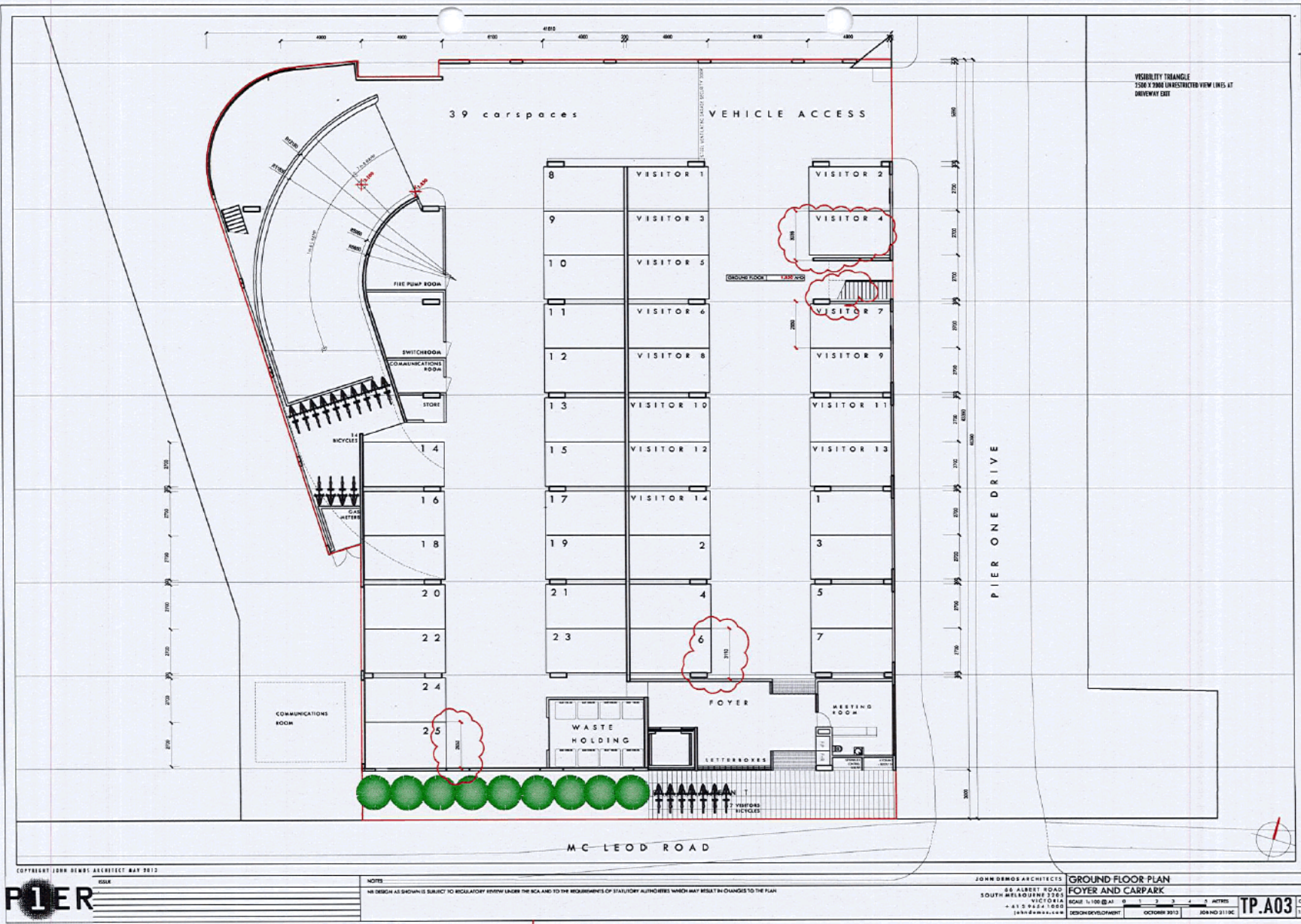
DAVID BEATON
Senior Traffic Engineer
www.traffixgroup.com.au

Middle Harbour, Patterson Lakes Marina
Proposed Residential Development

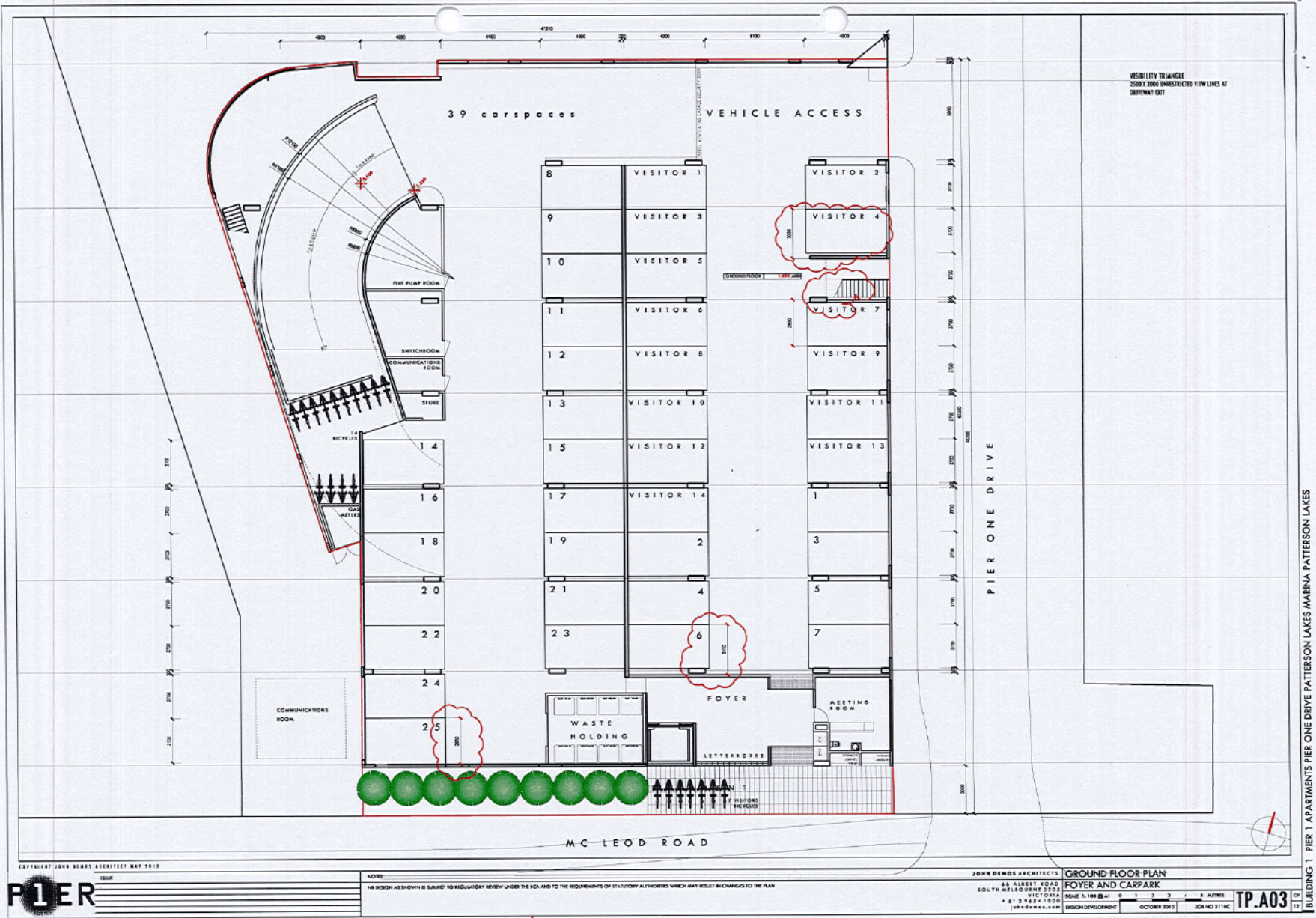


APPENDIX A
DEVELOPMENT PLANS

10609L#9



BUILDING 1 PIER 1 APARTMENTS PIER ONE DRIVE PATTERSON LAKES MARINA PATTERSON LAKES

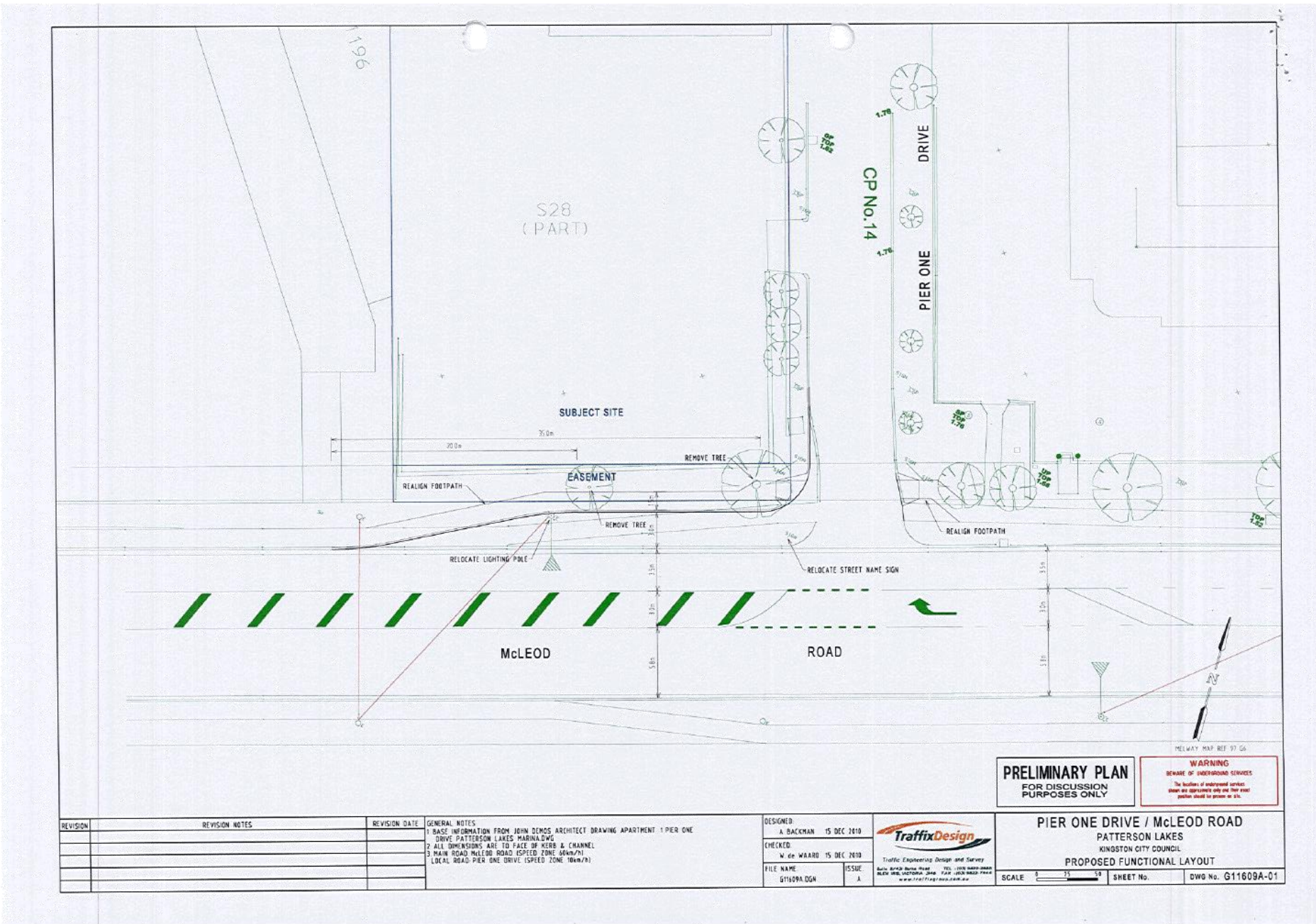


Middle Harbour, Patterson Lakes Marina
Proposed Residential Development



APPENDIX B
FUNCTIONAL LAYOUT PLAN

10609L#9



Planning Committee Meeting

20 October 2021

Agenda Item No: 4.3

KP-2021/155 - 19 ELMAN ROAD CHELTENHAM

Contact Officer: Hugh Charlton, Statutory Planner

Purpose of Report

This report is for the Planning Committee to consider Planning Permit Application No. KP-2021/155 - 19 Elman Road Cheltenham.

The application is proceeding to a Council meeting as it is delegated to Council for a decision.

Disclosure of Officer / Contractor Direct or Indirect Interest

No Council officer/s and/or Contractor/s who have provided advice in relation to this report have declared a Conflict of Interest regarding the matter under consideration.

RECOMMENDATION

That the Planning Committee determine to support the proposal and issue a Notice of Decision to Grant a Permit to develop the land for the construction of 14 dwellings in a three storey apartment building in a Special Building Overlay at 19 Elman Road Cheltenham, subject to the conditions contained within this report.

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EXECUTIVE SUMMARY			
Address	19 Elman Road Cheltenham		
Legal Description	Lot 1 on Plan of Subdivision 016771		
Applicant	The Trustee For City Edge Box Hill Trust		
Planning Officer	Hugh Charlton		
PLANNING REQUIREMENTS			
Planning Scheme	Kingston		
Zoning	Clause 37.08 – Activity Centre Zone – Schedule 1		
Overlays	Clause 44.05 – Special Building Overlay		
Particular Provisions	Clause 52.06 – Car Parking Clause 52.34 – Bicycle Facilities Clause 53.18 – Stormwater management in urban development Clause 58 – Apartment Developments		
Permit Trigger/s	Clause 37.08: Pursuant to Clause 4.3 of Schedule 1 of the Activity Centre Zone, a planning permit is required to construct two or more dwellings on a lot. Clause 44.05 – Construct or carry out Buildings or Works in a Special Building Overlay		
APPLICATION / PROCESS			
Proposal	develop the land for the construction of 14 dwellings in a three storey apartment building in a Special Building Overlay		
Reference No.	KP-2021/155	RFI Received	22/6/21
App. Received	29/3/21	App. Amended	22/6/21
Site inspection	Yes		
S.52 Advertising	Commenced: 22/7/21	Advertising Completed	Yes 9/8/21
S.55 Referrals	Melbourne Water		
Internal referrals	Yes		
Objection(s)	12 (TRIM checked on 10/9/21)		
Mandatory Garden area requirement	N/A in ACZ	Mandatory Building Height requirement	N/A
LEGISLATIVE			
Covenant/other Restriction	No	Complies: N/A	
Aboriginal Cultural Sensitivity Area	YES		
CHMP	EXEMPT		
Considered Plans	Advertised plans prepared by Arcadia, Drawing No's. TP1301 to TP6002 inclusive, Revision I to H dated 16/6/21, submitted to Council on 22/6/21		

SITE HISTORY

There are no recent planning applications on this site relevant to the assessment of this application.

SUBJECT LAND

The photograph below illustrates the subject site from a streetscape perspective.



Built form	A single storey brick veneer dwelling and associated outbuildings occupies the land. The existing dwelling is set back 7.5m from its respective front property boundary. Vehicle access is from the rear lane		
Lot Size (m²)	662m ²	Dimensions	Width: 15.2m Length: 41.05m
Topography	The land is generally flat		
Fencing	1.6m brick and metal picket		
Vegetation	Three mature, exotic trees <i>Alnus jorullensis</i> (Evergreen Alder) located in the front setback and one environmental weed tree located in the rear yard <i>Fraxinus angustifolia</i> (Desert Ash). A Local Law permit was issued in 2021 to remove these 3 trees at the front subject to replacement.		
Easement(s)	None		
Footpath assets / access	None		

SURROUNDING LAND

The following map illustrates the subject site in its surrounding context.



North	Fairlam Lane and the rear of double storey retail and commercial buildings fronting Station Road
East	Elman Road and a single storey commercial building and single storey dwellings beyond
South	Two single storey dwellings with private open space adjacent to the subject site boundary. The front dwelling has a 5 metre front setback. Both dwellings are accessed from Elman Road
West	Right of Way and Council's Cheltenham Library and carpark beyond
Describe Neighbourhood Character	Located within the Cheltenham Activity Centre, the surrounding area encompasses a mix of land uses/development types. Primarily, surrounding land consists of residential and commercial uses. The site is within close proximity to the Cheltenham railway station and is serviced well by social and physical infrastructure.

PROPOSAL

A summary of the proposal is provided in the table below.

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Description	Demolish the existing dwelling and associated outbuildings on the land to develop the land for the construction of 14 dwellings		
Storeys	3 storeys including 2 levels of basement with 1 level of car parking		
Maximum building height	12.3m overall, 9.8m to parapets		
Bedrooms (including study)	A mix of apartment types are proposed, consisting of: 5 x 1 bedroom dwellings 8 x 2 bedrooms dwellings 1 x 3 bedroom dwelling		
Car parking	16 spaces in total comprising: <ul style="list-style-type: none"> ▪ 15 resident spaces ▪ 1 excess space, not nominated 15 bicycle parking spaces		
Front setback	4.5m		
Private Open Space	<ul style="list-style-type: none"> ▪ Courtyard/Terrace: 16m² - 42 m² ▪ Balcony: 9m²-30m² 		
Site Coverage	68%	Permeability	13%
Access	No new access. Existing access from rear laneway proposed to be utilised.		
Vegetation removal/retention	All trees on site to be removed, none are significant. A Local law permit was issued in 2021 to remove the 3 trees to the front and noted the tree to the rear is an environmental weed species. No trees are affected on neighbouring properties within close proximity to common boundaries.		
Building materials	A contemporary building form is proposed that includes: Render, metal sheeting, timber look, concrete, tiles and aluminium screening.		

AMENDMENTS UNDER SECTION 50 THE ACT

Requested by the Applicant to respond to Council Officer concerns raised with:

- ACZ1 and equitable development

- Preferred character
- Landscaping
- Car parking dispensation
- Vehicle access from the street
- Internal amenity

The amended plans incorporated the following changes:

- Deletion of 1 dwelling
- Deletion of the fourth storey
- Access from the rear (off laneway)
- Increased landscaping
- Improved amenity
- No car parking dispensation

INTERNAL REFERRALS

Department / Area	Comments
Vegetation Management Officer	No objection raised, subject to conditions included on any permit issued requiring a landscape plan and provision of 3 medium canopy trees in the front setback
Development Engineer	No objection raised, subject to conditions included on any permit issued relating to stormwater management, basement design and WSUD.
Roads and Drains	No objection raised, subject to conditions included on any permit issued.
Traffic Engineer	<p>No objection raised, subject to conditions included on any permit issued that:</p> <ul style="list-style-type: none"> a) provision of a sight line splay of 2m x 2.5m clear of visual obstructions at the Fairlam Lane intersection with the Elman Road footpath. b) waste collection vehicle to operate from within the subject site and not overhanging the laneway vehicle during collection, with details of the vehicle and swept path diagrams to demonstrate viable manoeuvring in/out of the development. <p>Traffic Dept did not support the proposed 4-point-turns to the resident stackers in the basement (to 3 car spaces). A revised swept path analysis was requested for a maximum 3-point-turn to parking spaces. This matter is discussed below in the car parking section where it is noted that the proposal is compliant.</p>
ESD	No objection raised, subject to changes including a number of smaller design improvements and report corrections
Building Dept	No objection raised to the windows location adjacent to the laneway in relation to light and fire rating purposes
Waste Dept	Supported the submitted WMP and private waste collection proposed.
Urban Designer	No objection raised, subject to conditions included on any permit issued requiring deletion of the south facing first floor balcony due to equitable development concerns.

CMP	CMP required via conditions.
Property Services	<p>No objection raised, subject to consideration that the existing ROW and splays are not encroached on. The planning officer notes that some built form overhangs the laneway, and conditions will require this be addressed should a permit issue along with ensuring windows do not open out in the laneway:</p> <ul style="list-style-type: none"> c) No built form to overhang the laneways or extend beyond the title boundaries including but not limited to: <ul style="list-style-type: none"> i. Overhanging built form into the laneway removed ii. Provision of sliding windows adjacent to the laneway iii. Guttering contained fully within title boundaries and be notated on plans

EXTERNAL REFERRALS

Department	Section 52/55	Determining / Recommending	Objection	Comments
Melbourne Water	55	Determining	None	Subject to conditions included verbatim within the recommendation

OBJECTIONS

Following the commencement of advertising, 12 objection(s) to the proposal were received. The valid grounds of objection raised are summarised as follows:

- Overdevelopment
- Scale
- Neighbourhood character
- Density
- Visual bulk
- Vehicle access and safety
- Wall on southern boundary
- Contrary to ACZ Guidelines
- Daylight access
- Traffic
- Flooding
- Overlooking
- Overshadowing
- Loss of existing vegetation
- ESD
- Landscaping

The following objections raised are not planning considerations:

- Noise from future residents
- Visitor parking (no requirement in the ACZ1)
- Winter shadows

A planning consultation meeting was held on 17 August 2021 with the relevant Planning Officer, Ward Councillor, the Permit Applicant and 7 objector(s) in attendance. The above-mentioned issues were discussed at length.

The above concerns were unable to be resolved at the meeting, and the objections still stand.

Following the meeting the applicant offered changes to address some of the objector issues, and requested these changes form permit conditions. These changes proposed minor reductions to reduce the wall on southern boundary and reduce the first floor south facing balcony and have been incorporated into the officer recommendations as discussed later in the report.

PLANNING CONTROLS

Zone / Overlay / Particular Provision	Rationale
37.08 - Activity Centre Zone – Schedule 1	<p>Schedule 1 of the ACZ, Precinct 6 – Increased Residential development applies to this site and the immediate area south of the commercial tenancies along Station Road. This precinct also applies north of the activity centre behind Charman Road. Relevant guidelines to Precinct 6 seek to achieve a higher density character to support the growth and vitality of the Cheltenham Major Activity Centre.</p> <p>The objectives of this precinct state that development should:</p> <ul style="list-style-type: none"> ▪ <i>Encourage new, contemporary residential built form within quality landscaped settings that responds to the community/residential focus of the precinct.</i> ▪ <i>To provide opportunities for a mix of dwelling types in the precinct.</i> <p>The proposal accords with the purpose of the Zone and relevant objectives by providing a contemporary residential development with a sufficient scale and apartment style form that respond to the desired precinct character and provide for a density that can support the vitality and viability of the activity centre.</p> <p>A detailed assessment against the precinct guidelines is located later in this report.</p>
44.05 Special Building Overlay	<p>The application has been referred to the relevant floodplain/ drainage management authority (Melbourne Water). Melbourne Water advised of no objection to the application subject to conditions which will be included on any permit issued. The SPPF and MSS objectives are satisfied by obtaining referral comments from the floodplain management authority to mitigates potential flooding issues from the stormwater system.</p>
52.06 Car parking	<p>Requires 1 space per 1-2 bedroom dwelling, and 2 spaces per 3 plus bedroom dwelling. Proposal generates a requirement for 15 spaces. Complies, 16 spaces provided, 1 space in excess.</p> <p>Visitor parking is not required (nor provided) as this site is within the Principal Public Transport Network thus there is a variation to the parking requirements under Clause 52.06.</p>

	<p>Clause 52.06 – 9 Design standards including garaging dimensions, headroom clearances, ramp grades, are considered compliant by Council's Traffic engineer.</p> <p>Council's Traffic Engineer has no objection to the use of car stackers (which allow for B99 design vehicles) or the vehicle lift to access the stackers. It is noted in the applicant's submission that the car lift will take a maximum of 135 seconds if in use, but typically it would be less time if the lift is already available and waiting in its last position. There is only a very minimal chance of queuing (less than 5%) within the laneway even during peak hours due the lift time, vehicle movements per hour and other traffic considerations. A traffic light system has also been shown on plans appropriately.</p> <p>Council's Traffic Engineer has requested minor changes to provide sightlines splays which have been included in the recommendations within condition 1a), and at condition 1b) which requires waste management vehicle access demonstrated as being fully operating within the site.</p> <p>Council's Traffic Engineer did not support the proposed 4-point-turns to the resident stackers in the basement (to 3 car spaces). A revised swept path analysis was requested for a maximum 3-point-turn to parking spaces. The planning officer notes that a 4 point turn is accepted under the Kingston Planning Scheme and Australian Standards being recognised as a 3 point turn with a corrective movement, thus the current swept path movements are accepted as compliant.</p>
52.34 Bicycle Facilities	<p>The proposed development has a statutory bicycle parking requirement of 4 spaces as specified under Clause 52.34 of the Kingston Planning Scheme. Complies, 15 bicycle spaces in excess of the requirement are provided in a convenient location and designed according to the standards.</p>
53.18 Stormwater management in urban development	<p>It is considered that the proposed development generally complies with this provision and provides an ability to incorporate WSUD and adequate space to include measures that can be used to reduce run-off. Council's Drainage Engineer is satisfied with the proposal subject to conditions included on any permit issued, as specified within the officer recommendation.</p>
58 Apartment Developments	<p>See assessment below.</p>

POLICY CONSIDERATIONS

General Provisions

Clause 65.01 of the Kingston Planning Scheme are relevant to this application and require consideration to be given to a variety of matters including planning scheme policies, the purpose of the zone, orderly planning and the impact on amenity.

Planning Policy Framework

The Planning Policy Framework sets out the relevant state-wide policies for residential development at **Clause 11** (Settlement), **Clause 15** (Built Environment and Heritage) and **Clause 16** (Housing). Essentially, the provisions within these clauses seek to achieve the fundamental objectives and policy outcomes sought by 'Plan Melbourne 2017-2050: Metropolitan Planning Strategy' (Department of Environment, Land, Water and Planning, 2017).

Clause 11 seeks to ensure planning anticipates and respond to the needs of existing and future communities through provision of zoned and serviced land for housing, employment, recreation and open space, commercial and community facilities and infrastructure.

Planning is to prevent environmental and amenity problems created by siting incompatible land uses close together.

Planning is to facilitate sustainable development that takes full advantage of existing settlement patterns and investment in transport, utility, social, community and commercial infrastructure and services.

Clause 11.03-1S (Activity centres) places particular emphasis on providing a diversity of housing types at increased densities in and around activity centres or sites that have good access to a range of services, facilities and transport options.

Clause 13 (Environmental Risks and Amenity) aims to ensure that planning adopts a best practice environmental management and risk management approach which aims to avoid or minimise environmental degradation and hazards. Further, planning should identify and manage the potential for the environment, and environmental changes, to impact upon the economic, environmental or social well-being of society.

Clause 15 (Built Environment and Heritage) aims to ensure all new land use and development appropriately responds to its landscape, valued built form and cultural context, and protect places and sites with significant heritage, architectural, aesthetic, scientific and cultural value.

Clause 15.01-1S encourages development to achieve high quality architectural and urban design outcomes that contribute positively to neighbourhood character, minimises detrimental amenity impacts and achieves safety for future residents, and the community, through good design. The provisions of **Clause 15.02-1S** promote energy and resource efficiency through improved building design, urban consolidation and promotion of sustainable transport.

Clause **15.03-2S (Aboriginal Cultural Heritage)** seeks to ensure the protection and conservation of places of Aboriginal cultural heritage significance.

The Subject Land **is** identified in an area of Aboriginal Cultural Heritage Sensitivity, however the proposed activity is **exempt** from requiring a Cultural Heritage Management Plan, as the development of three or more dwellings on a lot is (reg.10 of the *Aboriginal Heritage Regulations* 2018:

- less than 0.11 hectares in size; and
- not within 200 metres of the coastal waters of Victoria, any sea within the limits of Victoria or the Murray River.

Housing objectives are further advanced at **Clause 16** which seek to encourage increased diversity in housing.

Clause 16.01 (Residential Development) seeks to promote a housing market that meets community needs and is located in areas which offer good access to jobs, services and transport. **Clause 16.01-2R** specifically requires consideration of population growth in locations that are considered major and neighbourhood activity centres, especially those with good public transport connections.

The City of Kingston's MSS at Clause 21.05 (Residential Land Use) of the Kingston Planning Scheme, seeks to provide guidance to development in residential zoned land, mixed use zoned

lands and land within activity centres. The Residential Land Use Framework Plan illustrates the range of housing outcomes sought across the City of Kingston.

Relevant objectives and strategies are contained at **Clause 21.05-3: Residential Land Use**. These essentially reinforce Planning Policy Framework relevant to housing, stressing the need to encourage urban consolidation in appropriate locations and to accommodate projected population increases.

Clause 22.20 – Stormwater Management is applicable to the consideration of medium and large scale developments as specified within Table 1 of the policy. This clause seeks to improve the quality and reduce the impact of stormwater run-off, incorporate the use of WSUD principles in development and to ensure that developments are designed to meet best practice performance objectives.

It is considered that the proposed development generally complies with the above guidelines and provides for an ability to incorporate WSUD and adequate space to include measures that can be used to reduce run-off. Council's Drainage Engineer is satisfied with the proposal subject to conditions included on any permit issued, as specified within the officer recommendation.

Clause 22.21 Environmentally Sustainable Development (ESD) policy applies to the consideration of residential development of 3 or more dwellings (refer to Table 1 – ESD Application requirements). As required, the application for planning permit was accompanied by a Sustainability Management Plan (BESS/STORM). Further, the SMP assessment was referred to Council's ESD officer who has advised of no objection subject to conditions for design improvements and report corrections, which will be addressed by a revised SMP required by condition on any permit issued.

It is considered that the proposed development generally complies with the Planning Policy Framework guidelines, which aim to encourage well-designed medium density housing in appropriate locations. A further assessment of the proposal's measure against stormwater management is found within the Clause 58 assessment, later within this report.

FURTHER CONSIDERATION / ANALYSIS

Schedule 1 to the ACZ

The Precinct Objectives seek to

- *Encourage new, contemporary residential built form within quality landscaped settings that responds to the community/residential focus of the precinct.*
- *To provide opportunities for a mix of dwelling types in the precinct.*

Schedule 1 to the ACZ outlines the discretionary requirements and guidelines for this precinct.

Section 4.4 of the ACZ1 states that:

A permit may be granted to exceed the setback set out in the Precinct Requirements to this Schedule in circumstances where it can be demonstrated that the precinct objectives and guidelines are met

Setbacks in the ACZ are confirmed as being discretionary as established by senior members in Tribunal decisions in *Steller 75 Pty Ltd v Kingston CC [2016] VCAT 661* at 11 - 15 - 17 Maude Street and 22 - 24 Barker Street Cheltenham, and *Steller 107 Pty Ltd v Kingston CC [2017] VCAT 1968 (27 November 2017)* at 44 – 46 Station Road, Cheltenham.

The following is an assessment against the ACZ1 discretionary requirements and guidelines:

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Precinct 6 requirements	Assessment
	<p>size which will further make it easier for 19 Elman to develop in future. As such a condition is recommended that</p> <p style="text-align: center;">d) balcony to Unit 1-02 be setback 2.5 metres from the southern boundary and the balcony reduced to an area of 10 sqm.</p>
The landscaping of front setback areas is encouraged.	<p>Complies.</p> <p>The front setback has no intrusions from vehicle access or basements and provides for the maximum area of landscaping.</p> <p>It provides adequate deep soil to accommodate the 3 medium/large trees recommended by Council's VMO.</p>
Car parking spaces should be provided in basements rather than at ground level, where possible, with access via a single entry onto the site, in order to maximise opportunities to use ground level areas for landscaping and open space.	<p>Complies.</p> <p>Basement parking is accessed from the rear via the existing access point. This caters for all residential parking requirements via one access point and maximises the front setback for landscaping.</p>
New development should be designed to address the street edge with direct pedestrian access from the street for ground floor apartments.	<p>Complies.</p> <p>The building entry and location provides for a strong sense of address and is adequate for a build of this size. The entry is convenient to residents and readily accessible from street level.</p>
Encourage development on sites of 1,000sqm or less and with a frontage of 30m or less, to not exceed a maximum 2 storeys and be limited to additions to existing dwellings.	<p>Does not comply.</p> <p>The site is 664sqm with a frontage of 15.2m. It has been established through other VCAT cases, notably the recent approval of 4 Stanley Avenue nearby for 7 three storey townhouses (a similar sized site in the same ACZ precinct), that this can be varied should the objectives be met and the standards on balanced achieved. Notably it was acknowledged that these sites which have limited opportunities to consolidate should not be prejudiced by the preference to 'encourage' sites to be at least 1000sqm.</p> <p>Due to the laneway and road abuttals to three sides, the subject site is limited to consolidate only with the two properties at 19 Elman which has already been redeveloped for medium density.</p> <p>It is considered that a variation is acceptable. By all other metrics it can be demonstrated that the site can accommodate a 3 storey apartment building that meets the preferred character.</p>

Precinct 6 requirements	Assessment
	Importantly the proposal reflects an intensive redevelopment in a well design contemporary apartment format which meets the overarching relevant precinct objective to <i>'encourage new, contemporary residential built form within quality landscaped settings that responds to the community/residential focus of the precinct.'</i>
Ensure development on sites (comprising 1 or more lots) of greater than 1,000sqm and with a frontage of greater than 30m, buildings do not exceed a maximum height of 3 storeys.	Does not comply. The height variation sought is supported for the reasons discussed above.
Development should provide for a mix of dwelling options in an apartment format rather than villa units or townhouses.	Complies. Apartments offer 1 to 3 bedrooms with a range of different floor plates.

Clause 8.0 of Schedule 1 to the Activity Centre Zone outlines the following relevant decision guidelines:

Design and built form

- *Whether the proposed development ensures that all roof plant and equipment is sufficiently screened or hidden from view.*

Access

- *Incorporates provisions for pedestrians, cyclists, and people with a disability demonstrating how access needs are accommodated*
- *Provides vehicular access to buildings fronting key roads off side streets or via rear access.*

The proposal satisfies the above key matters.

CLAUSE 58 – APARTMENT DEVELOPMENTS

Construct or extend an apartment development of five (5) or more storeys (excluding a basement) in a GRZ, RGZ, MUZ or TZ OR the apartment development is in the C1Z, C3Z, SUZ, CDZ, or ACZ.

****MUST meet the objective, SHOULD meet the standard****

OBJECTIVE	STANDARD	LEVEL OF COMPLIANCE AGAINST STANDARD
Clause 58 – URBAN CONTEXT		
Clause 58.02-1 Urban context objectives <ul style="list-style-type: none"> • To ensure that the design responds to the existing urban context or contributes to the preferred future development of the area. • To ensure that development responds to the features of the site and the surrounding area. 	Standard D1 <ul style="list-style-type: none"> • The design response must be appropriate to the urban context and the site. • The proposed design must respect the existing or preferred urban context and respond to the features of the site. 	Subject to condition will comply with standard & objective (see condition discussion below in bold)

Assessment: The proposal is considered to satisfy the objective of this Clause, subject to condition.

The proposed building is considered to be respectful of the preferred neighbourhood character when considering the underlying policy context of the site. The height of the proposal has been commented on by objectors, and noted as being out of character and not in line with the ACZ directives as the site area is less than the preferred 1000sqm.

As discussed above, the policy sets out that this precinct be redeveloped by 3 storey apartment buildings. Whilst policy prefers a larger lot size of 1000sqm, it has been demonstrated by all other metrics that the proposal can achieve all preferred character requirements with only minor variations on this 664sqm site. The proposal therefore will fit comfortably in this context and fit within the 3 storey buildings in the immediate area along Stanley Avenue including the recent highly comparable approval by VCAT at 4 Stanley Avenue.

Some concerns remain however with how the built form fits within its context. The proposed double storey wall on the southern boundary is not considered to be in keeping with the preferred character for the residential precinct and emerging character of development. The current proposal would set an undesirable precedent of continuous double storey boundary to boundary which must be addressed.

As such it is recommended that a condition require:

- e) the first floor southern wall of Unit 1-01 be setback 2m as per the setback of Unit 2-01 above.**

This will create detachment from first floor. It is acknowledged that Unit 1-01 will be reduced and may need to become a 2 bedroom, although it appears possible with some internal rearrangements it could remain a 3 bedroom.

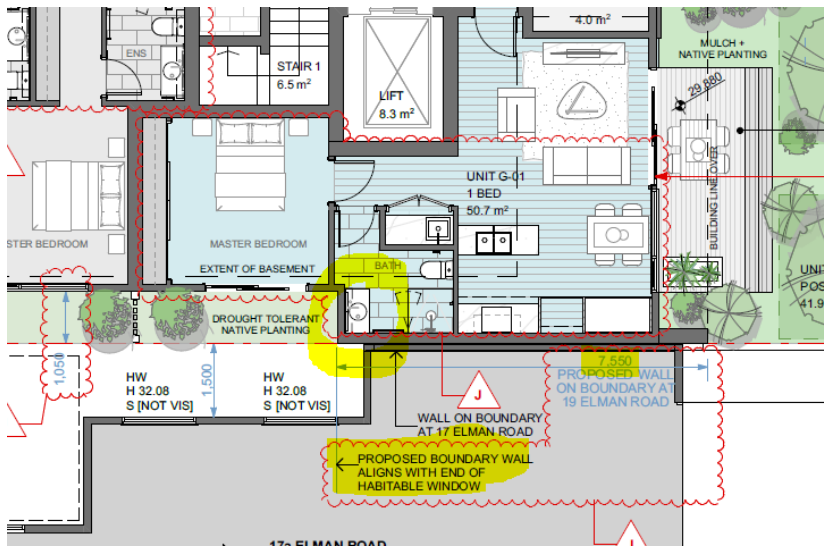
Further, the development has adequately responded to its direct abuttals and sensitive interfaces, avoiding unreasonably off-site amenity impacts, providing decent southern side setback that reduce visual dominance and ensure any overshadowing is within reason. It is appropriate that there be lesser northern side and rear western setbacks as proposed to these non sensitive interfaces.

OBJECTIVE	STANDARD	LEVEL OF COMPLIANCE AGAINST STANDARD
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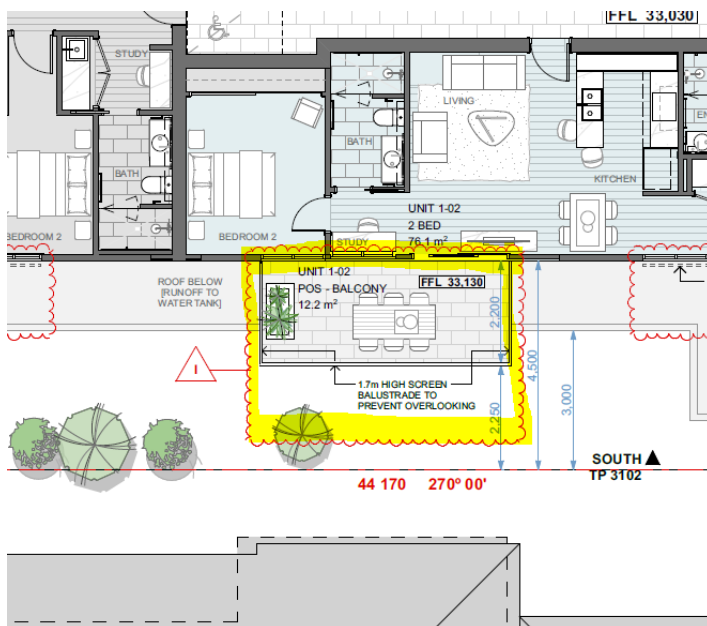
As previously noted, the applicant offered to address some of the objector issues to reduce the off-site amenity impact, and requested these changes form permit conditions. As such conditions are recommended to reflect these improvements by the following:

- f) reduce the southern ground floor wall on-boundary length of Unit G-01 to approximately 7.6m by aligning with the end of the closest habitable room window at No. 19 Elman Road

This change is shown conceptually below where highlighted:



It is noted that a previous **condition 1a)** recommended that the balcony to Unit 1-02 be setback 2.5m from the southern boundary and reduced to an area of 10 sqm, as shown conceptually below where highlighted:



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OBJECTIVE	STANDARD	LEVEL OF COMPLIANCE AGAINST STANDARD
<p>Clause 58.02-2 Residential Policy objectives</p> <ul style="list-style-type: none"> • To ensure that residential development is provided in accordance with any policy for housing in the Municipal Planning Strategy and the Planning Policy Framework. • To support higher density residential development where development can take advantage of public and community infrastructure and services. 	<p>Standard D2</p> <ul style="list-style-type: none"> • An application must be accompanied by a written statement to the satisfaction of the RA that describes how the development is consistent with any relevant policy for housing in the Municipal Planning Strategy and the Planning Policy Framework. 	<p>Complies with standard & meets objective</p>
<p>Assessment:</p> <p>The proposal accords with the purpose of the Zone and relevant objectives by providing a contemporary residential development with a sufficient scale and apartment style form that respond to the desired precinct character and provide for a density that can support the vitality and viability of the activity centre.</p> <p>The site is located within an area where a preferred character has been nominated by the ACZ1 – where more intensive apartment style development on consolidated lots is sought. It has been demonstrated that the development satisfies the objectives of the relevant ACZ precinct, see previous detailed assessment.</p> <p>The proposal enjoys a high level of policy support within the relevant planning policy framework including the ACZ, Clauses 11.03-1, 21.02, and 21.07, and 22.06 – all of which support more intensive forms of development on this site.</p>		
<p>Clause 58.02-3 Dwelling diversity objective</p> <ul style="list-style-type: none"> • To encourage a range of dwelling sizes and types in developments of ten or more dwellings. 	<p>Standard D3</p> <ul style="list-style-type: none"> • Developments of ten or more dwellings should provide a range of dwelling sizes and types, including dwellings with a different number of bedrooms. 	<p>Complies with standard & meets objective</p>
<p>Assessment: The proposal and respective floor plans accommodate for a variety of typologies.</p>		
<p>Clause 58.02-4 Infrastructure objectives</p> <ul style="list-style-type: none"> • To ensure development is provided with appropriate utility services and infrastructure. • To ensure development does not unreasonably overload the capacity of utility services and infrastructure. 	<p>Standard D4</p> <ul style="list-style-type: none"> • Connection to reticulated services/sewerage, electricity, gas and drainage services • Capacity of infrastructure and utility services should not be exceeded unreasonably • Provision should be made for upgrading and mitigation of the impact of services or infrastructure where little or no spare capacity exists 	<p>Complies with standard & meets objective</p>
<p>Assessment: The site is in an established area that is well serviced by existing infrastructure. Additionally, it is recommended that suitable condition(s) be included in any permit issued to address infrastructure considerations.</p>		
<p>Clause 58.02-5 Integration with the street objective</p>	<p>Standard D5</p> <ul style="list-style-type: none"> • Provides adequate vehicle and pedestrian links that maintain or enhance local accessibility. 	<p>Subject to condition will comply with standard & objective (see</p>

OBJECTIVE	STANDARD	LEVEL OF COMPLIANCE AGAINST STANDARD
<ul style="list-style-type: none"> To integrate the layout of development with the street. 		discussion in bold below)
	<ul style="list-style-type: none"> Development oriented to front existing/proposed streets 	
	<ul style="list-style-type: none"> High fencing in front of dwellings should be avoided if practicable. 	
	<ul style="list-style-type: none"> Development next to existing public open space should be laid out to complement the open space. 	
<p>Assessment: The proposal presents an active frontage with the development making provision for safe and functional connectivity. Ground and upper levels have been designed with private open space presenting to the street and to the laneways, providing excellent passive surveillance opportunities to the public realm.</p> <p>The proposal indicates has a high 1.8m front fence which fails to meet the standard which prefers fencing to be low, and noting the existing character of 1.5-1.6m fencing in the surrounding street. As such a condition of permit is recommended to require</p> <p style="text-align: center;">g) front fencing to have a maximum height of 1.6 metres</p> <p>Subject to the recommended permit condition, the frontage will positively integrate with the street.</p>		
Clause 58.03 – SITE LAYOUT		
<p>Clause 58.03-1 Energy efficiency objectives</p> <ul style="list-style-type: none"> To achieve and protect energy efficient dwellings and buildings. To ensure the orientation and layout of development reduce fossil fuel energy use and make appropriate use of daylight and solar energy. To ensure dwellings achieve adequate thermal efficiency. 	<p>Standard D6 Buildings should be:</p> <ul style="list-style-type: none"> Oriented to make appropriate use of solar energy. Sited and designed to ensure that the energy efficiency of existing dwellings on adjoining lots is not unreasonably reduced. <p>Living areas and POS should be located on the north side of the development, if practicable. Developments should be designed so that solar access to north-facing windows is optimised. Dwellings located in a climate zone identified in Table D1 should not exceed the maximum NatHERS annual cooling load specified in the following table.</p>	Complies with standard & meets objective
<p>Assessment: Council’s ESD Officer had no objection subject to minor changes and corrections to the Sustainable Management Plan. It is also noted the large provision of a solar PV system is indicated on the rooftop however details have not been provided. A condition of permit will require that</p> <p style="text-align: center;">h) details of the solar PV system shown as per the Sustainable Management Plan</p> <p>The proposal is generally energy efficient with acceptable dwelling orientation for the majority of dwellings maximising north facing windows where possible, and good access to daylight overall to maintain high levels of energy efficiency.</p> <p>Given the proposed siting of the building, good side setbacks and a receding upper level, the proposal will not unreasonably impact on the energy efficiency of the adjoining residential lots.</p>		
<p>Clause 58.03-2 Communal open space objective</p>	<p>Standard D7 Developments with 40 or more dwellings should provide a minimum area of communal open space of 2.5 square metres per dwelling or 250 square metres, whichever is lesser.</p>	N/A

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OBJECTIVE	STANDARD	LEVEL OF COMPLIANCE AGAINST STANDARD
<ul style="list-style-type: none"> To ensure that communal open space is accessible, practical, attractive, easily maintained and integrated with the layout of the development. 	Communal open space should: <ul style="list-style-type: none"> Be located to: <ul style="list-style-type: none"> Provide passive surveillance opportunities Provide outlook for as many dwellings as practicable Avoid overlooking into habitable rooms and POS of new dwellings. Minimise noise impacts to new & existing dwellings. Be designed to protect any natural features on the site. Maximise landscaping opportunities. <ul style="list-style-type: none"> Be accessible, useable and capable of efficient management. 	
Assessment: N/A as less than 40 dwellings		
Clause 58.03-3 Solar access to communal outdoor open space objective <ul style="list-style-type: none"> To allow solar access into communal outdoor open space. 	Standard D8 The communal outdoor open space should be located on the north side of a building, if appropriate. At least 50% or 125m ² , whichever is the lesser, of the primary communal outdoor open space should receive a minimum of 2 hrs of sunlight between 9am-3pm on 21 June.	N/A
Assessment: N/A as less than 40 dwellings		
Clause 58.03-4 Safety objective <ul style="list-style-type: none"> To ensure the layout of development provides for the safety and security of residents and property. 	Standard D9 Entrances to dwellings should not be obscured or isolated from the street and internal accessways. Planting which creates unsafe spaces along streets and accessways should be avoided. Developments should be designed to provide good lighting, visibility and surveillance of car parks and internal accessways. Private spaces within developments should be protected from inappropriate use as public thoroughfares.	Subject to condition will meet the standard & objective (see discussion in bold below)
<p>Assessment: The residential lobby to the street is adequately visible from the public domain. As previously recommended by condition 1g) the front fence should be lowered to a height which balances security and promotes street integration. With this change the objective will be met to provide for the safety and security of residents and property and with good visibility and surveillance.</p> <p>The rear vehicle access and entry is unfenced to almost all sides which allows for improved sightlines around laneways and a parking area for waiting vehicles. Generally this is acceptable in terms of safety and surveillance and it reflects the open rear car parks to commercial buildings opposite. However the vehicle lift is not shown to have a secure door at its entry which could create a negative unsafe space. As such a condition is recommended that:</p> <p style="padding-left: 40px;">i) vehicle lift secured by a roller door or similar that operates in conjunction with the lift</p>		
Clause 58.03-5 Landscaping objectives	Standard D10 The landscape layout and design should:	Complies with standard & meets objective

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OBJECTIVE	STANDARD	LEVEL OF COMPLIANCE AGAINST STANDARD
<ul style="list-style-type: none"> • To encourage development that respects the landscape character of the area. • To encourage development that maintains and enhances habitat for plants & animals in locations of habitat importance. • To provide appropriate landscaping. • To encourage the retention of mature vegetation on the site. • To promote climate responsive landscape design and water management in developments that support thermal comfort and reduces the urban heat island effect. 	<ul style="list-style-type: none"> • Be responsive to the site context. • Protect any predominant landscape features of the area. • Take into account the soil type and drainage patterns of the site and integrate planting & water management. • Allow for intended vegetation growth & structural protection of buildings. • In locations of habitat importance, maintain existing habitat & provide for new habitat for plants & animals. • Provide a safe, attractive & functional environment for residents. • Consider landscaping opportunities to reduce heat absorption such as green walls, green roofs & roof top gardens & improve on-site stormwater infiltration. • Maximise deep soil areas for planting of canopy trees. <p>Development should provide for the retention or planting of trees, where these are part of the urban context.</p> <p>Development should provide for the replacement of any significant trees that have been removed in the 12 months prior to the application being made.</p> <p>The landscape design should specify landscape themes, vegetation (location and species), paving and lighting.</p> <p>Development should provide the deep soil areas and canopy trees specified in Table D2.</p> <p>If the development cannot provide the deep soil areas and canopy trees specified in Table D2, an equivalent canopy cover should be achieved by providing either:</p> <ul style="list-style-type: none"> • Canopy trees or climbers (over a pergola) with planter pits sized appropriately for the mature tree soil volume requirements. • Vegetated planters, green roofs or green facades. 	
<p>Assessment:</p> <p>All trees on site to be removed, none which are considered significant. A Local law permit was issued in 2021 to remove the 3 tree to the front and noted the tree to the rear is an environmental weed species.</p> <p>Council's Vegetation Management Office supports the proposal and notes that it complies with the standard having a front setback with no intrusions that is able to provide for an adequate amount of deep soil to accommodate the recommended 3 medium/large canopy trees.</p> <p>It is noted that there is no specific deep soil requirement as the site is less than 1000sqm.</p>		
<p>Clause 58.03-6 Access objective</p> <ul style="list-style-type: none"> • To ensure the number and design of vehicle crossovers respects the urban context. 	<p>Standard D11</p> <p>The width of accessways or car spaces should not exceed:</p> <ul style="list-style-type: none"> • 33 per cent of the street frontage, or • If the width of the street frontage is less than 20 metres, 40 per cent of the street frontage. 	<p>Complies with standard & meets objective</p>

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OBJECTIVE	STANDARD	LEVEL OF COMPLIANCE AGAINST STANDARD
	<p>No more than one single-width crossover should be provided for each dwelling fronting a street.</p> <p>The location of crossovers should maximise the retention of on-street car parking spaces.</p> <p>The number of access points to a road in a Road Zone should be minimised.</p> <p>Developments must provide for access for service, emergency and delivery vehicles.</p>	
<p>Assessment: No new access proposed. All access to be from the rear laneway as existing.</p>		
<p>Clause 58.03-7 Parking location objectives</p> <ul style="list-style-type: none"> To provide convenient parking for resident and visitor vehicles. To protect residents from vehicular noise within developments. 	<p>Standard D12</p> <p>Car parking facilities should:</p> <ul style="list-style-type: none"> Be reasonably close and convenient to dwellings. Be secure. Be well ventilated if enclosed. <p>Shared accessways or car parks of other dwellings should be located at least 1.5 metres from the windows of habitable rooms. This setback may be reduced to 1 metre where there is a fence at least 1.5 metres high or where window sills are at least 1.4 metres above the accessway.</p>	<p>Complies with standard & meets objective subject to condition</p>
<p>Assessment: Parking is located within the basement. Parking areas are secure by the vehicle lift and convenient to the dwellings. A condition of permit is recommended to require</p> <p style="text-align: center;">j) mechanical ventilation of the basement.</p>		
<p>Clause 58.03-8 Integrated water & stormwater management objective</p> <ul style="list-style-type: none"> To encourage the use of alternative water sources such as rainwater, stormwater & recycled water. To facilitate stormwater collection, utilisation and infiltration within the development. To encourage development that reduces the impact of stormwater run-off on the drainage system & filters sediment & waste from stormwater prior to discharge from the site. 	<p>Standard D13</p> <p>Buildings should be designed to collect rainwater for non-drinking purposes such as flushing toilets, laundry appliances and garden use. Buildings should be connected to a non-potable dual pipe reticulated water supply, where available from the water authority.</p> <p>The stormwater management system should be:</p> <ul style="list-style-type: none"> Designed to meet the current best practice performance objectives for stormwater quality as contained in the Urban Stormwater - Best Practice Environmental Management Guidelines (Victorian Stormwater Committee, 1999). <p>Designed to maximise infiltration of stormwater, water and drainage of residual flows into permeable surfaces, tree pits and treatment areas.</p>	<p>Complies with standard & meets objective</p>
<p>Assessment: The proposal includes WSUD considerations and appears to provide sufficient stormwater management measures. The application was referred to Council's Development Approvals Engineer – as detailed earlier in this report, who is satisfied subject to standard conditions for detailed stormwater management plans and basement design.</p>		
<p>Clause 58.04 – AMENITY IMPACTS</p>		

OBJECTIVE	STANDARD	LEVEL OF COMPLIANCE AGAINST STANDARD
<p>Clause 58.04-1 Building setback objectives</p> <ul style="list-style-type: none"> • To ensure the setback of a building from a boundary appropriately responds to the existing urban context or contributes to the preferred future development of the area. • To allow adequate daylight into new dwellings. • To limit views into habitable room windows and private open space of new and existing dwellings. • To provide a reasonable outlook from new dwellings. • To ensure the building setbacks provide appropriate internal amenity to meet the needs of residents. 	<p>Standard D14</p> <p>The built form of the development must respect the existing or preferred urban context and respond to the features of the site. Buildings should be set back from side and rear boundaries, and other buildings within the site to:</p> <ul style="list-style-type: none"> • Ensure adequate daylight into new habitable room windows. • Avoid direct views into habitable room windows and private open space of new and existing dwellings. Developments should avoid relying on screening to reduce views. • Provide an outlook from dwellings that creates a reasonable visual connection to the external environment. • Ensure the dwellings are designed to meet the objectives of Clause 58. 	<p>Subject to condition will meet standard and objective (see discussion in bold below)</p>

Assessment: The proposal provides for equitable development outcomes. The building siting will not prejudice daylight opportunities or development opportunities on the adjoining lots. Side setbacks to the south to habitable room windows and balconies meet the preferred 4.5m setback or have a fully screened balcony, thus protect equitable development rights or existing developed outcomes. The rear setback and northern side setback are to retail/commercial or civic properties and will not limit their equitable development rights thus these reduced setbacks to these interfaces are considered appropriate.

Overlooking onto adjoining sensitive areas at ground level is limited by louvered screening. Screening from the rooftop decks is not required as each deck is well setback from the roof edge so any views downward would be to the roof edge thus adequately limits overlooking.

In order to meet the standard to provide an outlook from new dwellings that creates a reasonable visual connection to the external environment, a condition is recommended that:

- k) privacy screening be a louvered horizontal blade integrated design with adequate gaps that provide outlook but limit downwards views within 9 metres in accordance with Standard D14 of Clause 58, and demonstrated by a diagram at 1:50 scale**

Overshadowing is not considered to be unreasonable. When measured at the equinox the shadow plans demonstrate that overshadowing will not affect the existing POS in the afternoon hours when this space is most likely enjoyed. Overshadowing is noted as increasing across the existing POS in the morning hours however this is acceptable noting this standard and Clause 58 overall seeks to encourage development potential with overshadowing consideration, however does not place the same high expectations for limiting overshadowing such as those developments subject to Clause 55 for townhouses and smaller apartments. Winter shadow is not a planning consideration as raised by an objector.

OBJECTIVE	STANDARD	LEVEL OF COMPLIANCE AGAINST STANDARD
<p>Clause 58.04-2 Internal views objective</p> <ul style="list-style-type: none"> To limit views into the private open space and habitable room windows of dwellings within a development. 	<p>Standard D15</p> <ul style="list-style-type: none"> Windows & balconies should be designed to prevent overlooking of more than 50% of the POS of a lower-level dwelling directly below & within the same development. 	<p>Subject to condition will meet standard and objective (see discussion in bold below)</p>
<p>Assessment: Internal overlooking is possible as internal fencing between private open space has not been specified. This matter can be adequately addressed by the following condition:</p> <p style="text-align: center;">l) details of screening/internal fencing provided between balconies, terraces and private open space that limits internal overlooking</p>		
<p>Clause 58.04-3 Noise impacts objectives</p> <ul style="list-style-type: none"> To contain noise sources in developments that may affect existing dwellings. To protect residents from external and internal noise sources. 	<p>Standard D16</p> <p>Noise sources, such as mechanical plants should not be located near bedrooms of immediately adjacent existing dwellings.</p> <p>The layout of new dwellings & buildings should minimise noise transmission within the site.</p> <p>Noise sensitive rooms (such as living areas & bedrooms) should be located to avoid noise impacts from mechanical plants, lifts, building services, non-residential uses, car parking, communal areas and other dwellings.</p> <p>New dwellings should be designed & constructed to include acoustic attenuation measures to reduce noise levels from off-site noise sources.</p> <p>Buildings within a noise influence area specified in Table D3 should be designed and constructed to achieve the following noise levels:</p> <ul style="list-style-type: none"> Not greater than 35dB(A) for bedrooms, assessed as an LAeq,8h from 10pm to 6am. Not greater than 40dB(A) for living areas, assessed LAeq,16h from 6am to 10pm. <p>Buildings, or part of a building screened from a noise source by an existing solid structure, or the natural topography of the land, do not need to meet the specified noise level requirements.</p> <p>Noise levels should be assessed in unfurnished rooms with a finished floor and the windows closed.</p>	<p>Subject to condition can comply with standard & meet objective (see discussion in bold below)</p>
<p>Assessment: The proposal is not within a noise influence area.</p> <p>The lift will impact the immediately abutting bedrooms, especially the ground floor bedroom which has no separation by robes.</p> <p>As such conditions of permit are recommended that:</p> <p style="text-align: center;">m) internal rearrangement so the lift does not immediately abut new bedroom walls n) lift walls lined with acoustic panelling or similar where abutting a new habitable room, sufficient to limit noise transmission into the new dwelling</p>		

OBJECTIVE	STANDARD	LEVEL OF COMPLIANCE AGAINST STANDARD
Clause 58.05 – ON-SITE AMENITY AND FACILITIES		
<p>Clause 58.05 On-site amenity and facilities</p> <ul style="list-style-type: none"> To ensure the design of dwellings meets the needs of people with limited mobility. 	<p>Standard D17</p> <p>At least 50 per cent of dwellings should have:</p> <ul style="list-style-type: none"> A clear opening width of at least 850mm at the entrance to the dwelling and main bedroom. A clear path with a minimum width of 1.2 metres that connects the dwelling entrance to the main bedroom, an adaptable bathroom & the living area. A main bedroom with access to an adaptable bathroom. At least one adaptable bathroom that meets all of the requirements of either Design A or Design B specified in Table D4. 	<p>Subject to condition can comply with standard & meet objective (see discussion in bold below)</p>
<p>Assessment: The design layout does not appear to achieve the minimum 50% of accessible dwellings. The non compliances require minor alterations to bathroom wheelchair clearances and door positions to some bathrooms to meet the minimum amount. This can be addressed by the following condition of permit:</p> <p style="text-align: center;">o) a minimum 50% accessible dwellings that comply with Standard D17 of Clause 58 of the Kingston Planning Scheme</p>		
<p>Clause 58.05-2 Building entry and circulation objectives</p> <ul style="list-style-type: none"> To provide each dwelling and building with its own sense of identity. To ensure the internal layout of buildings provide for the safe, functional and efficient movement of residents. To ensure internal communal areas provide adequate access to daylight and natural ventilation. 	<p>Standard D18</p> <p>Entries to dwellings and buildings should:</p> <ul style="list-style-type: none"> Be visible and easily identifiable. Provide shelter, a sense of personal address and a transitional space around the entry. <p>The layout and design of buildings should:</p> <ul style="list-style-type: none"> Clearly distinguish entrances to residential and non-residential areas. Provide windows to building entrances and lift areas. Provide visible, safe and attractive stairs from the entry level to encourage use by residents. Provide common areas and corridors that: <ul style="list-style-type: none"> Include at least one source of natural light and natural ventilation. Avoid obstruction from building services. Maintain clear sight lines. 	<p>Complies with standard & meets objective</p>
<p>Assessment:</p> <p>The communal corridors each have at least one source of light and ventilation and provide for adequate daylight access and internal amenity. Stairwells are located appropriately in convenient locations.</p>		
<p>Clause 58.05-3 Private open space objective</p> <ul style="list-style-type: none"> To provide adequate private open space for the reasonable recreation and service needs of residents. 	<p>Standard D19</p> <p>A dwelling should have private open space consisting of:</p>	<p>Subject to condition, will comply with standard & objective (see discussion in bold below)</p>

OBJECTIVE	STANDARD	LEVEL OF COMPLIANCE AGAINST STANDARD												
	<ul style="list-style-type: none"> An area of 25m², with a minimum dimension of 3m at natural ground floor level & convenient access from a living room, or An area of 15m², with a minimum dimension of 3m at a podium or other similar base & convenient access from a living room, or A balcony with an area and dimensions specified in Table D5 & convenient access from a living room, or A roof-top area of 10m² with a minimum dimension of 2m and convenient access from a living room. <p>If a cooling or heating unit is located on a balcony, the balcony should provide an additional area of 1.5m².</p> <p>Table D5 Balcony size</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="background-color: #2c5e8c; color: white;">Dwelling type</th> <th style="background-color: #2c5e8c; color: white;">Min area</th> <th style="background-color: #2c5e8c; color: white;">Minimum dimension</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">Studio or 1 bedroom</td> <td style="text-align: center;">8 sq m</td> <td style="text-align: center;">1.8m</td> </tr> <tr> <td style="text-align: center;">2 bedroom</td> <td style="text-align: center;">8 sq m</td> <td style="text-align: center;">2m</td> </tr> <tr> <td style="text-align: center;">3+ bedroom</td> <td style="text-align: center;">12 sq m</td> <td style="text-align: center;">2.4m</td> </tr> </tbody> </table>	Dwelling type	Min area	Minimum dimension	Studio or 1 bedroom	8 sq m	1.8m	2 bedroom	8 sq m	2m	3+ bedroom	12 sq m	2.4m	
Dwelling type	Min area	Minimum dimension												
Studio or 1 bedroom	8 sq m	1.8m												
2 bedroom	8 sq m	2m												
3+ bedroom	12 sq m	2.4m												

Assessment:

Each dwelling has been provided with adequate POS that meets the area and dimension requirements specified above and will service the social, recreational and passive needs of future residents.

Heating and cooling units have not been specified. As some balconies are on the minimum dimensional area there would be inadequate space for heating and cooling units which require an additional 1.5sqm. As such a condition is recommended that:

- p) heating and cooling units shown but not located on balconies unless the area exceeds the minimum by an additional 1.5sqm as per Standard D19 of Clause 58 of the Kingston Planning Scheme**

<p>Clause 58.05-4 Storage objective</p> <ul style="list-style-type: none"> To provide adequate storage facilities for each dwelling. 	<p>Standard D20</p> <p>Each dwelling should have convenient access to usable and secure storage space.</p> <p>The total minimum storage space (including kitchen, bathroom and bedroom storage) should meet the requirements specified in Table D6.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="background-color: #2c5e8c; color: white;">Dwelling type</th> <th style="background-color: #2c5e8c; color: white;">Total minimum storage volume</th> <th style="background-color: #2c5e8c; color: white;">Minimum storage volume within the dwelling</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">Studio</td> <td style="text-align: center;">8 cubic metres</td> <td style="text-align: center;">5 cubic metres</td> </tr> <tr> <td style="text-align: center;">1 bedroom dwelling</td> <td style="text-align: center;">10 cubic metres</td> <td style="text-align: center;">6 cubic metres</td> </tr> <tr> <td style="text-align: center;">2 bedroom dwelling</td> <td style="text-align: center;">14 cubic metres</td> <td style="text-align: center;">9 cubic metres</td> </tr> </tbody> </table>	Dwelling type	Total minimum storage volume	Minimum storage volume within the dwelling	Studio	8 cubic metres	5 cubic metres	1 bedroom dwelling	10 cubic metres	6 cubic metres	2 bedroom dwelling	14 cubic metres	9 cubic metres	<p>Complies with standard & meets objective</p>
Dwelling type	Total minimum storage volume	Minimum storage volume within the dwelling												
Studio	8 cubic metres	5 cubic metres												
1 bedroom dwelling	10 cubic metres	6 cubic metres												
2 bedroom dwelling	14 cubic metres	9 cubic metres												

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OBJECTIVE	STANDARD			LEVEL OF COMPLIANCE AGAINST STANDARD
	<i>3 or more bedroom dwelling</i>	<i>18 cubic metres</i>	<i>12 cubic metres</i>	
Assessment:				
Internally each dwelling has sufficient space for storage within properly designed kitchens and bedrooms with robes. Good areas of external storage are provided within the basement in dedicated cages in compliance the requirements of this standard.				
58.06 DETAILED DESIGN				
Clause 58.06-1 Common property objective	Standard D21			
<ul style="list-style-type: none"> To ensure that communal open space, car parking, access areas and site facilities are practical, attractive and easily maintained. To avoid future management difficulties in areas of common ownership. 	Developments should clearly delineate public, communal and private areas. Common property, where provided, should be functional and capable of efficient management. Obscure glazing in any part of the window below 1.7 metres above floor level may be openable provided that there are no direct views as specified in this standard. Screens used to obscure a view should be: <ul style="list-style-type: none"> Perforated panels or trellis with a maximum of 25% openings or solid translucent panels. Permanent, fixed and durable. Designed and coloured to blend in with the development. 			Complies with standard subject to condition & meets objective
Assessment: Where common property is proposed, it is functional, well-designed and capable of efficient management through an owner's corporation arrangement.				
Clause 58.06-2 Site services objectives	Standard D22			
<ul style="list-style-type: none"> To ensure that site services can be installed and easily maintained. To ensure that site facilities are accessible, adequate and attractive. 	The design and layout of dwellings should provide sufficient space (including easements where required) and facilities for services to be installed and maintained efficiently and economically. Mailboxes and other site facilities should be adequate in size, durable, waterproof and blend in with the development. Mailboxes should be provided and located for convenient access as required by Australia Post.			Subject to condition, will comply with standard & objective (see discussion in bold below)
Assessment: Service facilities are not all shown such as fire boosters and gas meters which are typically in the front setback as required by service authorities. It is recommended that a condition require:				
q) external building services and facilities are all shown, located and finished in a concealed and integrated way in accordance with Standard D22 of Clause 58 of the Kingston Planning Scheme				
Clause 58.06-3 Waste and recycling objectives	Standard D23			

OBJECTIVE	STANDARD	LEVEL OF COMPLIANCE AGAINST STANDARD
<ul style="list-style-type: none"> • To ensure dwellings are designed to encourage waste recycling. • To ensure that waste and recycling facilities are accessible, adequate and attractive. • To ensure that waste and recycling facilities are designed and managed to minimise impacts on residential amenity, health and the public realm. 	<p>Developments should include dedicated areas for:</p> <ul style="list-style-type: none"> • Waste and recycling enclosures which are: <ul style="list-style-type: none"> – Adequate in size, durable, waterproof and blend in with the development. – Adequately ventilated. – Located and designed for convenient access by residents and made easily accessible to people with limited mobility. • Adequate facilities for bin washing. These areas should be adequately ventilated. • Collection, separation and storage of waste and recyclables, including where appropriate opportunities for on-site management of food waste through composting or other waste recovery as appropriate. • Collection, storage and reuse of garden waste, including opportunities for on-site treatment, where appropriate, or off-site removal for reprocessing. • Adequate circulation to allow waste and recycling collection vehicles to enter and leave the site without reversing. • Adequate internal storage space within each dwelling to enable the separation of waste, recyclables and food waste where appropriate. • Waste and recycling management facilities should be designed and managed in accordance with a Waste Management Plan approved by the responsible authority and: <ul style="list-style-type: none"> • Be designed to meet the best practice waste and recycling management guidelines for residential development adopted by Sustainability Victoria. • Protect public health and amenity of residents and adjoining premises from the impacts of odour, noise and hazards associated with waste collection vehicle movements. 	<p>Complies with standard & meets objective</p>

Assessment:

Council's Waste Dept. was satisfied with the Waste Management Plan provided for private collection.

Clause 58.07 – INTERNAL AMENITY

Clause 58.07-01 Functional layout objective

- To ensure dwellings provide functional areas that meet the needs of residents.

Standard D24

Bedrooms should:

- Meet the minimum internal room dimensions specified in Table D7.
- Provide an area in addition to the minimum internal room dimensions to accommodate a wardrobe.

Table D7 Bedroom dimensions

<i>Bedroom type</i>	<i>Minimum width</i>	<i>Minimum depth</i>
<i>Main bedroom</i>	<i>3 metres</i>	<i>3.4 metres</i>
<i>All other bedrooms</i>	<i>3 metres</i>	<i>3 metres</i>

Complies with standard & meets objective

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OBJECTIVE	STANDARD	LEVEL OF COMPLIANCE AGAINST STANDARD									
	<ul style="list-style-type: none"> Living areas (excluding dining and kitchen areas) should meet the minimum internal room dimensions specified in Table D8. <table border="1" style="margin-left: 20px;"> <thead> <tr> <th style="background-color: #2c5e8c; color: white;">Dwelling type</th> <th style="background-color: #2c5e8c; color: white;">Minimum width</th> <th style="background-color: #2c5e8c; color: white;">Minimum area</th> </tr> </thead> <tbody> <tr> <td style="background-color: #f2f2f2;">Studio and 1 bedroom dwelling</td> <td style="background-color: #f2f2f2;">3.3 metres</td> <td style="background-color: #f2f2f2;">10 sqm</td> </tr> <tr> <td style="background-color: #f2f2f2;">2 or more bedroom dwelling</td> <td style="background-color: #f2f2f2;">3.6 metres</td> <td style="background-color: #f2f2f2;">12 sqm</td> </tr> </tbody> </table>	Dwelling type	Minimum width	Minimum area	Studio and 1 bedroom dwelling	3.3 metres	10 sqm	2 or more bedroom dwelling	3.6 metres	12 sqm	
Dwelling type	Minimum width	Minimum area									
Studio and 1 bedroom dwelling	3.3 metres	10 sqm									
2 or more bedroom dwelling	3.6 metres	12 sqm									
<p>Assessment: All dwellings are compliant in habitable room dimensions to meet the above functional room requirements.</p>											
<p>Clause 58.07-2 Room depth objective</p> <ul style="list-style-type: none"> To allow adequate daylight into single aspect habitable rooms. 	<p>Standard D25 Single aspect habitable rooms should not exceed a room depth of 2.5 times the ceiling height.</p> <p>The depth of a single aspect, open plan, habitable room may be increased to 9 metres if all the following requirements are met:</p> <ul style="list-style-type: none"> The room combines the living area, dining area and kitchen. The kitchen is located furthest from the window. The ceiling height is at least 2.7 metres measured from finished floor level to finished ceiling level. This excludes where services are provided above the kitchen. <p>The room depth should be measured from the external surface of the habitable room window to the rear wall of the room.</p>	Complies with standard & meets objective									
<p>Assessment: All dwellings are compliant in living room depth, noting ceiling heights of 2.7m.</p>											
<p>Clause 58.07-3 Windows objective</p> <ul style="list-style-type: none"> To allow adequate daylight into new habitable room windows. 	<p>Standard D26 HRW should have a window in an external wall of the building. A window may provide daylight to a bedroom from a smaller secondary area within the bedroom where the window is clear to the sky. The secondary area should be:</p> <ul style="list-style-type: none"> A minimum width of 1.2 metres. A maximum depth of 1.5 times the width, measured from the external surface of the window. 	Complies with standard & meets objective									
<p>Assessment: All new habitable rooms have adequate access to daylight in accordance with the Standard.</p>											
<p>Clause 58.07-4 Natural ventilation objectives</p>	<p>Standard D27 The design and layout of dwellings should maximise openable windows, doors or other ventilation devices in external walls of the building, where appropriate.</p>	Complies with standard & meets objective									

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OBJECTIVE	STANDARD	LEVEL OF COMPLIANCE AGAINST STANDARD
<ul style="list-style-type: none"> • To encourage natural ventilation of dwellings. • To allow occupants to effectively manage natural ventilation of dwellings. 	<p>At least 40% of dwellings should provide effective cross ventilation that has:</p> <ul style="list-style-type: none"> • A maximum breeze path through the dwelling of 18 metres. • A minimum breeze path through the dwelling of 5 metres. • Ventilation openings with approximately the same area. <p>The breeze path is measured between the ventilation openings on different orientations of the dwelling.</p>	
<p>Assessment: The floor plans provide for appropriate natural cross ventilation for dwellings in accordance with this Standard.</p>		

RESPONSE TO GROUNDS OF OBJECTION

The majority of concerns raised by objector(s) have been considered within the assessment above. Any remaining concerns are addressed as follows:

Ground of Objection	Response
Overdevelopment/character	<p>The proposal meets the preferred character set down under the Activity Centre Zone 1 and Precinct 6 by the provision of a 3 storey development and which reflects the preferred character of 3 storey apartment buildings in the immediate context.</p> <p>The intensity of the development is consistent with the purpose to the Activity Centre Zone to provide for housing at higher densities, with an apartment typology that provides sufficient density to capitalise on the strategic benefit and close proximity to an activity centre and rail station.</p>
Traffic and parking	<p>The provision of car parking for residential is according to the statutory requirements with 1 space in excess. There are no visitor parking requirements in this location. Alternative means of transport are also provided by the provision of bicycle parking and noting the close proximity of public transport alternatives to reduce vehicle reliance.</p> <p>Council's Traffic Engineer has not raised any concern to the potential increase of traffic. It is noted that generally the site is designated for this level of intensity and which carries an expectation for an associated increase to traffic that can be accommodated for.</p>
Visual bulk	<p>The proposal addresses any perceived visual bulk , providing a form that is consistent with the intensity anticipated by the preferred character.</p>

Overall the proposal achieves a high architectural and urban design standard. Design detail is considered to be at high level and a design enhanced by expressed vertical design. Additional architectural features are clearly expressed and provide a consistent and visually interesting design that respects the preferred contemporary character.

CONCLUSION

On balance, the proposal is considered to substantially comply with the relevant planning policy and therefore should be supported.

As outlined above, it has been determined that prior to deciding on this application all factors pursuant to section 60(1) of the *Planning and Environment Act 1987* have been considered. Further to this, the proposal does not give rise to any significant social and economic effects.

The proposed development is considered appropriate for the Site, subject to conditions, as evidenced by:

- The compatibility of the design and siting with the surrounding area
- The mitigation of off-site amenity impacts
- A suitable level of compliance with all relevant policies, including **Clause 58** of the Kingston Planning Scheme

RECOMMENDATION

That the Planning Committee determine to support the proposal and issue a **Notice of Decision to Grant a Permit to develop the land for the construction of 14 dwellings in a three storey apartment building in a Special Building Overlay at 19 Elman Road Cheltenham**, subject to the following conditions:

1. Before the development starts amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be substantially in accordance with the advertised plans prepared by Arcadia, Drawing No's. TP1301 to TP6002 inclusive, Revision I to H dated 16/6/21, submitted to Council on 22/6/21, but modified to show:
 - a. provision of a sight line splay of 2m x 2.5m clear of visual obstructions at the Fairlam Lane intersection with the Elman Road footpath.
 - b. waste collection vehicle to operate from within the subject site and not overhanging the laneway vehicle during collection, with details of the vehicle and swept path diagrams to demonstrate viable manoeuvring in/out of the development
 - c. no built form to overhang the laneways or extend beyond the title boundaries, including but not limited to:
 - i) Overhanging built form into the laneway removed
 - ii) Provision of sliding windows adjacent to the laneway
 - iii) Guttering contained fully within title boundaries and be notated on plans
 - d. balcony to Unit 1-02 be setback 2.5 metres from the southern boundary and the balcony reduced to an area of 10 sqm.
 - e. the first floor southern wall of Unit 1-01 be setback 2m as per the setback of Unit 2-01 above.
 - f. reduce the southern ground floor wall on-boundary length of Unit G-01 to approximately 7.6m by aligning with the end of the closest habitable room window at No. 19 Elman Road
 - g. front fencing to have a maximum height of 1.6 metres
 - h. details of the solar PV system shown as per the Sustainable Management Plan
 - i. vehicle lift secured by a roller door or similar that operates in conjunction with the lift
 - j. mechanical ventilation of the basement.
 - k. privacy screening be a louvered horizontal blade integrated design with adequate gaps that provide outlook but limit downwards views within 9 metres in accordance with Standard D14 of Clause 58, and demonstrated by a diagram at 1:50 scale
 - l. details of screening/internal fencing provided between balconies, terraces and private open space that limits internal overlooking
 - m. internal rearrangement so the lift does not immediately abut new bedroom walls
 - n. lift walls lined with acoustic panelling or similar where abutting a new habitable room, sufficient to limit noise transmission into the new dwelling

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- o. a minimum 50% accessible dwellings that comply with Standard D17 of Clause 58 of the Kingston Planning Scheme
- p. heating and cooling units shown but not located on balconies unless the area exceeds the minimum by an additional 1.5sqm as per Standard D19 of Clause 58 of the Kingston Planning Scheme
- q. external building services and facilities are all shown, located and finished in a concealed and integrated way in accordance with Standard D22 of Clause 58 of the Kingston Planning Scheme
- r. the provision of a full colour palette, finishes and building materials schedule for all external elevations and driveways of the development
- s. all requirements of the Melbourne Water, in accordance with Conditions 12 to 21 of this permit
- t. the provision of a landscape plan in accordance with the submitted development plan, with such plans to be prepared by a suitably qualified landscape professional to the satisfaction of the Responsible Authority and incorporating:
 - i) a planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant;
 - ii) a survey, including, botanical names of all existing trees to be removed;
 - iii) the delineation of all garden beds, paving, grassed area, retaining walls, fences and other landscape works;
 - iv) details for any above-ground or containerised plantings including soil volume and dimensions, substrate specifications, drainage and irrigation;
 - v) a range of plant types from ground covers to large shrubs and trees, provided at adequate planting densities (e.g. plants 1 metre in width at maturity planted 1 metre apart);
 - vi) three (3) canopy trees capable of growing to minimum mature height of 10 metres to be planted in the front setback of the property;
 - vii) all trees provided at a minimum of 2 metres in height at time of planting, medium to large shrubs to be provided at a minimum pot size of 200mm;
 - viii) notes regarding site preparation, including the removal of all weeds, proposed mulch, soil types and thickness, subsoil preparation and any specific maintenance requirements.
- u. all relevant commitments shown on plans as identified within a revised Sustainable Management Plan, prepared by Fratner Consultants dated 4 June 2021 with any changes required under condition 9 of this permit, and the following:
 - i) Management 3.3 Metering - To claim this credit, indicate on architectural plans and commit in report that sub-meter be provided to all major common area services will be separately sub-metered.
 - ii) IEQ 1.1 Daylight Access - Living Areas - BESS built-in calculation tool cannot be used on G-01, G-02 & G-03 Living spaces as it does not account for the overshadowing of the boundary fence and neighbouring dwelling. Please provide alternative daylight calculations or do not claim credits for these units.

- iii) IEQ 1.2 Daylight Access – Bedrooms - BESS built-in calculation tool cannot be used on G-01, G-02 & G-03 master bedrooms as it does not account for the overshadowing of the boundary fence and neighbouring dwelling. Please provide alternative daylight calculations or do not claim credits for these units.
 - iv) Urban Cooling For the non-visible flat roofs and concrete driveway, specify light-coloured or reflective finishes to help mitigate the urban heat island effect.
 - v) BESS Assessment – for any changes made to meet the above conditions that the minimum 50% overall score and minimums in Energy (50%), Water (50%), IEQ (50%) and Stormwater (100%) categories are met.
- v. endorsement of the Waste Management Plan by Frater dated 24 March 2021, or updated where required to the satisfaction of the Responsible Authority.

Endorsed Plans

- 2. The development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.
- 3. The landscaping shown on the endorsed plans must be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced

Drainage and Water Sensitive Urban Design

- 4. Unless with prior written consent of the Responsible Authority, before the development commences the following Integrated Stormwater Management (drainage) documents must be prepared, by a suitably qualified person, to the satisfaction of the Responsible Authority:
 - a. Prior to submitting detailed plans, a comprehensive stormwater management (drainage) strategy for the site must be prepared that addresses the requirements specified within Council's "Civil Design requirements for Developers – Part A: Integrated Stormwater Management".
 - b. The stormwater management (drainage) strategy must include a report with MUSIC modelling results or equivalent demonstrating water sensitive urban design treatments that achieve Victorian best practice objectives. These may include the use of an infiltration or bio-retention system, rainwater tanks connected for reuse, or other treatments to the satisfaction of the Responsible Authority.
 - c. The water sensitive urban design treatments as per conditions above must be implemented on-site, unless an alternative agreement for stormwater quality in-lieu contribution is reached with the Responsible Authority.
 - d. Stormwater Management (drainage) Plan(s) must be prepared, with supporting computations, showing the stormwater (drainage) works to the nominated point of discharge. The plan(s) must show all details of the proposed stormwater works including all existing and proposed features that may have an impact on the stormwater (drainage) works, including landscaping details
- 5. Stormwater (drainage) works must be implemented in accordance with the approved stormwater management (drainage) plan and to the satisfaction of the Responsible Authority including the following:
 - a. All stormwater (drainage) works must be provided onsite so as to prevent overflows onto adjacent properties.

- b. The implementation of stormwater (drainage) detention system which restricts stormwater discharge to the maximum allowable flowrate of 5.7L/s.
 - c. All stormwater (drainage) works must be maintained to the satisfaction of the Responsible authority.
6. A groundwater assessment report (GAR) must be prepared by a qualified hydro-geologist to assess any possible impacts the proposed development has on the ground water table, surrounding land and buildings to the satisfaction of Responsible Authority. Should the findings of the submitted GAR demonstrate that the site is likely to experience issues associated with ground water management, a ground water management plan (GMP) must be submitted to and approved by the responsible authority.
7. The basement structure must be designed to respond to the findings of the GAR and GMP required under condition above and constructed to the satisfaction of the responsible authority in accordance with the following:
 - a. the basement must be a fully-tanked dry basement with no ground water including agricultural (AG) drain collection or disposal into stormwater system and with an allowance made for any hydrostatic pressures in accordance with Council's "Basements and Deep Building Construction Policy 2014" and "Basements and Deep Building Construction Guidelines 2014",
or
 - b. in the event it is demonstrated that a fully tanked dry basement cannot be achieved or if a wet basement system is proposed, no groundwater including AG drain from the site shall be discharged into the stormwater system. Council does not accept any groundwater (including AG drain) into the stormwater system. Sub-surface water (groundwater) is the responsibility of the property owner to dispose of on site or reach an agreement with the local sewer authority.
8. In any case where the basement design and construction, as required by the drainage conditions above does not accord with the plan(s) approved under this permit, the endorsed plan(s) must be amended to the satisfaction and with the written consent of the Responsible Authority.

Sustainable Management Plan

9. Prior to the endorsement of plans required by Condition 1 of this permit, a revised Sustainable Management Plan (SMP) that outlines proposed sustainable design initiatives must be submitted to and approved by the Responsible Authority. The SMP must incorporate consideration of the following sustainable design criteria:
 - Indoor environment
 - Energy efficiency
 - Water resources
 - Stormwater management
 - Building materials
 - Bicycle parking
 - Waste Management

- Urban Ecology
- Innovation
- Ongoing building and site management

10. Prior to the occupation of any building approved under this permit, written confirmation from the author of the endorsed SMP is to be submitted to and approved by the Responsible Authority detailing that all of the required measures specified in the SMP have been implemented, to the satisfaction of the Responsible Authority.

Construction Management

11. Prior to the commencement of any buildings and works on the land, a Construction Management Plan (CMP), to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority. The CMP must be prepared in accordance with the City of Kingston Construction Management Policy and Construction Management Guidelines. The CMP must specify and deal with, but is not limited to, the following elements:

- a. Public Safety, Amenity and Site Security
- b. Traffic Management
- c. Stakeholder Management
- d. Operating Hours, Noise and Vibration Controls
- e. Air Quality and Dust Management
- f. Stormwater and Sediment Control
- g. Waste and Materials Re-use

When approved, the plan will be endorsed and will then form part of the permit and shall thereafter be complied with during the undertaking of all works.

Melbourne Water conditions

12. Prior to the endorsement of plans, amended site, ground floor and elevation plans must be submitted to Council and Melbourne Water addressing Melbourne Water's conditions. Plans must be submitted with surface and floor levels to Australian Height Datum (AHD) and must be modified to show:

a) The sections of masonry walls within the POS of Unit G-04 modified to contain 50% openings up to the applicable flood level of 29.73m to AHD in accordance with 'Flood Level Study – TP 1302'.

b) The Private Open Space of Unit G-04 maintained at the existing natural surface level, including all porches. Decking and steps must be open and unenclosed with no vertical risers in accordance with 'Flood Level Study – TP 1302'.

13. The ground floor dwellings including the lift and stair lobbies must be constructed with finished floor levels set no lower than 30.03 metres to Australian Height Datum (AHD), which is 300mm above the applicable flood level of 29.73m to AHD.

14. The entrance to the car lift must be constructed with a finished surface level set no lower than 30.03m to Australian Height Datum (AHD) which is 300mm above the applicable flood level of 29.73m to AHD.

15. Prior to the issue of an Occupancy Permit, a certified survey plan, showing finished floor and driveway levels (as constructed) reduced to the Australian Height Datum, must be submitted to Melbourne Water to demonstrate that the floor levels have been constructed in accordance with Melbourne Water's requirements.

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16. All open space within the flood affected areas of the property must be set at existing natural surface level so as not to obstruct the passage of overland flows.
17. The building and all permanent structures must be setback a minimum of 5.5 metres from the eastern property boundary, with the exception of minimal driveway and entry way ramping, to allow overland flows through the property.
18. The setback must be maintained at the existing natural surface level and must not contain any solid porches or raised garden beds etc. with the exception of open style fencing and open & unenclosed decking/steps.
19. The top of the basement slab, where it extends beyond the ground floor footprint, must be finished no higher than the existing natural surface within the flood affected area.
20. Any decking within the floodplain must be constructed with unenclosed foundations and steps contain no vertical risers, to allow for the passage of overland flows.
21. Any new boundary or internal fences and/or gates within the flood affected area must be of an open style of construction (minimum 50% open) up to the flood level to allow for the passage of floodwaters/ overland flows.

Infrastructure and Road Works

22. Any relocation of pits/power poles or other services affected by this development must be relocated to the satisfaction of the relevant servicing authority and the Responsible Authority, at the cost of the owner/developer.
23. Property boundary and footpath levels must not be altered without the prior written consent from the Responsible Authority.
24. Any reinstatements and vehicle crossings are to be constructed to the satisfaction of the Responsible Authority.
25. The replacement of all footpaths, including offsets, must be constructed to the satisfaction of the Responsible Authority.
26. Prior to the commencement of development, property boundary, footpath and vehicle crossing levels must be obtained from Council's Roads and Drains Department with all levels raised or lowered to the satisfaction of the Responsible Authority.

General amenity conditions

27. All works on or facing the boundaries of adjoining properties must be finished and surface cleaned to a standard that is well presented to neighbouring properties in a manner to the satisfaction of the Responsible Authority.
28. All externally-located heating and cooling units, exhaust fans and the like must not be located adjacent to bedroom windows on adjoining properties and must not be located where they will be highly visible from any public area to the satisfaction of the Responsible Authority.
29. All piping, ducting above the ground floor storey of the development (other than rainwater, guttering and downpipes) must be concealed to the satisfaction of the Responsible Authority.

Completion of Works

30. Prior to the occupation of the development hereby permitted, all buildings and works and the conditions of this permit must be complied with to the satisfaction of the Responsible Authority, unless with the further prior written consent of the Responsible Authority.
31. Prior to the occupation of the development hereby permitted, the landscaping works as shown on the endorsed plans must be completed to the satisfaction of the Responsible Authority. Thereafter, the landscaping shall be maintained (except where that landscaping is on public land) to the satisfaction of the Responsible Authority.

Time Limits

32. In accordance with section 68 of the *Planning and Environment Act 1987* (the Act), this permit will expire if one of the following circumstances applies:

- The development is not started within two (2) years from the date of permit issue.
- The development is not completed within four (4) years from the date of permit issue.

In accordance with Section 69 of the *Planning and Environment Act 1987*, an application may be submitted to the responsible authority for an extension of the periods referred to in this condition.

Note: Environment Protection Authority (EPA) Victoria set out the requirements pertaining to site construction hours and permissible noise levels.

Note: Prior to the commencement of the development you are required to obtain the necessary Building Permit.

Note: The applicant/owner must provide a copy of this planning permit to any appointed Building Surveyor. It is the responsibility of the applicant/owner and Building Surveyor to ensure that all building development works approved by any building permit is consistent with the planning permit.

Note: The applicant/owner must provide a copy of this planning permit and any endorsed plans to any external contractor to ensure that all trees to be retained on site are protected during any works.

Note: The allocation of street numbering and addressing of properties is vested in Council. Any reference to addressing or dwelling/unit/apartment and street numbers or street names on any endorsed plan is indicative only. The onus is on the Permit Applicant/Land Owner to contact Council's Property Data Department to determine the official dwelling/unit/apartment street numbers, street name details and the like for the approved development.

If the Permit Applicant/Land Owner adopts the street numbering or addressing from the endorsed plans, or where advertising and/or sales transact (off the plan) prior to Council's official allocation of the street numbering and addressing, it will be viewed to be non-compliant with the guideline and standard applied (Australian/New Zealand Standard for Rural & Urban Addressing / AS/NZS 4819:2011).

Note: The owner(s), occupiers and visitors of the development allowed by this permit may not be eligible for Council resident or visitor parking permits.

Note: Council does not accept any groundwater (including AG drain) into the stormwater system. Sub-surface water (groundwater) is the responsibility of the property owner to dispose of on site or reach an agreement with the local sewer authority.

Note: Please note for information on how City of Kingston approaches the construction of building and other structures with below ground elements for the benefit of the whole community please refer to City of Kingston 'Basement and Deep Building Construction Policy' and 'Basements and Deep Building Construction Guidelines'.
<http://www.kingston.vic.gov.au/Property-and-Development/Engineering-Assessments>

Note: Please note that during basement construction Council does not permit the discharge of surface water or ground water into the Council drainage system unless a Temporary Discharge Permit (TDP) has been obtained. Application form and other construction related permits can be obtained from the following link:
<http://www.kingston.vic.gov.au/Property-and-Development/Construction>

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Author/s: Hugh Charlton, Statutory Planner
Reviewed and Approved By: Nicole Bartley, Team Leader Statutory Planning
Alfred Carnovale, Manager City Development

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Agenda Item No: 4.4

KP-2019/736 - 22-60 LAKEWOOD BOULEVARD, BRAESIDE

Contact Officer: Girija Shrestha, Senior Statutory Planner

Purpose of Report

This report is for the Planning Committee to consider Planning Permit Application No. KP-2019/736 - 22-60 Lakewood Boulevard, Braeside.

Disclosure of Officer / Contractor Direct or Indirect Interest

No Council officer/s and/or Contractor/s who have provided advice in relation to this report have declared a Conflict of Interest regarding the matter under consideration.

OFFICER RECOMMENDATION

That the Planning Committee determine to support the proposal and issue a Planning Permit to Subdivide the land into two (2) lots at 22-60 Lakewood Boulevard, Braeside, subject to the conditions contained within this report.

The application requires a decision by the Planning Committee as the proposal is deemed to be of 'major significance' in accordance with the Planning Delegation Policy.

PLANNING OFFICER REPORT	
APPLICANT	Smec Australia on behalf of Melbourne Water
ADDRESS OF LAND	22-60 Lakewood Boulevard, BRAESIDE
PLAN OF SUBDIVISION REFERENCE	Lot 2 on PS 613130U
PROPOSAL	Subdivide the Land into Two (2) Lots
PLANNING OFFICER	Girija Shrestha
REFERENCE NO.	KP-2019/736
ZONE	Clause 33.01 – Industrial 1 Zone
OVERLAYS	Clause 43.02 – Design and Development Overlay (Schedule 5) Clause 44.04 – Land Subject to Inundation Overlay
PARTICULAR PROVISIONS	Clause 52.01 – Public Open Space Contribution Clause 52.29 – Land adjacent to a Road Zone Category 1 Clause 53.18 – Stormwater management in Urban Development
PERMIT TRIGGER/S	Clause 33.01 – 3 – To subdivide land (INZ1) Clause 43.02 – 3 - To subdivide land (DDO 5) Clause 44.04 – 3 - To subdivide land (LSIO) Clause 52.29 – 2 – To subdivide land adjacent to a road in a Road Zone, Category 1
OBJECTIONS	N/A
S.55 REFERRALS	Department of Transport (formerly VicRoads), Melbourne Water
INTERNAL REFERRALS	Yes
LOT SIZE	26.46ha or 264,600m ²
PUBLIC OPEN SPACE CONTRIBUTION AMOUNT	5%
ABORIGINAL CULTURAL HERITAGE SENSITIVITY	Yes (CHMP provided)
CONSIDERED PLAN REFERENCES/DATE RECEIVED	Plan of Subdivision PS830580V, Version A, Sheet 1 & 2

1.0 PLANNING HISTORY

1.1 There is no relevant planning history on the land.

2.0 SUBJECT LAND

The photograph below illustrates the subject site from a streetscape perspective from Governor Road and Lakewood Boulevard respectively



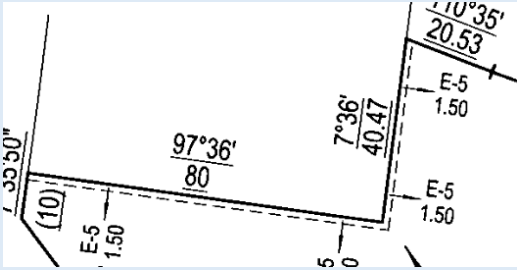
**Land
arrangement
and size**

The land is irregular in shape and has a total size of 26.46ha. Refer to below title plan and aerial image:

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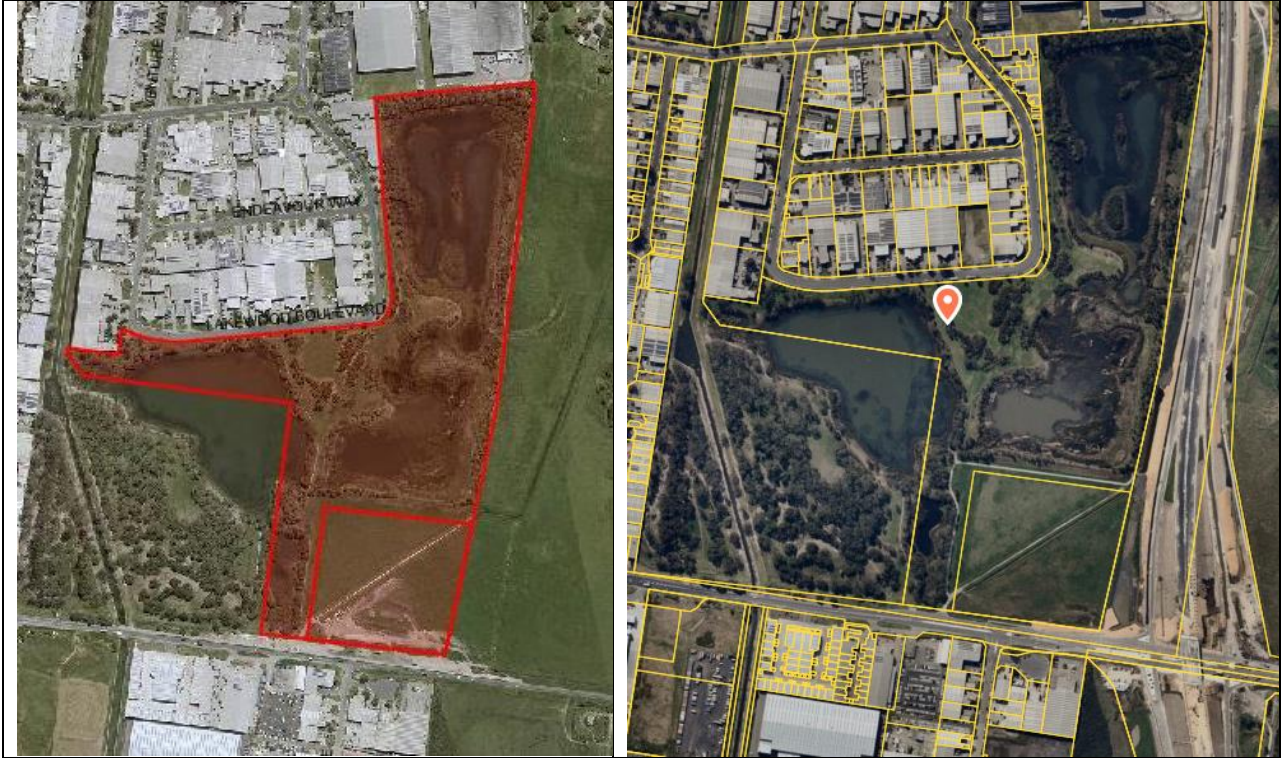
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	<p>Proposed Lot 1 (squared parcel highlighted in the aerial image above) is considered surplus land by Melbourne Water and is not currently used for its operations. There is a diagonal pathway running across this parcel providing access between Governor Road and the balance of the land. The pathway has recently been re-routed around the perimeter of proposed Lot 1 to maintain this link when subdivided.</p>
<p>Fencing</p>	<p>Wire fencing is along Lakewood Boulevard.</p>
<p>Vegetation</p>	<p>The site is heavily vegetation on proposed lot 2 (balance allotment). Whereas proposed lot 1 is void of vegetation.</p>
<p>Easement(s)</p>	<p>None, where subdivision is proposed. However, northwest corner 1.5m wide easement appears to be E-5 for the purpose of Transmission of Electricity</p> 
<p>Footpath assets / access</p>	<p>The land is accessed via Governor Road on the southern side. The land is also accessible from Lakewood Boulevard on part of the northern and western boundaries.</p>

3.0 SURROUNDING LAND

The following map illustrates the subject site in its surrounding context.



North and North-East – Lakewood Boulevard and from 18-20 to 84-90 Lakewood Boulevard are Zoned as Industrial 1 and are developed as an industrial estate.

East – Zoned as Industrial 1 Zone, however the land is currently under construction for the Mordialloc freeway as depicted on the right aerial image above.

West – 267 Governor Road - The west side of southern portion of the subject site is zoned as Public Park and Recreation Zone and used as Sewerage / Stormwater Pipelines treatment area by Melbourne Water.

South – Governor Road and 2 to 8 Brady Close, 318 to 324 Governor Road - these lots are zoned as Industrial 1 Zone and used for industrial purposes and have been developed as such.

4.0 PROPOSAL

4.1 It is proposed to subdivide the subject site into two (2) lots in accordance with the following plans:



4.2 The site area of each proposed lot is as follows:

Lot Number	Area (m ²)
1	4.73ha or 473000m ²
2	21.74ha or 3174000m ²

4.3 Melbourne Water have advised that the intended use of each proposed Lot is as follows:

Larger Allotment (Lot 2 on Plan of Subdivision):

- The larger lot is currently utilised as a drainage and water quality system which is required to treat stormwater flows to meet water quality standards.
- It is currently known as the 'Woodlands Industrial Estate Wetlands'.
- As a wetland, the larger lot is required for Melbourne Water's needs for operational and service delivery outcomes. The system on the land performs a critical function of Melbourne Water's drainage scheme in the area and Melbourne Water.

- Given the larger lot's flooding attributes and undevelopable nature, Melbourne Water has no intention to alter the use of the land. The land is not on the Melbourne Water Surplus or Sales Program and a change of use is not permitted on this land.

Smaller Allotment (Lot 1 on Plan of Subdivision):

- As part of Victorian Government Land Holding Policy and Guidelines, Melbourne Water notified the sale of the smaller land (Lot 1) through First Right of Refusal Notification in 2018. A State Agency expressed interest in the purchase of the land with the Contract of Sale subject to a number of conditions before any final sale can be transacted.
- This allotment will be subject to a Section 173 Agreement that documents Melbourne Waters flood management requirements.

It is noted that any future use and development on Lot 1 will likely require a separate planning permit application and would be assessed on its merit in accordance with the Kingston Planning Scheme.

5.0 BACKGROUND

- 5.1 On 18 & 19 March 2019, Council requested information via email and phone in registering a formal interest to purchase the surplus land (Lot 1) in response to The First Right of Refusal process for the sale of the land.
- 5.2 On 9 April 2019, Melbourne Water responded in writing stating:

"The property was registered in the First Right of Refusal process, which allows Commonwealth, Victorian Government agencies and local governments the first opportunity to advise Melbourne Water of an interest to purchase the land."

"The First Right of Refusal process commenced on 26 September 2018 and concluded 24 November 2018. During this process a Victorian Government Agency registered an interest in purchasing the property."

- 5.3 Melbourne Water further advised City of Kingston that in line with the First Right of Refusal process, Melbourne Water was unable to commence negotiations with a local government while there is an existing expression of interest by a Victorian Government Agency. Consequently, Melbourne Water cannot enter into further negotiations or convey information with the City of Kingston until the engagement has concluded. However, Melbourne Water can provide an update on the status of the property to the City of Kingston once the first right of refusal process with the current interested party has concluded.
- 5.4 Council provided a written response to Melbourne Water's letter advising of the sensitivity of the land due to its adjoining relationship with the Mordialloc Freeway and the South-East Green Wedge. Given this, it was encouraged that the interested Victorian Government Agency contact the City of Kingston to arrange a meeting with Council Officers to discuss the content of the Kingston Green Wedge Management Plan and other relevant site and planning policy contextual considerations.
- 5.5 Further, Melbourne Water responded on 17 September 2021 (2019 on letter head) on the query of 'proposed use' of the smaller lot 1, stating *"Melbourne Water is not proposing a proposed use on this land. Melbourne Water is proposing to subdivide this land off its current active Title in accordance with the land sale"*.

- 5.6 It was further advised that Melbourne Water entered into a Contract of Sale to sell this land to another State entity this year (2021) in accordance with State Policy requirements. Settlement is conditional upon subdivision; settlement is programmed for mid-2022.
- 5.7 On behalf of Council, Officer's queried Melbourne Water on the inclusion of proposed Lot 2 into a Public Use Zone similar to other Melbourne Water site's in the immediate vicinity. Melbourne Water have since responded that they will consider the rezoning and investigate further as of 11 October 2021. Any re-zoning of land should occur outside of this application.

6.0 PLANNING PERMIT PROVISIONS

Zone

- 6.1 A planning permit is required to subdivide land in the Industrial 1 Zone pursuant to Clause 33.01-3 of the Kingston Planning Scheme.

Overlays

- 6.2 A planning permit is required to subdivide land in the Design and Development Overlay (Schedule 5) pursuant to Clause 43.02-3 of the Kingston Planning Scheme.
- 6.3 A planning permit is required to subdivide land in the Land Subject to Inundation Overlay pursuant to Clause 44.04-3 of the Kingston Planning Scheme.

Particular Provisions

- 6.4 A planning permit is required to subdivide land adjacent to a road in a Road Zone, Category 1, or land in a Public Acquisition Overlay if the purpose of acquisition is for a Category 1 road, pursuant to Clause 52.29 of the Kingston Planning Scheme.

General Provisions

- 6.5 The Decision Guidelines of Clause 65 of the Kingston Planning Scheme are relevant to this application and require consideration to be given to a variety of matters including planning scheme policies, the purpose of the zone, orderly planning and the impact on amenity.

7.0 RELEVANT POLICIES

7.1 Planning Policy Framework (PPF)

- Clause 12 Environmental and Landscape Values
- Clause 13 Environmental Risks & Amenity
- Clause 14 Natural Resource Management
- Clause 15 Built Environment and Heritage
- Clause 19 Infrastructure

7.2 Local Planning Policy Framework (LPP)

- Clause 21.08-2 Industry
- Clause 22.03 Moorabbin Airports Environs Policy
- Clause 22.11 Public Open Space Contributions

section 82(1) of the Act.” Schedule 5 of the DDO is silent in this instance and therefore the subdivision is not exempt from the notice requirements of the DDO5.

The design objectives of Schedule 5 (Aviation Obstacle Referral Height Area No 2) reflect on only buildings and works as stated below:

- *To ensure that the height of all buildings and works are constrained within specified limits to avoid creating a hazard to aircraft in the vicinity of the Moorabbin Airport, and to facilitate safe aircraft operations*
- *To ensure that flight paths associated with the Moorabbin Airport are protected from the encroachment of inappropriate obstacles which may affect the safe and effective operation of the Airport.*

It is considered that advertising is not required for the application under the DDO5 as the proposal is only for subdivision and does not involve any buildings and works which the Overlay primarily seeks to manage. There will be no material detriment to any persons as a result of the subdivision with respect to the DDO5 considerations.

8.3 Clause 44-04-6 of the Kingston Planning Scheme, an application for a subdivision in the Land Subject to Inundation Overlay is exempt from the notice requirements of section 52(1)(a), (b) and (d), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the Act.

8.4 Pursuant to Clause 52.29-5 of the Kingston Planning Scheme, an application for a subdivision adjacent to a road in the Road Zone, Category 1 or a Public Acquisition Overlay for a Category 1 Road is exempt from the notice requirements of section 52(1)(a), (b) and (d), the decision requirements of section 64(1), (2) and (3) and the review rights of section 82(1) of the Act.

9.0 SECTION 50/50A AMENDMENTS TO PLANS

9.1 No amendments were made to the plans during the course of the application.

10.0 REFERRALS

10.1 Pursuant to Clause 52.29-4 - Land Adjacent to a Road Zone, Category 1, or a Public Acquisition Overlay for a Category 1 Road, any application to subdivide land adjacent to a road in a Road Zone, Category 1, or land in a Public Acquisition Overlay if the purpose of acquisition is for a Category 1 Road, must be referred to the Department of Transport (formerly VicRoads) as a Determining Referral Authority under Section 55 of *the Planning and Environment Act 1987*. Accordingly, the application was referred to the Department of Transport. The Department did not object to the application and has not recommended any conditions.

10.2 Pursuant to Clause 44.04-7 - An application must be referred to the relevant floodplain management authority under Section 55 of the Act unless in the opinion of the responsible authority, accordingly the application was referred to Melbourne Water who has no objection to the proposal subject to conditions relating to the requirement of a Section 173 Agreement between Melbourne Water, City of Kingston and the Department of Transport for flood storage works on the land.

- 10.3 The lot size is greater than 4,000sqm. As per Council's Notice of Motion resolution the application was referred to Vegetation Department who advised to refer to an external Ecologist based upon the size of the land and its location within close proximity to the wetlands. Accordingly, the application was referred to Biosis – Ecological and Heritage Consultant. Biosis concluded that the proposal involves subdivision into two lots with no direct native vegetation removal, therefore, there is no trigger or requirements under Clause 52.17 (Native Vegetation) of the Kingston Planning Scheme. The assessment under the Guidelines is required when land is being subdivided into lots 0.4 ha or smaller as this enables the consequential removal of native vegetation without a planning permit in future. In this instance the lots are 21.74ha and 4.73ha. Therefore, considerations and assessment under Clause 52.17 is not required in this instance.
- 10.4 External referrals to the relevant service authorities were not required pursuant to Clause 66.01 of the Kingston Planning Scheme provided the conditions as contained in Clause 66.01-1 of the Scheme for two lot subdivision are included on any approval issued. However, the application was referred through the certification process to South-East Water, United Energy and Multinet Gas. South-East Water and United Energy provided conditions in the planning permit, which has been included verbatim in the recommendation.
- 10.5 It is noted that the subject land is within WAG oil pipeline buffer area (152m). Therefore, the application was referred to VIVA Energy Australia Under Section 52 of the Act, who has no objection on the proposal and no conditions provided.
- 10.6 As the subject site is affected by the Moorabbin Airport Environs Policy, the application was referred to Moorabbin Airport for their comments. The Airport Authority responded by neither supporting nor objecting to the subdivision of land only, subject to the following conditions:
- a) the Site includes noise attenuation measures in compliance with Australian Standard AS 2021– 2015, Acoustics – Aircraft Noise Intrusion – Building Siting and Construction and applying the approved Australian Noise Exposure Forecast for Moorabbin Airport;
 - b) the sub-division is undertaken in accordance with the requirements of the Airport Environment Overlay and the Moorabbin Airports Environs Policy; and
 - c) the National Airports Safeguarding Framework and Guidelines will be applied in relation to the Development.
 - d) contracts of sale to notify new purchasers of the proximity of the site to the Moorabbin Airport and the overhead aviation activities.
- 10.7 The application was referred to the following internal departments within Council (where appropriate amended applications have been re-referred):
- Council's Development Engineer who advised of no objection and no conditions are provided.
 - Council's Vegetation Management Officer who advised that the application be reviewed by an Ecologist as per Council's Notice of Motion resolution for lot sizes exceeding 4000sqm. Accordingly, as discussed in Section 9.3 the application was referred to Biosis – a Ecology and Heritage Consultant.
 - Council's Strategic Department who provided no comment on the application.
 - Council's Green Wedge Officer/Parks Department who provided no comment on the application.

11.0 PLANNING CONSIDERATIONS:

Planning Policy Framework

- 11.1 The Planning Policy Framework sets out the relevant state-wide policies relating to subdivision at **Clause 11** (Settlement), **Clause 12** (Environmental and Landscape Values), **Clause 13** (Environmental Risks & Amenity), **Clause 14** (Natural Resource Management), **Clause 15** (Built Environment and Heritage) and **Clause 19** (Infrastructure).
- 11.2 The subdivision policies at **Clause 11** seek to ensure a sufficient supply of land is available for all forms of land use in Victoria. **Clause 11.02-1** states that Planning Authorities should plan to accommodate projected population growth over at least a 15 year period, taking account of opportunities for redevelopment and intensification of existing urban areas as well as consideration being had for environmental aspects, sustainable development and the costs associated with providing infrastructure. This clause states:
- Planning for urban growth, should consider:
 - Opportunities for the consolidation, redevelopment and intensification of existing urban areas.
 - Neighbourhood character and landscape considerations.
 - The limits of land capability and natural hazards and environmental quality.
 - Service limitations and the costs of providing infrastructure.
- 11.3 **Clause 12** (Environmental and Landscape Values) aims to protect sites and features of native conservation, biodiversity, geological or landscape value.
- 11.4 **Clause 13** (Environmental Risks) aims to ensure that planning adopts a best practice environmental management and risk management approach which aims to avoid or minimise environmental degradation and hazards. Further, planning should identify and manage the potential for the environment, and environmental changes, to impact upon the economic, environmental or social well-being of society.
- 11.5 **Clause 14** (Natural Resource Management) aims to assist in the conservation and wise use of natural resources including energy, water, land, stone and minerals to support both environmental quality and sustainable development. Subdivision of productive agricultural land should not detract from the long-term productive capacity of the land. Water quality is to be protected and water resources are to be managed in a sustainable way with the use of alternative water sources such as rainwater tanks, stormwater and recycled water encouraged by governments, developers and households.
- 11.6 **Clause 15.01-3S** (Subdivision Design) contains an objective to ensure the design of subdivisions achieves attractive, liveable, walkable, cyclable, diverse and sustainable neighbourhoods. A strategy contained within this clause seeks *environmentally friendly development that includes improved energy efficiency, water conservation, local management of stormwater and waste water treatment, less waste and reduced air pollution.*
- 11.7 **Clause 15.03-2** (Aboriginal Cultural Heritage) seeks to ensure the protection and conservation of places of Aboriginal cultural heritage significance.

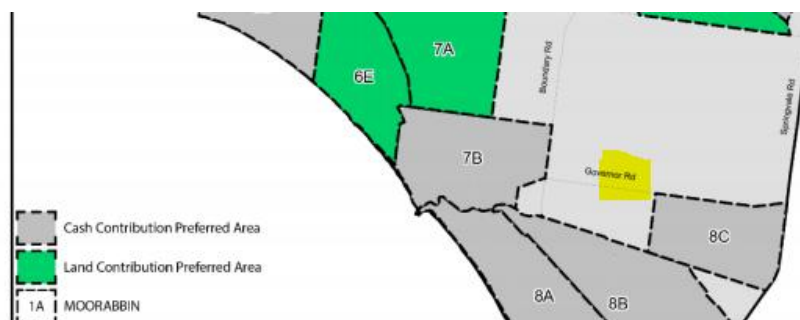
- 11.8 Importantly, the subject site **is** identified in an area of Aboriginal Cultural Heritage Sensitivity and is therefore subject to the requirements of the *Aboriginal Heritage Regulations 2018*.
- “The Aboriginal Heritage Regulations 2018 (the Regulations) and Aboriginal Heritage Regulations 2018 provides for the protection and management of Victoria’s Aboriginal heritage with streamlined processes linked to the Victorian planning system. The Regulations also provides clear guidance to planners and developers about when, and how, Aboriginal cultural heritage needs to be considered, and in some situations work cannot proceed until compliance is met. Large developments and other high impact activities in culturally sensitive landscapes can cause significant harm to Aboriginal cultural heritage”.*
[Source: DCPD website]
- 11.9 In this instance, as the proposed activity is not exempt under the Regulations of the Aboriginal Heritage Regulations 2018, the Permit Applicant is required to prepare and submit a Cultural Heritage Management Plan (CHMP) to Council. Accordingly, a CHMP has been prepared by a qualified Cultural Heritage Advisor and submitted to Council (CHMP number 17448). Importantly, the Plan was approved by the Secretary of the Department of Premier and Cabinet on 4 August 2021.
- 11.10 The approved Plan contains the results of an assessment of the potential impact of the proposed activity on Aboriginal cultural heritage. Further, it outlines measures to be taken before, during and after the activity in order to manage and protect Aboriginal cultural heritage in the activity area.
- 11.11 **Clause 17** (Economic Development) aims to contribute to the economic well-being of communities and the State as a whole by supporting and fostering economic growth and development by providing land, facilitating decisions, and resolving land use conflicts, so that each district may build on its strengths and achieve its economic potential. This can be achieved by encouraging development which meets the communities’ needs for retail, entertainment, office and other commercial services and provides net community benefit in relation to accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities.
- 11.12 **Clause 18** (Transport) aims to Planning should ensure an integrated and sustainable transport system that provides access to social and economic opportunities, facilitates economic prosperity, contributes to environmental sustainability, coordinates reliable movements of people and goods, and is safe.
- 11.13 **Clause 19** (Infrastructure) aims to plan for the provision of water supply, sewerage and drainage services that efficiently and effectively meet State and community needs and protect the environment. Planning should provide for sewerage at the time of subdivision, or ensure lots created by the subdivision are capable of adequately treating and retaining all wastewater within the boundaries of each lot.

Local Planning Policy Framework

- 11.14 The City of Kingston’s MSS at **Clause 21.08-2** (Industry) of the Kingston Planning Scheme, seeks to protect Kingston’s supply of industrial land from encroachment from non-compatible uses. The strategies to achieve this objective are to protect industrial land from inappropriate rezoning, to avoid retail and office uses locating in industrial zones, except where such uses

form part of an integrated development plan for industrial estates; to support the establishment of office and the continuation of existing restricted retail uses in the Garden Industrial estates; to retain undeveloped industrial areas in large holdings until it is required for development; and to protect industrial land from encroachment from development that is incompatible with 24 hours industrial use.

- 11.15 **Clause 21.08-2** (Industry) also seeks to improve the image and quality of all industrial areas in Kingston by promoting a high standard of subdivision layout, road access and design, car parking, loading provision, landscaping and building design in new industrial areas. Further subdivision of older industrial areas is discouraged.
- 11.16 **Clause 22.03** (Moorabbin Airports Environs Policy) seeks to identify areas which are or will be subject to high levels of aircraft noise, including areas where the use of land for uses sensitive to aircraft noise will need to be restricted and to ensure that the use and development of land within the policy area is compatible with the operation of airports in respect to the impact of aircraft noise on sensitive uses, and is consistent with any approved Australian Noise Exposure Forecast (ANEF) as contained in the appropriate airport strategy or master plan for the airport. Accordingly, the application was referred to Moorabbin airport who responded with neither support nor objection to the application subject to conditions.
- 11.17 **Clause 22.11** (Public Open Space Contributions) applies to all subdivision applications and identifies how Council will accept and use public open space contributions whether by financial payment or land contribution. This clause is to be applied in conjunction with **Clause 53.01** – Public Open Space Contribution and Subdivision.
- 11.18 Map 1 of this policy identifies the areas within Kingston for preferred cash and land contributions. As highlighted below, the land sits outside of any preferred contribution area:



- 11.19 The City of Kingston Open Space Strategy 2012 identifies, amongst other things, where public open space areas are lacking, where additional public open space is needed and where improvements are needed for existing systems.
- 11.20 **Clause 22.12** Stormwater Management – is applicable to the consideration of medium and large scale developments as specified within Table 1 of the policy. This clause seeks to improve the quality and reduce the impact of stormwater run-off, incorporate the use of WSUD principles in development and to ensure that developments are designed to meet best practice performance objectives.
- 11.21 The subdivision of vacant land greater than 4,000m² is considered a large-scale development. After discussing with Council’s Development Engineers and Infrastructure

department, the requirement of an Integrated Water Management Plan (IWMP) or a MUSIC program as required by this Clause is not required for the proposal as it is unclear on the details of development that would occur on the subject site. Accordingly, a stormwater management plan will be required for any future development application.

- 11.22 It is noted that subject site is within an industrial zone, but the land is currently used for a wetland through the treatment of stormwater flows to meet water quality standards by Melbourne Water. The larger lot (Lot 2) will continue to serve this purpose and will remain vested in Melbourne Water. The proposed smaller lot (Lot 1) will be sold to a State Government Agency. It remains unclear what the intended use and development of this land will be, however it is noted that a planning permit will likely be required and will be considered on its own merits at the time of any application being lodged.
- 11.23 It is considered that the proposed subdivision generally complies and satisfies with the State and Local Planning Policy Framework guidelines. Subject to appropriate conditions on any permit issued, the subdivision achieves an acceptable outcome for the site and its immediate abutments.

Zone

- 11.24 The subject site is located in the Industrial 1 Zone. The relevant purpose of this Zone pursuant to Clause 33.01-1 of the Planning Scheme is *to provide for manufacturing industry, the storage and distribution of goods and associated uses in a manner which does not affect the safety and amenity of local communities.*
- 11.25 The relevant decision guidelines at Clause 33.01-3 require Council to consider the following in relation to subdivision:
- The Municipal Planning Strategy and the Planning Policy Framework.
 - Any natural or cultural values on or near the land.
 - Streetscape character.
 - Landscape treatment.
 - Interface with non-industrial areas
- 11.26 The proposed subdivision is considered to be appropriate, however the subdivision application is still pre-mature to assess above guidelines for the following reasons:

It is noted that new subdivided lots are large and still unclear what would be developed for. The streetscape character, landscape treatment will be assessed as part of any future development application.

The subject site is zoned as industrial land. As stated above, the purpose of this land is to provide for the manufacturing, or storage or distribution of the goods etc, however, the current use of the land does not currently align with the intended zoning. It is considered unreasonable to request any conditions or require any streetscape or landscape treatment at this stage as contemplated for subdivision in the decision guidelines of the Zone. Any future development or use of either lot will likely require a planning permit and at that stage it will be appropriate to understand how the land will be used including its built form. Once, it is clear at that stage, it would be reasonable to require further consideration under the above guidelines and seek to achieve high quality design and use of land in line with the

objectives of the Zone and other planning policy. In addition to this, the application was referred to Council's Vegetation Department and Biosis, who has not raised any issue with the subdivision with respect to vegetation on-site and requirement of any plantings given the nature of the proposal.

The sites abuttal with a sensitive environmental area will mean that careful consideration would at the time of development be given to appropriate and highly visible landscape setbacks along the site's frontage. This approach would likely differ from that taking with other parcels of industrial land that would ordinarily be subdivided in the middle of established industrial areas.

Overlay Provisions

Clause 43.02 - Design and Development Overlay (Schedule 5)

11.27 The subject site is located within a **Design and Development Overlay (Schedule 5)** which relates to the Aviation Obstacle Referral Height Area No 2.

11.28 The design objectives of Schedule 5 to this Overlay are:

To ensure that the height of all buildings and works are constrained within specified limits to avoid creating a hazard to aircraft in the vicinity of the Moorabbin Airport, and to facilitate safe aircraft operations.

To ensure that flight paths associated with the Moorabbin Airport are protected from the encroachment of inappropriate obstacles which may affect the safe and effective operation of the Airport.

11.29 The Schedule of the Overlay does not include any additional subdivision requirements. The subdivision would not impact on the flight path associated with Moorabbin Airport given the proposal is essentially lines on plans and does not involve any development/use. Moorabbin Airport were also referred to for the application in which they responded with neither support nor objection to the application, subject to conditions. Therefore, the proposal is considered appropriate under the Overlay and in line with the above purpose.

Clause 44.04 - Land Subject to Inundation Overlay (LSIO)

11.30 The subject site is also located **Land Subject to Inundation Overlay (LSIO)**.

11.31 The purpose of this overlay is to:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework*
- *To identify land in a flood storage or flood fringe area affected by the 1 in 100 year flood or any other area determined by the floodplain management authority.*
- *To ensure that development maintains the free passage and temporary storage of floodwaters, minimises flood damage, is compatible with the flood hazard and local drainage conditions and will not cause any significant rise in flood level or flow velocity.*
- *To reflect any declaration under Division 4 of Part 10 of the Water Act, 1989 where a declaration has been made.*

- *To protect water quality in accordance with the provisions of relevant State Environment Protection Policies, particularly in accordance with Clauses 33 and 35 of the State Environment Protection Policy (Waters of Victoria).*
- *To ensure that development maintains or improves river and wetland health, waterway protection and flood plain health.*

11.32 It is considered that the proposed subdivision generally complies with and satisfies the objectives of this provision. The proposal was referred to floodplain management authority (i.e. Melbourne Water) who has no objection to the proposal subject to inclusion of conditions on any permit issued.

Particular Provisions

Clause 53.01 – Public Open Space Contribution and Subdivision

11.33 **Clause 52.01** of the Scheme provides:

A person who proposes to subdivide land must make a contribution to the council for public open space in an amount specified in the schedule to this clause (being a percentage of the land intended to be used for residential, industrial or commercial purposes, or a percentage of the site value of such land, or a combination of both). If no amount is specified, a contribution for public open space may still be required under Section 18 of the Subdivision Act 1988 ("SD Act").

11.34 Planning Scheme Amendment C153 was formally approved by the Minister for Planning and came into effect on 26 April 2018. The Amendment introduced public open space contribution rates to all non-exempt subdivisions in **Clause 53.01** of the Kingston Planning Scheme. The public open space rate consists of 8 percent for all land within the Activity Centres, at least 8 percent for Strategic Redevelopment sites and 5 percent on all other land within the municipality. As the approved Amendment now forms part of the Scheme, the following public open space rates are applicable:

- 8% for all land within the Mordialloc and Highett Activity Centres as defined in Clause 22.14 and **Clause 22.11** of the Kingston Planning Scheme;
- 8% for all land within the Moorabbin, Cheltenham and Mentone Activity Centres as defined by the Activity Centre Zone;
- At least 8% for Strategic Redevelopment Sites where there is a rezoning of non-residential land for intensive residential development and the rezoning would create a new community within the redevelopment site (nominally 200 dwellings or more); and
- 5% for all other land within the municipality.

11.35 Pursuant to Section 18(8) of the Subdivisions Act 1988 and Clause 53.01 – Public Open Space Contribution and Subdivision of the Kingston Planning Scheme, this subdivision is not exempt from the requirements of public open space requirements as per following criteria:

- It subdivides land into two (2) lots and the council considers each allotment to be of size that can be further subdivided. The proposed lot size is greater than 4000sq and the land is zoned as industrial 1 Zone allowing for possibility of further subdivision. Accordingly,

a five (5%) percent contribution is recommended in this instance and has been included as a permit condition.

11.36 **Stormwater Management in Urban Development** – Clause 53.18-4 provides the stormwater management objectives for subdivision, which states:

- *To minimise damage to properties and inconvenience to the public from stormwater. To ensure that the street operates adequately during major storm events and provides for public safety.*
- *To minimise increases in stormwater and protect the environmental values and physical characteristics of receiving waters from degradation by stormwater.*
- *To encourage stormwater management that maximises the retention and reuse of stormwater.*
- *To encourage stormwater management that contributes to cooling, local habitat improvements and provision of attractive and enjoyable spaces*

11.37 To satisfy the objectives the application was referred to Council's Development Engineers and Engineering Design Department, who has no objection or requirements for the subdivision application. Further, the conditions provided by Melbourne Water require the design and construction of flood storage works and associated infrastructure, which would be required by way of a Section 173 Agreement registered to the title of the proposed lots.

General Provisions



















11.38 **Clause 65** (Decision Guidelines) state that the Responsible Authority must decide whether the proposal will produce acceptable outcomes in terms of the decision guidelines of this Clause. Specifically, the decision guidelines of Clause 65.02 relating to the approval of an application to subdivide the land are to be considered as appropriate. An assessment of the relevant decision guidelines that have not already been addressed above, is provided as follows:

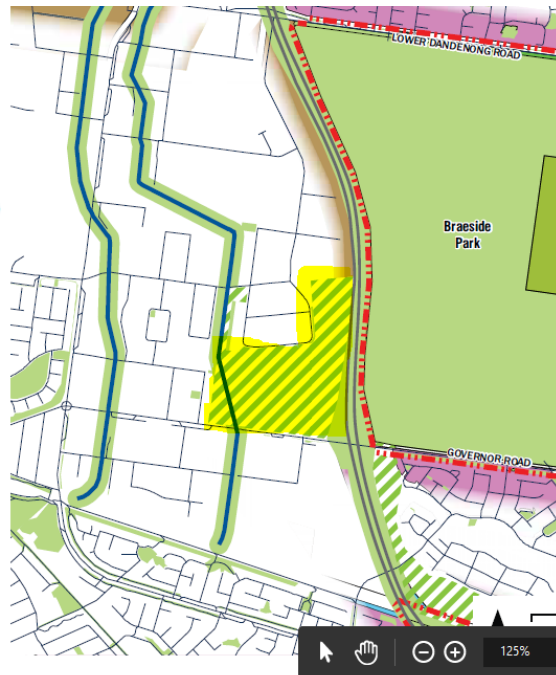
- Both lots have direct frontages to Governor Road and proposed Lot 2 will also have access from Lakewood Boulevard.
- The movement of pedestrians and vehicles throughout the subdivision and the ease of access to all lots.
- Any native vegetation removal will require a separate planning permit including for any future use and development of the created lots.

Other

11.39 **Kingston Green Wedge Management Plan (2012)** is also relevant to the subject site. The Plan identifies the subject site as being a possible inclusion to the Green Wedge as highlighted on the map below:

MAP 5 FUTURE LAND USE

-  Green wedge study area
-  Railway lines & stations
-  Creeks & waterways
- FUTURE LAND USES:**
-  Open space areas, reserves & recreation (refer to Future Environment maps for distinctions)
-  Existing active recreation areas
-  Green wedge low intensity
-  Green wedge intensive
-  Low site coverage commercial
-  Low density residential
-  Residential
-  Transition areas (until 2025)
-  Airport related activities
-  Business activity
-  Industrial activity
-  Proposed freeway / bypass (approximate location)
-  Interface Buffer
-  Possible inclusion in Green Wedge
-  Possible exclusion from Green Wedge



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11.40 Whilst it has been identified for possible inclusion, it is noted that the land remains within an Industrial 1 Zone. The application for subdivision must be considered on its merits with respect to the current zoning of the land. However, as discussed under section 5 of the report, Council has previously expressed interest in purchasing the land from Melbourne Water as part of the First Right of Refusal process. Ultimately, Melbourne Water has signed a contract of sale with a Victorian Government agency for the proposed lot 1. Council has encouraged Melbourne Water for the interested Victorian Government agency to meet with Council Officers to discuss the content of the Kingston Green Wedge Plan and other relevant site and broader contextual planning considerations for this site. Such discussions would reinforce the comments made at 11.26 of this report regarding the importance of a solid landscape response to the sites front on the basis the site were developed in the future.

11.41 Proposed lot 2 (balance of the land) will continue for the long term to be used as part of the 'Woodlands Estate Wetlands' for the service and operational needs of Melbourne Water's drainage and treatment system. This continued non-urban and natural landscaped use is consistent with the broader principles of the Green Wedge.

12.0 GENERAL COMMENTS:

12.1 Subject to appropriate conditions, including the conditions required pursuant to **Clause 66.01-1** of the Kingston Planning Scheme, the proposed subdivision is considered appropriate, and should be supported.

13.0 RECOMMENDATION:

A Planning Permit be issued to **Subdivide the land into Two (2) Lots**, subject to the following conditions:

Endorsed Plans

1. The subdivision as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.

Public Open Space Contribution

2. The applicant or owner must pay to the Responsible Authority an amount equivalent to five per cent (5%) of the site value of all land in the subdivision. This payment must be made within 12 months of the date of this permit, and must be paid before a Statement of Compliance is issued. In the event that payment is not made within 12 months of the date of this permit, Council will request a revaluation of the site value at each anniversary and will vary the amount of the payment accordingly.

Cultural Heritage Management Plan

3. The subdivision hereby approved must be carried out in accordance with the approved Cultural Heritage Management Plan No. 17448 prepared by Ecology & Heritage Partners and approved by the Director Heritage Services, First Peoples – State Relations, acting under authority delegated by the Secretary, Department of Premier and Cabinet on 4 August 2021.

Telecommunications

4. The owner of the land must enter into an agreement with:
 - a) a telecommunications network or service provider for the provision of telecommunication services to each lot shown on the endorsed plan in accordance with the provider's requirements and relevant legislation at the time; and
 - b) a suitably qualified person for the provision of fibre ready telecommunication facilities to each lot shown on the endorsed plan in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.
5. Before the issue of a Statement of Compliance for any stage of the subdivision under the Subdivision Act 1988, the owner of the land must provide written confirmation from:
 - a) a telecommunications network or service provider that all lots are connected to or are ready for connection to telecommunications services in accordance with the provider's requirements and relevant legislation at the time; and
 - b) a suitably qualified person that fibre ready telecommunication facilities have been provided in accordance with any industry specifications or any standards set by the Australian Communications and Media Authority, unless the applicant can demonstrate that the land is in an area where the National Broadband Network will not be provided by optical fibre.

Infrastructure

6. The owner of the land must enter into agreements with the relevant authorities for the provision of water supply, drainage, sewerage facilities, electricity and gas services

to each lot shown on the endorsed plan in accordance with that authority's requirements and relevant legislation at the time.

7. All existing and proposed easements and sites for existing or required utility services and roads on the land must be set aside in the plan of subdivision submitted for Certification in favour of the relevant authority for which the easement or site is to be created.
8. The plan of subdivision submitted for certification under the Subdivision Act 1988 must be referred to the relevant authority in accordance with Section 8 of the Act.

Melbourne Water requirements

9. Prior to the issuing of a Statement of Compliance, the Owner of the Land must enter into an agreement pursuant to Section 173 of the Planning and Environment Act 1987, with the Responsible Authority and Melbourne Water Corporation. All costs associated with the agreement must be borne by the permit holder. The agreement must be registered on the title of the Land and must provide, to the satisfaction of the Responsible Authority and Melbourne Water, for:
 - a) The design and construction of flood storage works and associated infrastructure by the land owner and at the land owner's cost, to the satisfaction of Melbourne Water;
 - b) The design of flood storage works to Melbourne Water's satisfaction prior to formal application for planning approvals, and the construction of flood storage works prior to the commencement of development of the site, and in accordance with an agreement prepared by Melbourne Water;
 - c) Prospective and future owners of the Land to be informed that the Land is subject to inundation, and that a flood storage asset and associated works must be provided at the owners expense; and
 - d) The creation of an easement in favour of Melbourne Water, or transfer or vesting of ownership of the flood storage infrastructure area in Melbourne Water, promptly following Practical Completion of the Works, and at the discretion of Melbourne Water and at no cost to Melbourne Water.

South-East Water

10. **Potable Water**
The owner of the subject land must enter into an agreement with South East Water for the provision of drinking water supply and fulfil all requirements to its satisfaction.
11. **Sewer**
The owner of the subject land must enter into an agreement with South East Water for the provision of sewerage and fulfil all requirements to its satisfaction.

United Energy

12. The plan of subdivision submitted for certification must be referred to United Energy Distribution Pty Ltd in accordance with Section 8 of the Subdivision Act 1988.
13. The applicant must –

- Enter into an agreement with United Energy Distribution Pty Ltd for the extension, upgrading or rearrangement of the electricity supply to lots on the plan of subdivision. A payment to cover the cost of such work will be required.
- Provide electricity easements internal and external to the subdivision in favour of United Energy Distribution Pty Ltd to service the lots on the plan of subdivision and/or abutting lands as required by United Energy Distribution Pty Ltd. The provision of reserves for electricity substations may also be required.

Moorabbin Airport

14. The Site includes noise attenuation measures in compliance with Australian Standard AS 2021– 2015, Acoustics – Aircraft Noise Intrusion – Building Siting and Construction and applying the approved Australian Noise Exposure Forecast for Moorabbin Airport.
15. The sub-division is undertaken in accordance with the requirements of the Airport Environment Overlay and the Moorabbin Airports Environs Policy.
16. The National Airports Safeguarding Framework and Guidelines will be applied in relation to the Development.
17. Contracts of sale to notify new purchasers of the proximity of the site to the Moorabbin Airport and the overhead aviation activities.

Completion of Subdivision

18. Once the subdivision has started it must be continued and completed to the satisfaction of the Responsible Authority.

Expiry

19. This permit as it relates to subdivision will expire if one of the following circumstances applies:
 - a) The plan of subdivision is not certified within two (2) years from the date of this permit.
 - b) The plan of subdivision is not registered within five (5) years of the date of certification.

In accordance with Section 69 of the *Planning and Environment Act 1987*, an application may be submitted to the responsible authority for an extension of the periods referred to in this condition.

Note: The starting of the subdivision is defined as the certification of the plan.

Note: In accordance with the *Planning and Environment Act 1987* and the *Subdivision Act 1988*, there is no provision to grant an extension of time for a certified plan of subdivision.

Note: The allocation of street numbering and addressing of properties is vested in Council. Any reference to addressing or dwelling/unit/apartment and street numbers or street names on any endorsed plan is indicative only. The onus is on

the Permit Applicant/Land Owner to contact Council's Property Data Department to determine the official dwelling/unit/apartment street numbers, street name details and the like for the approved development.

If the Permit Applicant/Land Owner adopts the street numbering or addressing from the endorsed plans, or where advertising and/or sales transact (off the plan) prior to Council's official allocation of the street numbering and addressing, it will be viewed to be non-compliant with the guideline and standard applied (*Australian/New Zealand Standard for Rural & Urban Addressing / AS/NZS 4819:2011*).

Note: The following South East Water agreement options are available:

- 1) Application to enter into a Development Agreement-Works – If South East Water reticulated sewer/water/recycled water (as applicable) is required to be extended to service lots within the development
- 2) Application to enter into an agreement-Non Works – If South East Water reticulated sewer/water/recycled water (as applicable) is available to the development and the owner only requires Statement of Compliance to release the titles (i.e. subdivision prior to building)
- 3) Plumbing Industrial, Commercial, Units & Private Water application – If South East Water reticulated sewer/water/recycled water (as applicable) is available to the development and the owner wishes to commence construction of the building/s (i.e. building prior to subdivision)

To lodge an application please visit South East Water's website.

Note: Prior to the commencement of works, the landowner must determine whether it requires approval from the Secretary of the Department of Infrastructure, Transport, Regional Development and Communications in relation to any construction (including the use of cranes) at the Site, including approval for controlled activities in prescribed airspace pursuant to the *Airports (Protection of Airspace) Regulations 1996 (Cth)*.

Note: The subdivision must be carried out in accordance with the approved Cultural Heritage Management Plan as required by the *Aboriginal Heritage Act 2006*. A copy of the approved CHMP must be held on site during the activity.

Appendices


Appendix 1 - KP-2019/736 - 22 - 60 Lakewood Boulevard, Braeside -
CONSIDERED PLAN (Ref 20/187431) [↓](#)

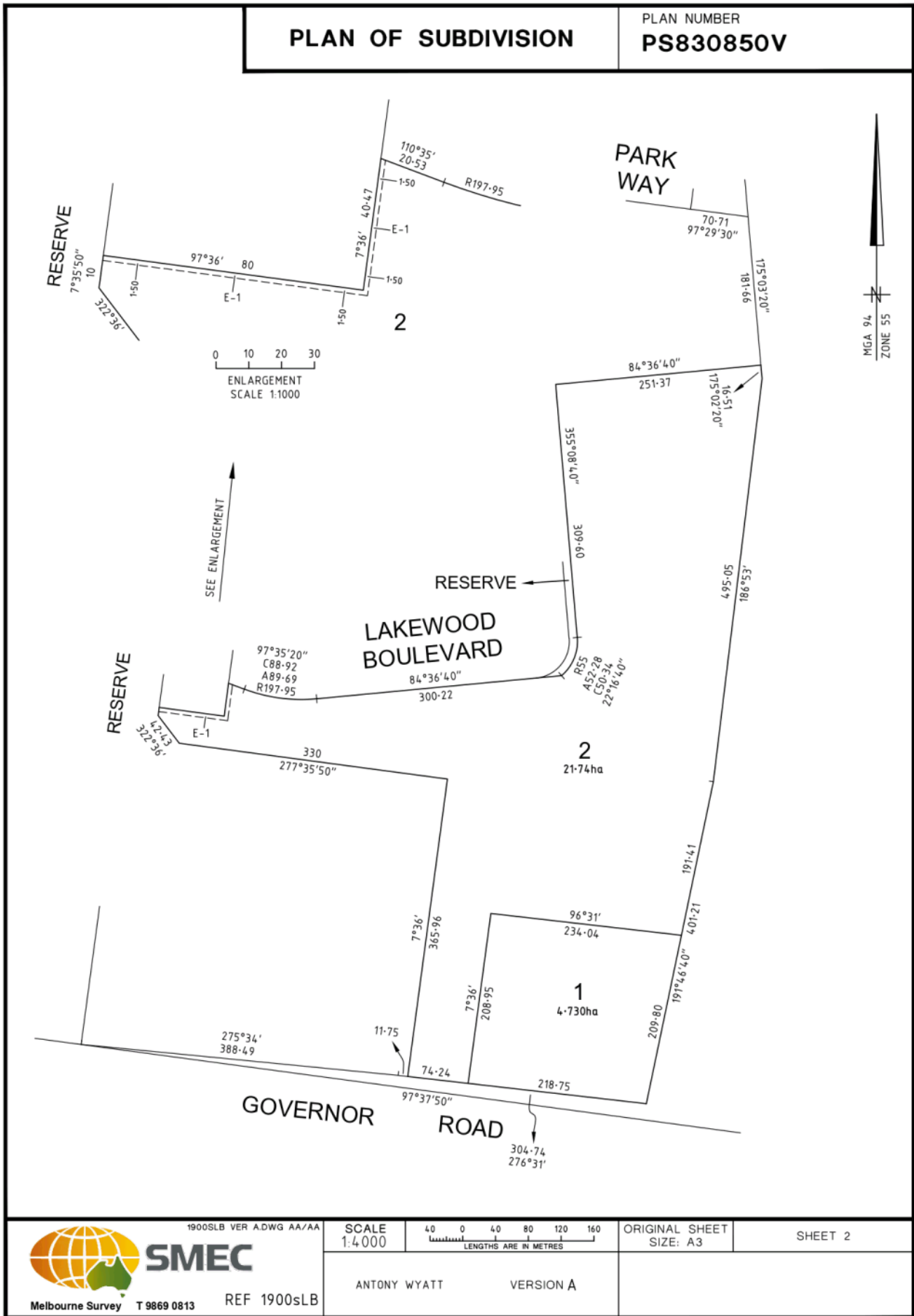
Author/s: Girija Shrestha, Senior Statutory Planner
Reviewed and Approved By: Beau McKenzie, Principal Planner
Alfred Carnovale, Manager City Development

4.4

KP-2019/736 - 22-60 LAKEWOOD BOULEVARD, BRAESIDE

1	KP-2019/736 - 22 - 60 Lakewood Boulevard, Braeside - CONSIDERED PLAN.....	137
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PLAN OF SUBDIVISION		LUV USE ONLY EDITION	PLAN NUMBER PS830850V	
LOCATION OF LAND		COUNCIL NAME: KINGSTON CITY COUNCIL		
<p>PARISH: MORDIALLOC</p> <p>TOWNSHIP: -</p> <p>SECTION: 22</p> <p>CROWN ALLOTMENT: 2(PART)</p> <p>CROWN PORTION: -</p> <p>TITLE REFERENCES: Vol.11286 Fol.263</p> <p>LAST PLAN REFERENCE/S: PS613130U (LOT 2)</p> <p>POSTAL ADDRESS: 22-60 LAKEWOOD BOULEVARD (At time of subdivision) BRAESIDE, 3195</p> <p>MGA94 Co-ordinates E 334 970 (of approx centre of N 5 791 910 land in plan) ZONE 55</p>				
VESTING OF ROADS AND/OR RESERVES		NOTATIONS		
IDENTIFIER	COUNCIL/BODY/PERSON			
NIL	NIL			
NOTATIONS		<p>EASEMENT E-1 HAS BEEN SHOWN AT AN EXAGGERATED POSITION ON SHEET 2 FOR CLARITY PURPOSES.</p> <p>LOT 1 ON THIS PLAN IS A RESULT OF SURVEY.</p> <p>LOT 2 ON THIS PLAN IS NOT BASED ON SURVEY AND ACCORDS WITH TITLE.</p>		
<p>DEPTH LIMITATION DOES NOT APPLY</p> <p>STAGING This is/is-not-a staged subdivision. Planning permit No.</p> <p>SURVEY: THIS PLAN IS/IS NOT BASED ON SURVEY.</p> <p>THIS SURVEY HAS BEEN CONNECTED TO PERMANENT MARKS No(s):</p> <p>PROCLAIMED SURVEY AREA: THIS IS A SPEAR PLAN.</p>				
EASEMENT INFORMATION				
LEGEND A-Appurtenant Easement E-Encumbering Easement R-Encumbering Easement (Road)				
Easement Reference	Purpose	Width (Metres)	Origin	Land Benefited/In Favour Of
E-1	TRANSMISSION OF ELECTRICITY	SEE PLAN	PS417402F (SECTION 44 OF THE ELECTRICITY INDUSTRY ACT 1993)	UNITED ENERGY LIMITED
 <p>1900SLB VER A.DWG AA/AA SMC Melbourne Survey T 9869 0813</p>		SURVEYOR REF: 1900sLB		ORIGINAL SHEET SIZE: A3
		ANTONY WYATT VERSION A		SHEET 1 OF 2



1900SLB VER A.DWG AA/AA

Melbourne Survey T 9869 0813 REF 1900sLB

SCALE 1:4 000

LENGTHS ARE IN METRES

ANTONY WYATT VERSION A

ORIGINAL SHEET SIZE: A3

SHEET 2