

# Agenda

## Planning Committee Meeting

**Wednesday, 19th April 2023**

Commencing at 7.00pm

Council Chamber  
1230 Nepean Highway, Cheltenham

[kingston.vic.gov.au](http://kingston.vic.gov.au)

Peter Bean  
Chief Executive Officer  
Kingston City Council

**City of Kingston  
Planning Committee Meeting**

**Agenda**

**19 April 2023**

**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, 19 April 2023.

**1. Apologies**

**2. Confirmation of Minutes of Previous Meetings**

Minutes of Planning Committee Meeting 14 December 2022

**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 Place Reports**

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**5. Confidential Items**

Nil

## **4. Planning and Place Reports**

## Planning Committee Meeting

19 April 2023

**Agenda Item No: 4.1**

### **TOWN PLANNING APPLICATION DECISIONS - MARCH 2023**

**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 March, 2023.

A summary of the decisions is as follows:

<b>Type of Decision</b>	<b>Number of Decisions Made</b>	<b>Percentage (%)</b>
Planning Permits	62	75
Notice of Decision	8	10
Refusal to Grant a Permit	1	1
Other - Withdrawn (9) - Prohibited (0) - Permit not required (1) - Lapsed (2) - Failure to Determine (0)	12	14
<b>Total</b>	<b>83</b>	<b>100</b>

(NB: Percentage figures have been rounded)

#### **OFFICER RECOMMENDATION**

That the report be noted.

#### **Appendices**

Appendix 1 - Town Planning Application Decisions March 2023 (Ref 23/89418) 

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

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



# **4.1**

## **TOWN PLANNING APPLICATION DECISIONS - MARCH 2023**

<b>1</b>	<b>Town Planning Application Decisions March 2023 .....</b>	<b>9</b>
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Planning Decisions February, 2023							
APPL. No.	PROPERTY ADDRESS	SUBURB	APPL. DATE	DATE DECIDED	PROPOSAL DESCRIPTION	DECISION	VCAT DECISION
KP-2013/648/B	Gnd Floor 14-16 Station Street	MOORABBIN	14/11/2022	1/03/2023	To develop the land for the construction of façade alterations, to use the land for a tavern (in association with the existing bottle shop), and the sale and consumption of liquor (general licence) and a reduction in the car parking requirements pursuant to Clause 52.06.	Permit	No
KP-2023/91	73-85 Carroll Road	OAKLEIGH SOUTH	21/02/2023	2/03/2023	Subdivide the land into two (2) lots	Permit	No
KP-2023/32	1 10 Haldane Street	BONBEACH	30/01/2023	2/03/2023	Construction of shed in front yard	Withdrawn	No
KP-2013/479/A	Unit 1 76 Turner Road	HIGHETT	25/07/2022	2/03/2023	Develop the Land for the One (1) Dwelling to the rear of an existing Dwelling	Lapsed	No
KP-2023/99	54 Rae Avenue	EDITHVALE	27/02/2023	3/03/2023	Subdivide the land into two (2) lots	Permit	No
KP-2022/738	4 140 Fairbank Road	CLAYTON SOUTH	21/02/2023	3/03/2023	The construction of a mezzanine level and a reduction in the car parking requirement associated with a warehouse	Permit	No
KP-2022/526	9 Camdale Street	CLARINDA	8/08/2022	3/03/2023	The construction of two (2) double storey dwellings	Permit	No
KP-2022/568	10 Gainsborough Road	MENTONE	24/08/2022	3/03/2023	The construction of two (2) double storey dwellings	Permit	No
KP-2023/6	38 Second Street	PARKDALE	9/01/2023	6/03/2023	Subdivide the land into two (2) lots	Permit	No
KP-2022/331	37-53 Whiteside Road	CLAYTON SOUTH	16/05/2022	6/03/2023	The use and development of the land for a warehouse including an extension to an existing building and	Notice of Decision	No

					a reduction in the car parking requirements		
KP-2022/621	44 Acacia Avenue	MENTONE	14/09/2022	6/03/2023	Develop the land for the construction of one (1) dwelling to the rear of the existing and extend and alter the existing dwelling	Permit	No
KP-2018/262/B	126 Como Parade West	PARKDALE	10/10/2022	6/03/2023	Develop the land for the construction of seven (7) double storey dwellings and waiver of visitor space requirements	Permit	No
KP-2022/193/A	128-134 Bay Trail	PARKDALE	13/12/2022	6/03/2023	Removal of native vegetation and to create and alter access to a Transport Zone 2	Permit	No
KP-2022/597	213 Chesterville Road	MOORABBIN	2/09/2022	6/03/2023	Use and development of the land for Warehouses and Restricted Retail Premises, variation to the car parking requirement pursuant to Clause 52.06, alterations/creation of access to road in a Transport 2 Zone, display of externally illuminated and non-illuminated business identification signage and as	Permit	No
KP-2021/869	31A Marcus Road	DINGLEY VILLAGE	9/12/2021	6/03/2023	A reduction in the car parking requirement associated with a child care centre and the pruning of native vegetation	Permit	No
KP-2023/2	4 Jarrah Drive	BRAESIDE	3/01/2023	6/03/2023	The use of the land for an indoor recreation facility	Permit	No
KP-1995/188/A	524-528 Main Street	MORDIALLOC	26/07/2022	7/03/2023	Alterations and additions to convert the existing hotel into a social club with ancillary gaming rooms	Notice of Decision	No
KP-2022/676	22 Sea Parade	MENTONE	13/10/2022	8/03/2023	Proposed Buildings and Works for residential dual occupancy development	Withdrawn	No
KP-2022/156	59 Station Street	ASPENDALE	15/03/2022	8/03/2023	Development of the land for two (2) dwellings	Refused	No

KP-2021/734	1026 Nepean Highway	MOORABBIN	22/10/2021	9/03/2023	Use and develop the land for a child care centre and to create access to a road in a Transport Zone 2	Notice of Decision	No
KP-2022/60	71 Catherine Avenue	CHELSEA	2/02/2022	9/03/2023	To use the land as a place of assembly (Men's Shed) and a reduction in the car parking requirement	Permit	No
KP-2023/67	3 Dactyl Road	MOORABBIN	14/02/2023	10/03/2023	Subdivide the Land into Two (2) Lots	Permit	No
KP-2022/608	16 Meppel Drive	CLAYTON SOUTH	9/09/2022	10/03/2023	The construction of two (2) double storey dwellings	Permit	No
KP-2022/609	57 Jacks Avenue	DINGLEY VILLAGE	9/09/2022	10/03/2023	The construction of two (2) double storey dwellings	Permit	No
KP-2009/316/A	16 Berry Avenue	EDITHVALE	24/05/2022	10/03/2023	The development of this site for two (2) dwellings	Permit	No
KP-2022/754	62 Mills Road	BRAESIDE	7/03/2023	14/03/2023	The construction of a mezzanine level in the existing warehouse	Permit	No
KP-2022/649	75 Glenola Road	CHELSEA	29/09/2022	14/03/2023	Construction of two (2) dwellings	Permit	No
KP-2023/64	74 Blackwood Avenue	MENTONE	6/03/2023	14/03/2023	The construction of a garage associated with the existing dwelling in the Special Building Overlay	Permit	No
KP-2022/644	26 Mena Avenue	CHELTENHAM	26/09/2022	15/03/2023	The construction of two (2) double storey dwellings	Notice of Decision	No
KP-2022/605	1 Wellwood Road	BONBEACH	7/09/2022	15/03/2023	The construction of three (3) double storey dwellings	Permit	No
KP-2018/944/B	10 Wingrove Street	CHELTENHAM	9/02/2023	15/03/2023	The development of two (2) dwellings	Permit	No
KP-2022/334	33 Sandford Street	HIGHETT	8/09/2022	15/03/2023	The development of two (2) double storey dwellings	Withdrawn	No
KP-2023/28	28 Melaleuca Drive	CARRUM	7/02/2023	15/03/2023	The construction of a ground floor extension to the existing dwelling in the Special Building Overlay	Permit	No
KP-2022/321	13 Acacia Avenue	MENTONE	12/05/2022	15/03/2023	Develop the land for two (2) dwellings	Permit	No
KP-2022/626	5 Henry Street	HIGHETT	15/09/2022	16/03/2023	The construction of two (2) double storey dwellings	Permit	No

KP-2022/735	33 Bevan Avenue	CLAYTON SOUTH	12/11/2022	16/03/2023	The construction of four (4) dwellings (three double storey and one single storey)	Permit	No
KP-2022/642	44-46 Thames Promenade	CHELSEA	27/09/2022	16/03/2023	Use and development of land for a Child Care Centre	Permit	No
KP-2022/91	42 Fiddes Street	MOORABBIN	16/02/2022	16/03/2023	The development of two (2) dwellings and associated works in accordance with the endorsed plans	Permit	Yes
KP-2021/741	3 Hallinan Court	CHELTENHAM	25/10/2021	17/03/2023	The development of three (3) dwellings	Permit	No
KP-2022/544	19 Ti Tree Avenue	BONBEACH	22/08/2022	17/03/2023	Alterations to the existing dwelling and construction of a second dwelling	Permit	No
KP-2022/418	16 Barbara Street	MOORABBIN	22/06/2022	17/03/2023	The construction of two (2) double storey dwellings and removal of an easement	Notice of Decision	No
KP-2022/572	52 Marrbridge Road	MOORABBIN	25/08/2022	17/03/2023	The construction of four (4) double storey dwellings	Notice of Decision	No
KP-2023/108	30A Frank Avenue	CLAYTON SOUTH	7/03/2023	17/03/2023	Subdivide the Land into Two (2) Lots	Permit	No
KP-2012/456/B	15 Elsie Grove	EDITHVALE	18/01/2023	17/03/2023	Develop the land for a ground floor extension to the existing dwelling and the construction of one (1) dwelling to the rear	Withdrawn	No
KP-2021/925	89 Berry Avenue	EDITHVALE	22/12/2021	20/03/2023	Development of four (4) double storey dwellings	Permit	No
KP-2023/83	51 Lochiel Avenue	EDITHVALE	16/02/2023	20/03/2023	Installation of Pool & Safety barriers	Withdrawn	No
KP-2023/24	8 Bay Street	MORDIALLOC	23/01/2023	20/03/2023	Subdivide the land into two (2) lots	Permit	No
KP-2023/93	23 1 Kingston Road	HEATHERTON	8/03/2023	20/03/2023	The construction of a mezzanine level in the existing warehouse building	Permit	No
KP-2023/22	Unit 3 65 Broadway	BONBEACH	20/01/2023	21/03/2023	Install a Vergola.	Withdrawn	No

KP-2023/58	17 Ester Crescent	CLAYTON SOUTH	7/03/2023	21/03/2023	The construction of one (1) double storey dwelling in the Special Building Overlay	Permit	No
KP-2023/120	31 Heslop Street	PARKDALE	15/03/2023	21/03/2023	Installation of a promotion sign for Parkdale Preschool, in the carpark adjoining Heslop Street.	Permit Not Required	No
KP-2022/53	2 Foy Avenue	CHELSEA	3/02/2022	21/03/2023	The development of three (3) dwellings	Permit	No
KP-2022/777	14 Ivy Street	PARKDALE	5/12/2022	21/03/2023	Construction of two (2) dwellings	Permit	No
KP-2023/113	17 Bridges Avenue	EDITHVALE	8/03/2023	21/03/2023	Subdivide the land into two (2) lots	Permit	No
KP-2022/679	16 Ruvina Street	ASPENDALE	14/10/2022	21/03/2023	Construction of two (2) dwellings	Notice of Decision	No
KP-2022/696	27 Carnoustie Parade	HEATHERTON	25/10/2022	23/03/2023	The construction of a ground floor extension to the existing dwelling	Permit	No
KP-2022/823	2 364 Highett Road	HIGHETT	21/12/2022	23/03/2023	Display one (1) promotional sign	Permit	No
KP-2023/119	3 26-28 Shearson Crescent	MENTONE	10/03/2023	23/03/2023	The construction of a mezzanine level in the existing warehouse and a reduction in the car parking requirement	Permit	No
KP-2022/271	2 Helm Street	ASPENDALE	27/04/2022	23/03/2023	The development of four (4) dwellings	Permit	No
KP-2002/217/A	4 184 Nepean Highway	ASPENDALE	6/09/2022	23/03/2023	The development of this site for four (4) dwellings and the removal of an existing restrictive covenant, in accordance with the endorsed plans	Permit	No
KP-2016/124/B	1233 Nepean Highway	HIGHETT	24/10/2022	24/03/2023	In accordance with the endorsed plans  Develop and use the land for retail premises Develop the land for multiple dwellings Reduce car parking requirements Waive loading requirements	Permit	Yes

					Create and remove easements Alter access to a Road Zone category 1 Construct buildings and works within a Special Bui		
KP-2022/307/A	77 Rae Avenue	EDITHVALE	7/02/2023	24/03/2023	The construction of a double storey dwelling on land within a Special Building Overlay	Permit	No
KP-2013/644/C	Unit 1 29 Follett Road	CHELTENHAM	18/11/2022	27/03/2023	Develop the Land for the Construction of Alterations to an Existing Dwelling and Construction of One (1) Single Storey Dwelling to the rear of an existing dwelling on land affected by a Special Building Overlay	Permit	No
KP-2016/638/A	Level 1 14-16 Station Street	MOORABBIN	14/11/2022	27/03/2023	Use of land for an indoor recreation facility (fitness studio) and a waiver to the bicycle parking requirements under Clause 52.34 of the Kingston Planning Scheme	Permit	No
KP-2023/105	13-15 Joel Court	MOORABBIN	14/03/2023	27/03/2023	The construction of two (2) sun shelters and an expansion of the car parking area	Permit	No
KP-2020/38/B	976 Centre Road	OAKLEIGH SOUTH	1/12/2022	28/03/2023	The development of two (2) dwellings and to create access to a road in a Road Zone Category 1	Permit	No
KP-2020/298	62 Main Road	CLAYTON SOUTH	1/06/2020	28/03/2023	Development of two (2) dwellings and associated works in accordance with the endorsed plans	Permit	No
KP-2019/782	663 Nepean Highway	CARRUM	10/12/2019	28/03/2023	The development of a second dwelling (to the front of an existing), with associated alterations and additions to the existing dwelling	Permit	No
KP-2023/136	3 Narooma Street	MOORABBIN	21/03/2023	28/03/2023	Subdivide the land into two (2) lots	Permit	No

KP-2022/507	267-269 Boundary Road	MORDIALLOC	1/08/2022	29/03/2023	The development of four (4) warehouses to the front of an existing warehouse in the Land Subject to Inundation Overlay, a reduction to the car parking requirements of Clause 52.06 and alter access to a road in a Transport Zone 2	Permit	No
KP-2022/705	5 587 Nepean Highway	BONBEACH	28/10/2022	29/03/2023	Alterations and additions to an existing dwelling	Withdrawn	No
KP-2016/748/A	3A Hicks Street	PARKDALE	21/02/2023	29/03/2023	Develop the land for the construction of two (2) dwellings	Withdrawn	No
KP-2023/130	17 Meribah Court	PARKDALE	17/03/2023	30/03/2023	The construction of one (1) double story dwelling in the Special Building Overlay	Permit	No
KP-2022/275	42 Parkers Road	PARKDALE	28/04/2022	30/03/2023	The construction of two (2) double storey dwellings	Permit	No
KP-2015/803/B	15 Southern Road	MENTONE	16/12/2022	30/03/2023	Develop the land for the construction of two (2) dwellings on a lot within a Special Building Overlay and subdivide the land into two (2) lots	Permit	No
KP-2023/77	12 Showers Avenue	CHELSEA	15/02/2023	30/03/2023	To construct a dwelling on land affected by the Design & Development Overlay - Schedule 1, with an internal storey greater than 3.5m	Permit	No
KP-2022/439	22 Crawford Road	CLARINDA	4/07/2022	30/03/2023	The construction of two (2) double storey dwellings	Permit	No
KP-2008/484/B	Unit 3 65 Broadway	BONBEACH	21/03/2023	30/03/2023	The development of this site for four (4) dwellings, in accordance with plans to be submitted pursuant to Condition 1 hereof:	Permit	No
KP-2016/159/A	590 Main Street	MORDIALLOC	11/09/2020	30/03/2023	Partial demolition of an existing building, develop the land for the construction of buildings and works,	Permit	No



					use the land for the sale and consumption of liquor, display of advertising signage, waiver of car parking and loading bay requirements and reduction of the bicycle facility requirements		
KP-2007/45/B	2 Springvale Road	ASPENDALE GARDENS	28/10/2022	31/03/2023	The use and development of the site for a car wash and convenience restaurant, alter access to a road in a Transport Zone 2, display of business identification and internally illuminated business identification signage and associated works in accordance with the endorsed plans	Notice of Decision	No
KP-2023/37	8 Moore Avenue	CLAYTON SOUTH	31/01/2023	31/03/2023	Subdivide the land into four (4) lots	Permit	No
KP-2022/558	40 Redwood Drive	DINGLEY VILLAGE	23/08/2022	31/03/2023	Section 24A Plan - Removal of Reserve Status	Withdrawn	No
KP-2016/842/A	12 Ronald Street	MOORABBIN	30/01/2023	31/03/2023	Develop the land for the construction of two (2) dwellings	Lapsed	No

## Planning Committee Meeting

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**Agenda Item No: 4.2**

### **KP-2022/669 - SCOTCH PARADE, CHELSEA**

**Contact Officer: Rochelle Reinhardt, Senior Statutory Planner**

#### **Purpose of Report**

This report is for the Planning Committee to consider Planning Permit Application No. KP-2022/669 - Scotch Parade, Chelsea.

#### **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 for the Removal of the reserve status and easements from the drainage reserve no.1 on plan of subdivision LP8882 and the drainage reserve and reserve on plan of subdivision LP5727, creation of easements E-1 and E-2 and subdivision of the land in accordance with the endorsed plans at Scotch Parade, Chelsea, subject to the conditions contained within this report.

This application requires a decision by the Planning Committee as the Kingston City Council is the permit applicant.

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EXECUTIVE SUMMARY			
Address	Scotch Parade, Chelsea		
Legal Description	Reserve 1 on PS 008882 Lot 1 on TP 867914A		
Applicant	Kingston City Council c/o Millar & Merrigan Pty Ltd		
Planning Officer	Rochelle Reinhardt		
PLANNING REQUIREMENTS			
Planning Scheme	Kingston		
Zoning	Clause 32.08 – General Residential 3 Zone Clause 36.02 – Public Park and Recreation Zone		
Overlays	Clause 44.04 – Land Subject to Inundation		
Particular Provisions	Clause 52.02 – Easements, Restrictions and Reserves Clause 53.01 – Public Open Space Contribution Clause 56 – Subdivision		
Permit Trigger/s	Clause 32.08 – 3 – To subdivide land (GRZ3) Clause 36.02 – 2 – To subdivide land (PPRZ) Clause 44.04 – 3 – To subdivide land (LSIO) Clause 52.02 – To create, vary or remove an easement		
APPLICATION / PROCESS			
Proposal	Removal of the reserve status and easements from the drainage reserve no.1 on plan of subdivision LP8882 and the drainage reserve and reserve on plan of subdivision LP5727, creation of easements E-1 and E-2 and subdivision of the land in accordance with the endorsed plans		
Reference No.	KP-2022/669	RFI Received	2 December 2022
App. Received	11 October 2022	App. Amended	N/A
Site inspection	No		
S.52 Advertising	Commenced: 10 January 2023	Advertising Completed	30 January 2023
S.55 Referrals	Melbourne Water, South East Water, United Energy & Multinet Gas		
Internal referrals	Development Engineer		
Objection(s)	Sixty six (66) with one (1) withdrawn (TRIM checked on 9 March 2023)		
Vegetation	Trees > 8m      Yes	No. of Trees to be removed (circumference 110cm)	Nil
LEGISLATIVE			
Covenant/other Restriction	No	Complies: N/A	
Aboriginal Cultural Sensitivity Area	Yes	CHMP	Exempt
Considered Plans	Millar Merrigan, Plan of Subdivision, Sheet 1 to 4 (inclusive), Version 3, dated 16 August 2022		

**1.0 RELEVANT LAND HISTORY**

1.1 There are no recent planning decisions relevant to the assessment of this application.

**2.0 SITE PARTICULARS**

2.1 The images below illustrate the subject site from a streetscape perspective.



Image 1: View of the laneway/drainage reserve aligning the side boundaries of no. 75 Sherwood Avenue and Unit 3 of 90 Catherine Avenue, looking south-west from Scotch Parade. Source: Google Street View, October 2019

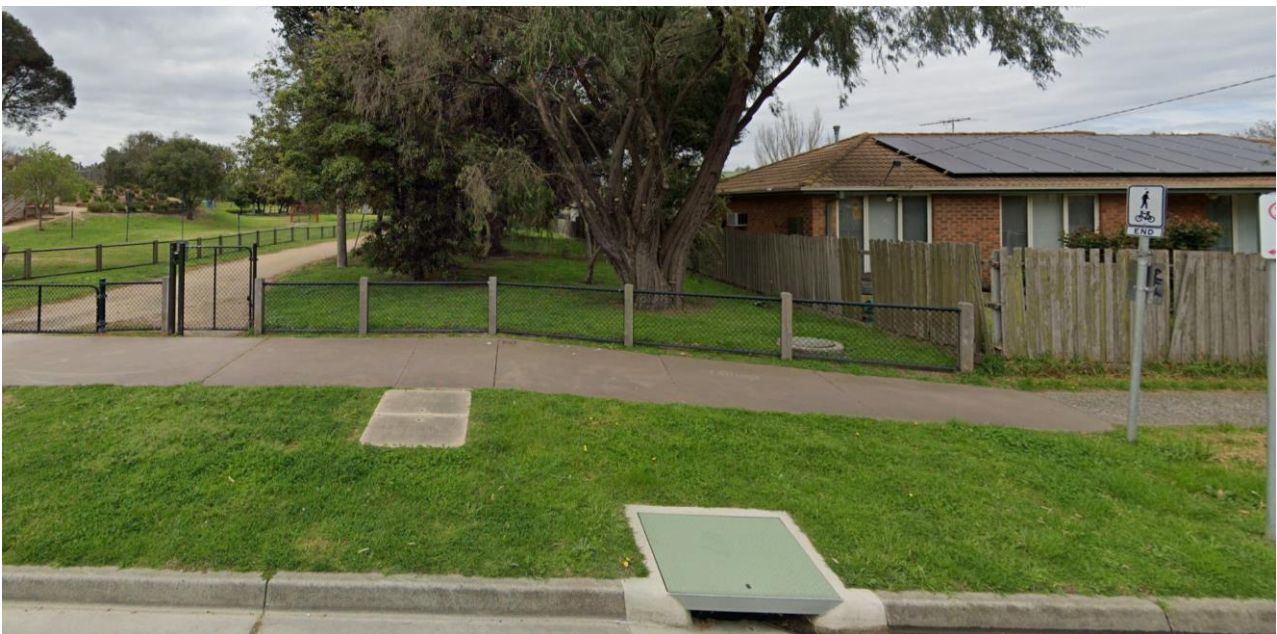


Image 2: View of a pathway leading into Bicentennial Park and drainage reserve aligning the side boundary of 1 Scotch Parade, looking north-east from Scotch Parade. Source: Google Street View, October 2019





Image 3: Aerial image of the south-western section of the subject site. Source: Nearmap, December 2022



Image 4: Aerial image of the central section of the subject site. Source: Nearmap, December 2022





Image 5: Aerial image of the north-eastern section of the subject site. Source: Nearmap, December 2022

<b>Allotment placement</b>	<p>The subject site is reserve land located at the rear of no. 45 to 75 Sherwood Avenue, beside 17 Beardsworth Avenue, at the rear of no. 76 to 90 Catherine Avenue and forms part of Bicentennial Park at the rear/side of 1 Scotch Parade and 79 to 85 Sherwood Avenue, as shown in the images above.</p> <p>It is noted that the subject site forms part of two plans of subdivision (PS 8882 and PS 5727). Due to this, the site is separated by a hiatus (a section of land between two plans of subdivision) which does not form part of the subject land. This matter is discussed in more detail in the following sections of this report.</p>		
<b>Size (m<sup>2</sup>)</b>	3175sqm	<b>Dimensions</b>	<p>Width: Ranges from 3.05m to 7.45m including the hiatus</p> <p>Length: Approx. 800m</p>
<b>Built form</b>	<p>Existing conditions of the subject site include the following:</p> <ul style="list-style-type: none"> <li>• Part of an existing laneway at the rear of no. 45 to 57 Sherwood Avenue/a section of Beardsworth Avenue</li> <li>• Areas of land used for private open space at the rear/side of no. 17 Beardsworth Avenue, no. 59 to 69 Sherwood Avenue and no. 76 to 82 Catherine Avenue</li> <li>• A laneway at the rear/side of no. 84 to 88 Catherine Avenue, Unit 3 of no. 90 Catherine Avenue and no. 71 to 75 Sherwood Avenue</li> <li>• A section of Scotch Parade</li> </ul>		



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	<ul style="list-style-type: none"> <li>A portion of Bicentennial Park situated at the rear/side of no. 1 Scotch Parade and no. 79 to 85 Sherwood Avenue and extending to the north-west</li> </ul>
<b>Topography</b>	The land has a slight slope of 1 metre that falls from both sides (east and west) of the site towards the centre near Scotch Parade.
<b>Fencing</b>	Fencing has been erected around sections of the subject site which now form part of the areas of private open space detailed above.
<b>Vegetation</b>	Scattered trees and understorey vegetation exist within the rear areas of private open space and Bicentennial Park.
<b>Easement Reserve</b>	Majority of the subject site is classified as a Reserve/Drainage Reserve and part of the land is affected by a 3.96m wide E-3 easement.
<b>Covenant(s) Restrictions</b>	There are no restrictions listed on the Certificate of Title.

### 3.0 SURROUNDING LAND

3.1 The following aerial image illustrates the subject site in its surrounding context.



Image 6: Source: Nearmap, December 2022.

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- 3.2 The surrounding area includes residential and public park zoned land. The land generally comprises public parks and reserves as well as detached dwellings and multi-unit development.

**4.0 PROPOSAL**

- 4.1 It is proposed to vest the subject land in the Kingston City Council.
- 4.2 The proposal also includes the removal of the reserve status and easements from the drainage reserve no.1 on plan of subdivision LP8882 and the drainage reserve and reserve on plan of subdivision LP5727 and the creation of easements E-1 and E-2 for the purpose of drainage and sewerage.
- 4.3 Furthermore, the proposal also includes the subdivision of the subject land into lots 1-11 (of less than 100sqm each), roads R1, R2, R3 and R4 and reserve no. 1 (portion of land within Bicentennial Park) as detailed below:

- Road R1 is proposed to form part of the existing laneway at the rear of no. 45 to 57 Sherwood Avenue/a section of Beardsworth Avenue
- The areas of land used for private open space at the rear/side of private properties are proposed to be subdivided into the lots listed below:
  - Lot 1 beside no. 17 Beardsworth Avenue
  - Lot 2 at the rear of no. 76 Catherine Avenue
  - Lot 3 at the rear of no. 78 Catherine Avenue
  - Lot 4 at the rear of no. 80 Catherine Avenue
  - Lot 5 at the rear of no. 82 Catherine Avenue
  - Lot 6 at the rear of no. 59 Sherwood Avenue
  - Lot 7 at the rear of no. 61 Sherwood Avenue
  - Lot 8 at the rear of no. 65 Sherwood Avenue
  - Lot 9 at the rear of no. 67 Sherwood Avenue
  - Lot 10 at the rear of no. 67A Sherwood Avenue
  - Lot 11 at the rear of no. 69 Sherwood Avenue

The boundary location of each new lot is proposed to align with the existing fence location.

- Road R2 and R3 are proposed to form the existing laneway at the rear/side of no. 84 to 88 Catherine Avenue, Unit 3 of no. 90 Catherine Avenue and no. 71 to 75 Sherwood Avenue
- Road R4 is proposed to form the section of Scotch Parade



- Reserve No. 1 is proposed to form the portion of Bicentennial Park situated at the rear/side of no. 1 Scotch Parade and no. 79 to 85 Sherwood Avenue and extending to the north-west

4.4 No changes are proposed to the existing physical features of the land.

## **5.0 PLANNING PERMIT PROVISIONS**

### **Zone**

- 5.1 A planning permit is required to subdivide land pursuant to **Clause 32.08-3** (General Residential Zone) of the Kingston Planning Scheme.
- 5.2 A planning permit is required to subdivide land pursuant to **Clause 36.02-2** (Public Park and Recreation Zone) of the Kingston Planning Scheme.

### **Overlays**

- 5.3 A planning permit is required to subdivide land pursuant to **Clause 44.04-3** (Land Subject to Inundation Overlay) of the Kingston Planning Scheme.

### **Particular Provisions**

- 5.4 A planning permit is required to create, vary or remove an easement or restriction pursuant to **Clause 52.02** (Easements, Restrictions and Reserves) of the Kingston Planning Scheme.

### **General Provisions**

- 5.5 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.

## **6.0 RELEVANT POLICIES**

### **Planning Policy Framework (PPF)**

Clause 11	Settlement
Clause 13	Environmental Risks and Amenity
Clause 15	Built Environment and Heritage
Clause 19	Infrastructure

### **Other**

Council's Open Space Strategy – Open Space Strategy Evaluation – City of Kingston (updated 2012)

## **7.0 REFERRALS**

### **External Referrals**

- 7.1 The application was referred to the following external authorities pursuant to Section 55 of the *Planning and Environment Act 1987*.

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Department	Section 52/55	Determining / Recommending	Objection	Comments
Melbourne Water	55	Determining	No	No comments
United Energy	55	Determining	No	No comments
South East Water	55	Determining	No	Subject to conditions included verbatim within the recommendation section of this report.
Multinet Gas	55	Determining	No	No comments

**Internal Referrals**

7.2 The application was referred to the following Council departments for comment:

Department / Area	Comments / Rationale / Recommended Conditions
Development Engineer	No objection raised and no conditions required.

**8.0 ADVERTISING**

8.1 The proposal was advertised by sending notices to the surrounding property owners and occupiers highlighted in red on the map below. No sign was erected due to the nature of the proposal. Sixty-six (66) objections to the proposal were received with one (1) being withdrawn.



8.2 The majority of the objections were received prior to the application being advertising due to an error in the addressing of the land when the application was lodged. These objections included comments which do not relate to the proposal such as concerns about traffic congestion, loss of the park land and anti-development/overdevelopment.

8.3 A customised acknowledgement letter was sent to each of these objectors providing detailed information about the proposal. One (1) objection was withdrawn.

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- 8.4 The valid grounds of objections raised are summarised as follows:
- Private land owners already have rights to the land by way of adverse possession and this application will mean they can no longer claim
  - Assumed land was already privately owned
  - Loss of access to the land if not able to/in a position to purchase the land financially
  - Unclear if the proposed boundaries align with the fence locations
  - Poor engagement about the proposal & couldn't access the information online
  - Seeking more information
- 8.5 The following objections raised, whilst relating to the proposal, are not valid planning considerations:
- It is not clear what Council's plan is with the land i.e. sell
  - Private land owners should not have to purchase the land
- 8.6 Pursuant to **Clause 52.31-2** (Local Government Projects – Exemption from notice and review), an application to develop land (definition of development includes subdivision) by or on behalf of a municipal council 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.
- 8.7 Whilst the parts of the planning permit application triggered under **Clause 52.02** (Easements, Restrictions and Reserves) did require advertising, it is noted that any parts of the application relating to subdivision did not require advertising.
- 8.8 Therefore, any objections relating to the subdivision matters will not be considered or form part of this recommendation and cannot be appealed to the Victoria Civil and Administrative Tribunal (VCAT).
- 9.0 PLANNING CONSULTATION MEETING**
- 9.1 A planning consultation meeting was held on Tuesday 7 March 2023 with the relevant Planning Officer, the Permit Applicant (Council's Property Officers) and five (5) objectors in attendance. The above-mentioned issues were discussed.
- 9.2 The above concerns were unable to be resolved at the meeting, and the objections still stand.
- 9.3 In regard to the concerns raised at the meeting which are not valid planning considerations, Council's Property Officers noted that further information would be passed onto the objectors in attendance following the meeting relating to Council's Discontinuance and Sale Policy. The details of the objectors in attendance were passed onto the property team following the meeting to allow for this information to be passed on without the involvement of Council's Planning Officers.
- 9.4 Furthermore, it is noted that questions were raised at the planning consultation meeting about what type of buildings and works may occur within the proposed easement. An email was sent to the objectors who attended the meeting (sent on 15 March 2023) noting that should the application be supported, and the easements E-1 and E-2 be created, if a structure was proposed to be built over the easement within the proposed lots 1 to 11 (inclusive) today, a Report and Consent to build over the easement would be required from Council for easement E-1 (affecting proposed lots 1 to 5, inclusive) or from Council and South East Water for easement E-2 (affecting lots 3 and 6 to 11, inclusive). Should a Report and Consent application be submitted to Council, it would be a case-by-case assessment process, but it is likely Council would support a structure built over the easement if it is non-

habitable (i.e. shed, carport or pergola etc). Separate approval would be required from South East Water where necessary.

**10.0 SECTION 50 / 50A / 57A – AMENDMENT TO PLANS**

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

**11.0 PLANNING CONSIDERATIONS**

**Planning Policy Framework**

11.1 The Planning Policy Framework sets out the relevant state-wide policies for residential development at **Clause 11** (Settlement), **Clause 13** (Environmental Risks and Amenity), **Clause 15** (Built Environment and Heritage) and **Clause 19** (Infrastructure). 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).

11.2 The settlement policies at **Clause 11** seek to promote sustainable growth and development and deliver choice and opportunity through a network of settlements. **Clause 11.02** (Managing Growth) main directive is to ensure a sufficient supply of land is made available for a variety of purposes, including residential. **Clause 11.02-1S** (Supply of urban land) 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 13** (Environmental Risks and Amenity), in particular **Clause 13.03-1S** (Floodplain Management), aims to ensure that planning strengthens the resilience and safety of communities by adopting a best practice environmental management and risk management approach which aims to identify, prevent and minimise the risk of harm to the environment, human health and amenity. Furthermore, the policy aims to ensure that development and risk mitigation does not detrimentally interfere with the important natural process as well as preparing for and responding to the impacts of climate change.

11.4 **Clause 15** (Built Environment and Heritage) aims to ensure the role of urban design, building design, heritage and energy and resource efficiency in delivering liveable and sustainable cities, towns and neighbourhoods.

11.5 **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 is also to provide a range of lot sizes to suit a variety of dwelling and household types to meet the needs and aspirations of different groups of people.

11.6 **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 Permit Applicant has completed the Aboriginal Heritage Planning Tool on the Department of Planning and Community Development (DPCD) website and established that the proposed activity is

**exempt** from requiring a Cultural Heritage Management Plan pursuant to Regulation 49 (subdivision of land).

- 11.7 **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 domestic wastewater within the boundaries of each lot.
- 11.8 The public open space contributions policy at **Clause 19.02-6L-02** is applicable to all subdivision applications and identifies the desired way (i.e. financial payment or land contribution) in which Council will accept and use public open space contributions. Map 1 of this policy identifies the areas within Kingston where land contributions are preferred and similarly where cash contributions are preferred, and is to be used in conjunction with the required rates set out in the Schedule to **Clause 53.01** (Public Open Space Contribution and Subdivision) of the Scheme. This policy is further elaborated on in later sections of this report.
- 11.9 It is submitted that the proposal satisfies the aforementioned State strategies and policy direction. Specifically, the subject site is located on land earmarked for residential and recreation purposes. The proposed changes to the plan of subdivision are an improvement and modernisation of the existing title conditions which affect the land. The proposal will not result in changes to the existing physical conditions of the land, therefore, there is no change to the way the land is used. Furthermore, the proposal also maintains the provision of services (stormwater and drainage) and access where required to comply with the PPF.

### **Zoning Provisions**

- 11.10 The western portion of the subject site is located in the General Residential Zone and the eastern portion of the subject site is located in the Public Park and Recreation Zone. The relevant purposes of the Zones are:
- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
  - *To encourage a diversity of housing types and housing growth particularly in locations offering good access to services and transport.*
  - *To recognise areas for public recreation and open space.*
  - *To protect and conserve areas of significance where appropriate.*
- 11.11 In regards to the portion of the subject site which is proposed to be subdivided into residential lots, pursuant to **Clause 32.08-3** (General Residential Zone) of the Kingston Planning Scheme, an application to subdivide land where each lot contains an existing dwelling or car parking space is exempt from an assessment under **Clause 56** (Subdivision) of the Kingston Planning Scheme. In the case of this application, given that the proposed residential lots are currently being used for private open space adjoining existing dwellings, the provisions of Clause 56 do not apply.
- 11.12 The intended purpose of the proposed subdivision (i.e. to create lots, roads or reserve) will align with way the land is currently used (residential dwelling, road or park land). Furthermore, the title boundaries are proposed to align with existing fence locations. Therefore, this change to the plan of subdivision will maintain the existing use of the land without altering the existing physical conditions of the land, which aligns with the purposes of the zones i.e. to provide land for residential and recreation purposes.
- 11.13 Overall, the proposal to subdivide the land is considered to be acceptable when considering how the land is currently used.



### **Overlay Provisions**

- 11.14 The subject site is located within a Land Subject to Inundation Overlay.
- 11.15 The purpose of this Overlay is to:
- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
  - *To identify flood prone land in a riverine or coastal area affected by the 1 in 100 (1 per cent Annual Exceedance Probability) 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, responds to the flood hazard and local drainage conditions and will not cause any significant rise in flood level or flow velocity.*
  - *To minimise the potential flood risk to life, health and safety associated with development.*
  - *To protect water quality and waterways as natural resources by managing urban stormwater, protecting water supply catchment areas, and managing saline discharges to minimise the risks to the environmental quality of water and groundwater.*
  - *To ensure that development maintains or improves river, marine, coastal and wetland health, waterway protection and floodplain health.*
- 11.16 The application has been referred to the relevant floodplain/ drainage management authority (Melbourne Water). Melbourne Water advised of no objection to the application. The PPF objectives are satisfied by obtaining referral comments from the floodplain management authority.
- 11.17 The proposal complies with the Overlay's relevant Decision Guidelines and is deemed appropriate, given no changes are proposed to the existing physical conditions of the land, i.e. there will be no impact on overland flows etc, and that drainage easements are proposed where required.

### **Particular Provisions**

#### **Clause 52.02 – Easements, Restrictions and Reserves**

- 11.18 The proposal triggers a permit pursuant to **Clause 52.02**.
- 11.19 The purpose of the policy is *'to enable the removal and variation of an easement or restrictions to enable a use or development that complies with the planning scheme after the interests of affected people are considered'*.
- 11.20 In accordance with the decision guidelines of Clause 52.02, Council must consider the interests of affected people. The proposal to remove the reserve status and remove & create easements was referred to Council's Development Engineering Department, Melbourne Water and South East Water. As noted under section 7 of this report, the referral authorities support the proposal, subject to conditions.
- 11.21 Furthermore, the application was advertised to all properties adjoining the subject site. As discussed in the previous and following sections of this report, whilst objections have been received, the concerns raised are either not relevant to the planning considerations or do not relate to the parts of the application which require consideration under Clause 52.02. It is noted that a question was raised at the Planning Consultation Meeting about the future use of the land affected by the proposed easements and this question was responded to via email on 15 March 2023.

- 11.22 Therefore, it is considered that the proposal accords with the purpose of this policy, given that the interests of the affected people have been considered.

**Clause 53.01 – Public Open Space Contribution**

- 11.23 Clause **53.01** 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.*

- 11.24 Pursuant to section 18(1)(a) of the *Subdivisions Act 1988*, the parts of the land proposed to be subdivided which are road and reserve are not intended to be used for residential, industrial or commercial purposes. Furthermore, pursuant to section 18(1A) of the *Subdivisions Act 1988*, regarding the land which is intended to be used for residential purposes, no change is proposed to the existing use or development of the land or the population density which can be accommodated on each new lot as part of this subdivision application, given that the new lots already for part of the existing areas of private open space and the existing public open space in the surrounding area will not be more intensively used as a result of this subdivision. Therefore, Council should not require a public open space contribution in this instance.

**General Provisions**

- 11.25 **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.
- 11.26 Whilst most parts of the proposal are considered to be an appropriate outcome when considered against the applicable policies, as noted in the previous sections of this report, it is proposed to retain the hiatus which exists between the two existing plans of subdivision.
- 11.27 Retention of this hiatus is not considered to be orderly planning of the area in accordance with Clause 65.01 as it maintains the surveying error which may be otherwise absorbed into the proposed lots and 'cleaned up' so to speak.
- 11.28 This matter was raised with the permit applicant and a response was received which noted that Council does not have any powers under the section 24A of the *Subdivision Act* or section 102 or 103 of the *Transfer of Land Act 1958* as the hiatus land does not fit the criteria of being a lot, road, reserve, or common property and possession of the land would need to be proved which may not be possible since the land has been fenced into freehold titles for several years.
- 11.29 Whilst this is not an ideal outcome, given that Council has no power to deal with this land, the existing condition will need to be maintained as part of this planning permit application process.

**12.0 RESPONSE TO GROUNDS OF OBJECTIONS**

- 12.1 The objector concerns relating to the planning considerations are addressed as follows:

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Ground(s)	Response
<b>Private land owners already have rights to the land by way of adverse possession and this application will mean they can no longer claim</b>	<p>As discussed in the previous sections of this report, the subdivision portion of the proposal did not require advertising. Therefore, Council is not required to consider objections which relate to this part of the proposal.</p> <p>That being said, it is noted that the private land owners may have rights to the land which has been fenced for a number of years and is proposed to be subdivided into lots 1 to 11 but it is Council's understanding that no claim has been made to the titles office whilst having ample time to do so in the lead up to the submission of this planning permit application.</p>
<b>Assumed land was already privately owned</b>	<p>The planning permit submission included title documentation for the existing land parcels which demonstrated that the land is currently privately owned but not by the owners of the adjoining parcels which have raised this concern. This matter was discussed with this objector over the phone and it was noted that they may have received incorrect advice from the real estate agent when purchasing the report. It was recommended that the objector review a copy of their own title/plan of subdivision.</p>
<b>Loss of access to the land if not able to/in a position to purchase the land financially</b>	<p>As noted in the previous sections of this report, the existing physical conditions of the land are not proposed to change.</p>
<b>Unclear if the proposed boundaries align with the fence locations</b>	<p>This matter was discussed at the planning consultation meeting and it was made clear to the objectors that the boundary locations are proposed to align with the existing fence locations.</p>
<b>Poor engagement about the proposal &amp; couldn't access the information online</b>	<p>Council's planning team have conducted sufficient advertising of this planning permit application in accordance with the requirements of the <i>Planning and Environment Act 1987</i> and Council's Notice of Application for a Planning Permit (Advertising) Policy. Furthermore, the advertising documentation was made available on Council's website at the beginning of the advertising period and continues to be available.</p>
<b>Seeking more information</b>	<p>As noted in the previous sections of this report, a planning consultation meeting was held to allow objectors and the applicant to discuss the concerns raised. It was noted at the meeting that some concerns are not valid planning considerations and Council's Property Officers would provide a response separate to the planning permit application process.</p>

**13.0 CONCLUSION:**

- 13.1 On balance, the proposal is considered to substantially comply with the relevant planning policy and therefore should be supported.
- 13.2 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.



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- 13.3 Subject to appropriate conditions, including the conditions required by the relevant Referral Authorities, the proposal is considered appropriate, and should be supported.

**15.0 RECOMMENDATION**

- 15.1 That the Planning Committee determine to support the proposal and issue a Notice of Decision to Grant a Permit for the removal of the reserve status and easements from the drainage reserve no.1 on plan of subdivision LP8882 and the drainage reserve and reserve on plan of subdivision LP5727, creation of easements E-1 and E-2 and subdivision of the land in accordance with the endorsed plans at Scotch Parade, Chelsea, 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.

**South East Water**

2. The Certified Plan of Subdivision should show Easement E-1 on lots 5, 6, 8 & 9 to be a Sewerage easement in favour of South East Water Corporation pursuant to Section 12(1) of the Subdivision Act, or alternatively if easier to show on the plan make the entire E-1 to be a sewerage easement in favour of South East Water Corporation.

**Completion of the proposal**

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

**Time Limits**

4. 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:
- 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:** Each building or part of a building resulting from this subdivision must comply with Regulation 503 of the Building Regulations 2006.

**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).

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**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:** 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)

**Appendices**

Appendix 1 - KP-2022/669 - Scotch Parade, CHELSEA VIC 3196 - Considered plans  
(Ref 23/69419) 

Author/s: Rochelle Reinhardt, Senior Statutory Planner  
Reviewed and Approved By: Jaclyn Murdoch, Manager City Development

## 4.2

### KP-2022/669 - SCOTCH PARADE, CHELSEA

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ADVERTISED PLANS  
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Appendix 1

4.2 KP-2022/669 - Scotch Parade, Chelsea - KP-2022/669 - Scotch Parade, CHELSEA VIC 3196 -



RESERVE No.1 ON LP8882  
C/T: VOL.11251 FOL.359  
LOT 1 ON TP867941A  
C/T: VOL.3396 FOL.013

RESERVE No.1 ON LP8882  
C/T: VOL.11251 FOL.359  
LOT 1 ON TP867941A  
C/T: VOL.3396 FOL.013

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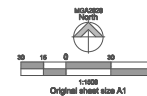
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CONTEXT PLAN

SCOTCH PARADE, CHELSEA VIC 3196  
KINGSTON CITY COUNCIL

REF: 2022/669  
SHEET 1 OF 1



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Appendix 1

4.2 KP-2022/669 - Scotch Parade, Chelsea - KP-2022/669 - Scotch Parade, CHELSEA VIC 3196 -



RESERVE No.1 ON LP8882  
C/T: VOL.11251 FOL.359  
LOT 1 ON TP867941A  
C/T: VOL.3396 FOL.013

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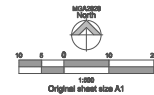
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	Revised	by	date	checked	date

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SITE LAYOUT PLAN

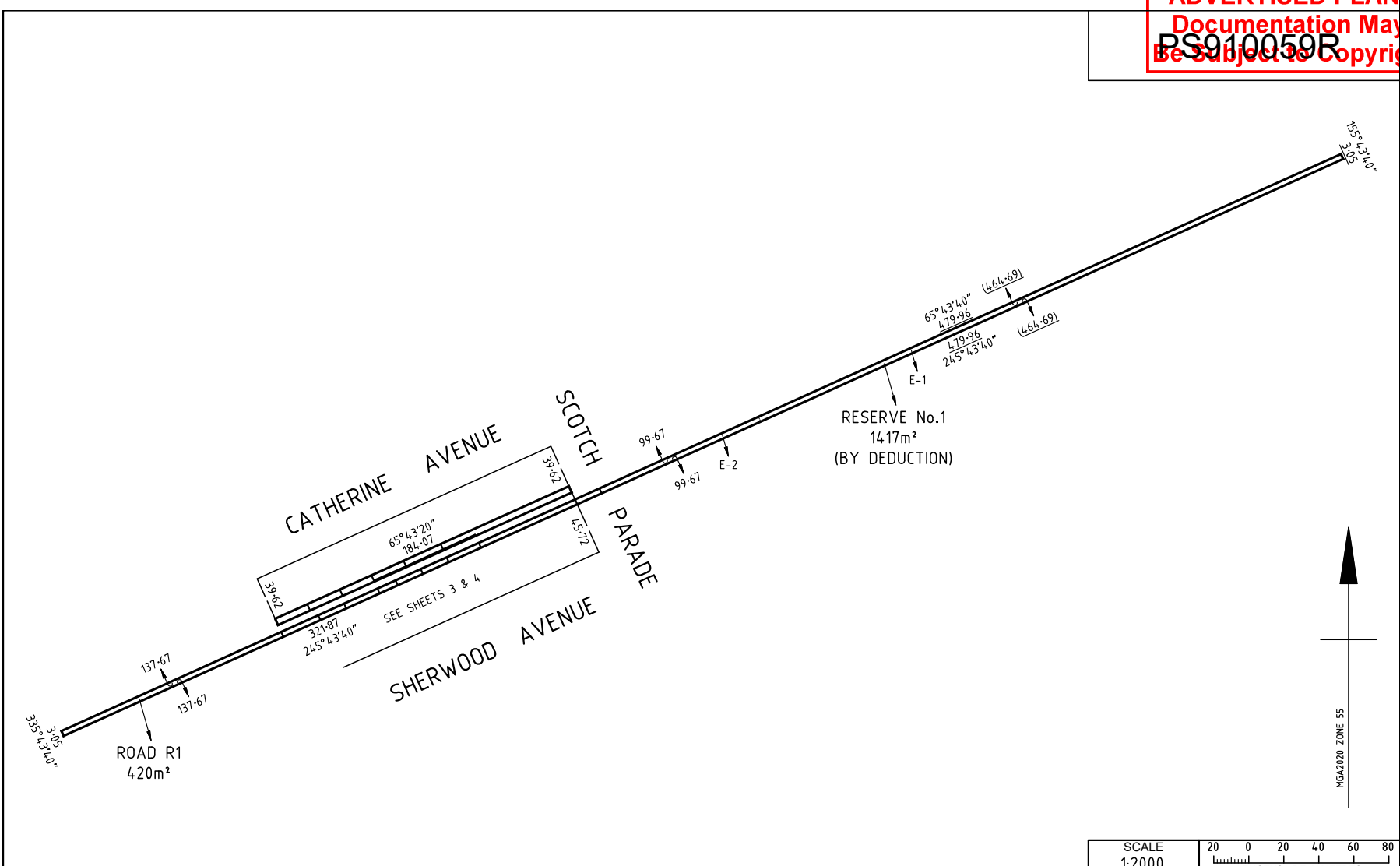
SCOTCH PARADE, CHELSEA VIC 3196  
KINGSTON CITY COUNCIL

REF: 2022/669  
SHEET 1 OF 1

<div>PLAN OF SUBDIVISION</div> <div>UNDER SECTION 24A OF THE SUBDIVISION ACT 1988</div>			<div>EDITION 1</div> <div>Documentation May Be Substantially Copyright</div>		
<div>LOCATION OF LAND</div> <div>PARTISH: LYN DHURST</div> <div>CROWN ALLOTMENT: 14.3 (PART) &amp; 14.4 (PART)</div> <div>TITLE REFERENCE: VOL.11251 FOL.359 VOL.3396 FOL.013</div> <div>LAST PLAN REFERENCE: RESERVE No.1 ON LP8882 LOT 1 ON TP86794.1A</div> <div>POSTAL ADDRESS: SCOTCH PARADE CHELSEA, 3196 (at time of subdivision)</div> <div>MGA CO-ORDINATES E: 335 490 ZONE: 55 (at approx centre of land in plan) N: 5786 870 GDA2020</div>			KINGSTON CITY COUNCIL		
<div>VESTING OF ROADS AND/OR RESERVES</div> <div>IDENTIFIERCOUNCIL/BODY/PERSON</div> <div>ROAD R1KINGSTON CITY COUNCIL ROAD R2KINGSTON CITY COUNCIL ROAD R3KINGSTON CITY COUNCIL ROAD R4KINGSTON CITY COUNCIL RESERVE No.1KINGSTON CITY COUNCIL</div> <div>DEPTH LIMITATION DOES NOT APPLY</div> <div>NOTATIONS</div> <div>SURVEY: This plan is based on survey. Dimensions shown underlined are not the result of this survey.</div> <div>STAGING This is not a staged subdivision. Planning Permit No.</div> <div>This survey has been connected to permanent marks No(s) 124, 125, 128, 129</div> <div>In Proclaimed Survey Area No.---</div>			<div>PURPOSE OF THE PLAN:</div> <div>(i) TO VEST IN THE KINGSTON CITY COUNCIL DRAINAGE RESERVE No.1 ON LP8882 CONTAINED IN VOL.11251 FOL.359 AND ALSO SHOWN AS LOTS 1, 2, 4 &amp; 5 AND PART OF LOTS 3, 8, 9, 10, 11 &amp; ROAD R2 ON THIS PLAN &amp; THOSE PARTS OF THE DRAINAGE RESERVE ON LP5727 CONTAINED IN VOL.3396 FOL.013 &amp; RESERVE ON LP5727 CONTAINED IN VOL.3396 FOL.073 SHOWN AS LOTS 6 &amp; 7 AND PART OF LOTS 3, 8, 9, 10, 11 &amp; ROAD R1, ROAD R3, ROAD R4 &amp; RESERVE No.1 ON THIS PLAN.</div> <div>(ii) REMOVAL BY THE KINGSTON CITY COUNCIL OF THE RESERVATION FROM DRAINAGE RESERVE No.1 ON LP8882 CONTAINED IN VOL.11251 FOL.359 &amp; THOSE PARTS OF THE DRAINAGE RESERVE ON LP5727 CONTAINED IN VOL.3396 FOL.013 &amp; RESERVE ON LP5727 CONTAINED IN VOL.3396 FOL.073.</div> <div>(iii) REMOVAL BY KINGSTON CITY COUNCIL OF ALL EASEMENTS SET OUT IN LP8882 &amp; LP5727 FROM THE LAND IN THIS PLAN.</div> <div>GROUNDS FOR VESTING AND REMOVAL: AS DIRECTED BY KINGSTON CITY COUNCIL PLANNING PERMIT No.</div> <div>LOTS 3, 8, 9, 10, 11 EACH CONTAIN TWO PARTS.</div> <div>SOME DETAILS HAVE BEEN EXAGGERATED FOR CLARITY</div>		
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	DRAINAGE	SEE DIAGRAM	THIS PLAN	THIS PLAN	KINGSTON CITY COUNCIL
E-2	DRAINAGE SEWERAGE	SEE DIAGRAM	THIS PLAN	THIS PLAN	KINGSTON CITY COUNCIL SOUTH EAST WATER CORPORATION
<div>Millar   Merrigan</div> <div>Land Development Consultants Millar &amp; Merrigan Pty Ltd ACN 005 541 688 www.millarmerrigan.com.au Metro 21726 Merivale Drive, Croydon 3136 Regional 156 Commercial Road, Mordialloc 3840 Mail PO Box 247 Croydon, Victoria 3136</div> <div>LICENSED SURVEYOR Christopher Morelli VERSION NO. 3 This is not a digitally signed plan.</div> <div>SURVEYORS REF: 2907451 16/08/2022</div> <div>ORIGINAL SHEET SIZE: A3</div> <div>SHEET 1 OF 4</div>					



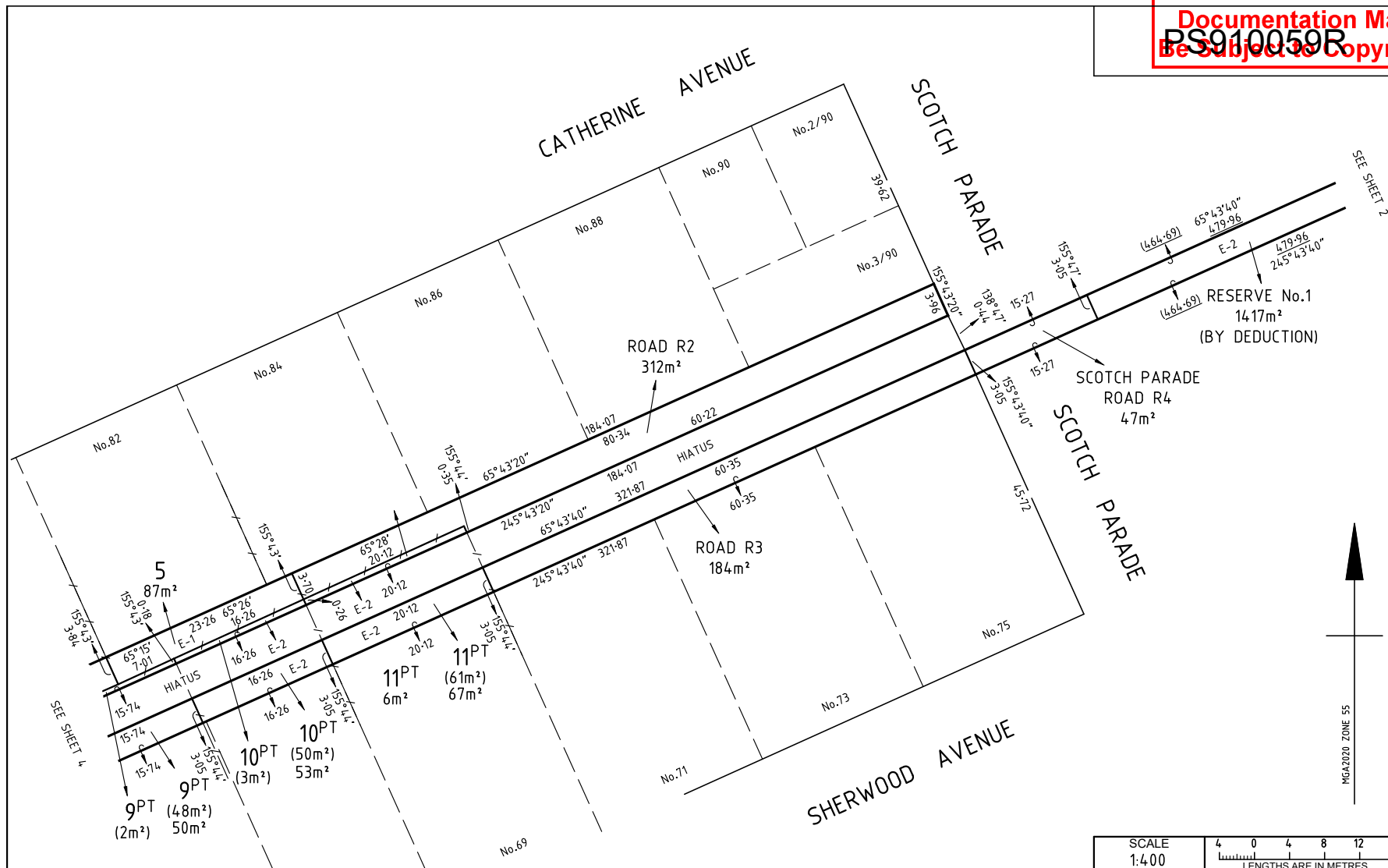
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Documentation May  
Be Subject to Copyright



<b>Millar   Merrigan</b> Land Development Consultants M(03) 8720 9500 R (03) 5134 8611 www.millarmerrian.com.au survey@millarmerrian.com.au SAI GLOBAL Quality ISO 9001	Millar & Merrigan Pty Ltd ACN 005 541 668 Metro 2/126 Merrindale Drive, Croydon 3136 Regional 156 Commercial Road, Morwell 3840 Mail PO Box 247 Croydon, Victoria 3136	SURVEYOR'S REF: 29074S1 16/08/2022  LICENSED SURVEYOR Christopher Morelli This is not a digitally signed plan.	VERSION NO.	SCALE 1:2000	20 0 20 40 60 80 LENGTHS ARE IN METRES
				ORIGINAL SHEET SIZE: A3	SHEET 2

4.2 KP-2022/669 - Scotch Parade, Chelsea - KP-2022/669 - Scotch Parade, CHELSEA VIC 3196 -  
Considered plans

ADVERTISED PLANS  
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Metro 2/126 Merrindale Drive, Croydon 3136  
Regional 156 Commercial Road, Morwell 3840  
Mail PO Box 247 Croydon, Victoria 3136

SURVEYOR'S REF: 29074S1 16/08/2022

LICENSED SURVEYOR  
Christopher Morelli  
This is not a digitally signed plan.

VERSION NO.

SCALE 1:400	4 0 4 8 12 16 LENGTHS ARE IN METRES
ORIGINAL SHEET SIZE: A3	SHEET 3

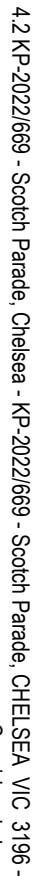
Considered plans

4.2 KP-2022/669 - Scotch Parade, Chelsea - KP-2022/669 - Scotch Parade, CHELSEA VIC 3196 -

Appendix




## Appendix 1



**Land Development Consultants**  
**Millar & Merrigan Pty Ltd** ACN 005 541 668  
**Metro** 2/126 Merrindale Drive, Croydon 3136  
**Regional** 156 Commercial Road, Morwell 3840  
**Mail** PO Box 247 Croydon, Victoria 3136

LICENSED SURVEYOR  
Christopher Morelli      VERSION NO.  
This is not a digitally signed plan.

SCALE 1:400	
ORIGINAL SHEET SIZE: A3	SHEET 4

## Planning Committee Meeting

19 April 2023

**Agenda Item No: 4.3**

### **KP-2021/845 - 71 ARGUS STREET, CHELTENHAM**

**Contact Officer: Harris Argyriou, Statutory Planner**

#### **Purpose of Report**

This report is for the Planning Committee to consider Planning Permit Application No. KP-2021/845 – 71 Argus Street, Cheltenham.

#### **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 proposed secondary consent application and issue amended endorsed plans associated with Planning Permit KP-2021/845 at 71 Argus Street Cheltenham, which allowed the use of the land for an Education Centre (Kindergarten) in accordance with the endorsed plans.

This application requires a decision by the Planning Committee, as the land is owned by the City of Kingston and the applicant is the City of Kingston.

EXECUTIVE SUMMARY	
<b>Address</b>	71 Argus Street, CHELTENHAM VIC 3192
<b>Legal Description</b>	Lot 1 on TP224133T
<b>Applicant</b>	City of Kingston
<b>Planning Officer</b>	Harris Argyriou
PLANNING REQUIREMENTS	
<b>Planning Scheme</b>	Kingston
<b>Zoning</b>	Clause 32.08 – General Residential Zone – Schedule 3
<b>Overlays</b>	None
<b>Permit Trigger/s</b>	Clause 32.08 – 2 – Use of the land for a Kindergarten
APPLICATION / PROCESS	
<b>Proposal</b>	The use of the land for an Education Centre (Kindergarten) in accordance with the endorsed plans
<b>Reference No.</b>	KP-2021/845
<b>SC App. Received</b>	24 January 2023
LEGISLATIVE	
<b>Covenant/other Restriction</b>	None Complies: N/A
<b>Permit Expiry Date</b>	05 August 2024 (for the commencement of the use)

## **1 PERMIT & APPLICATION BACKGROUND**

- 1.1 An application has been received to amend plans, under Secondary Consent provisions, in association with Condition 1 of Planning Permit KP-2021/845.
- 1.2 The Permit was not a permit issued at the direction of the Victorian Civil and Administrative Tribunal or a permit issued under Division 6 of the *Planning and Environment Act 1987*.
- 1.3 Plans satisfying condition 1 of the Permit were endorsed on 04 August 2022.
- 1.4 Notice (advertising) of the original Permit application was required and occurred between 17 March 2022 and 04 April 2022. One petition, with a total of three (3) objections were received by the Department. The relevant grounds of objection to the Permit application are expressed as follows:
  - Anti-social behaviour occurring in the existing car park
  - Security fencing and gates should be installed
- 1.5 The proposed changes sought under this application do not undermine any agreement or offer put forward by the Permit Applicant during the consideration of the original proposal.

## **2 PROPOSAL**

- 2.1 The proposed amendment is limited to the following:

Item  
No.

Proposed Modification

The removal of ten (10) native and exotic trees on the subject site inclusive of:

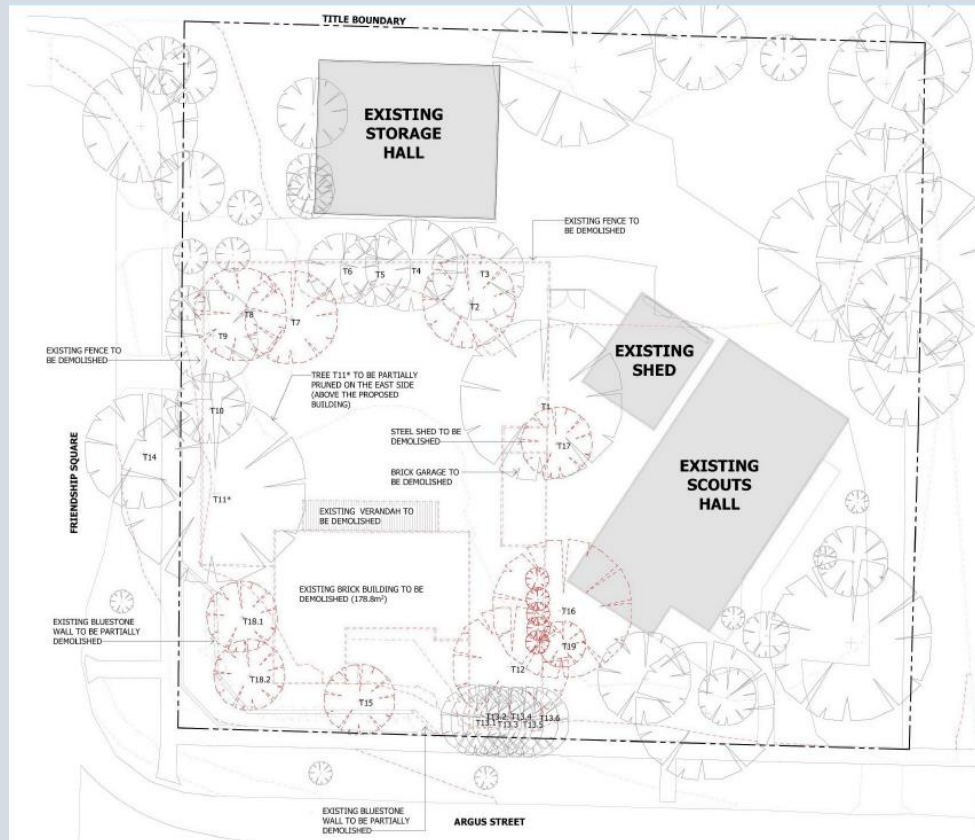
- x1 Queensland Brush Box (native to Queensland)
- x2 Bracelet Honey Myrtles (native to New South Wales)
- x1 Desert Ash (exotic and on Council's weed list)
- x1 Yellow Gum (native to Victoria – not indigenous to the City of Kingston)
- x1 Dwarf Apple (native to New South Wales)
- x1 Eucalypt bicostata (dead and native to Victoria – not indigenous to the City of Kingston)
- x2 Variegated Pittosporum (exotic)
- x1 Sweet Pittosporum (native to Victoria – not indigenous to the City of Kingston)

Existing Trees on Site:



1

**Proposed Removal of Trees on Site (marked in red):**



**List of Trees to be Retained/Removed on site:**



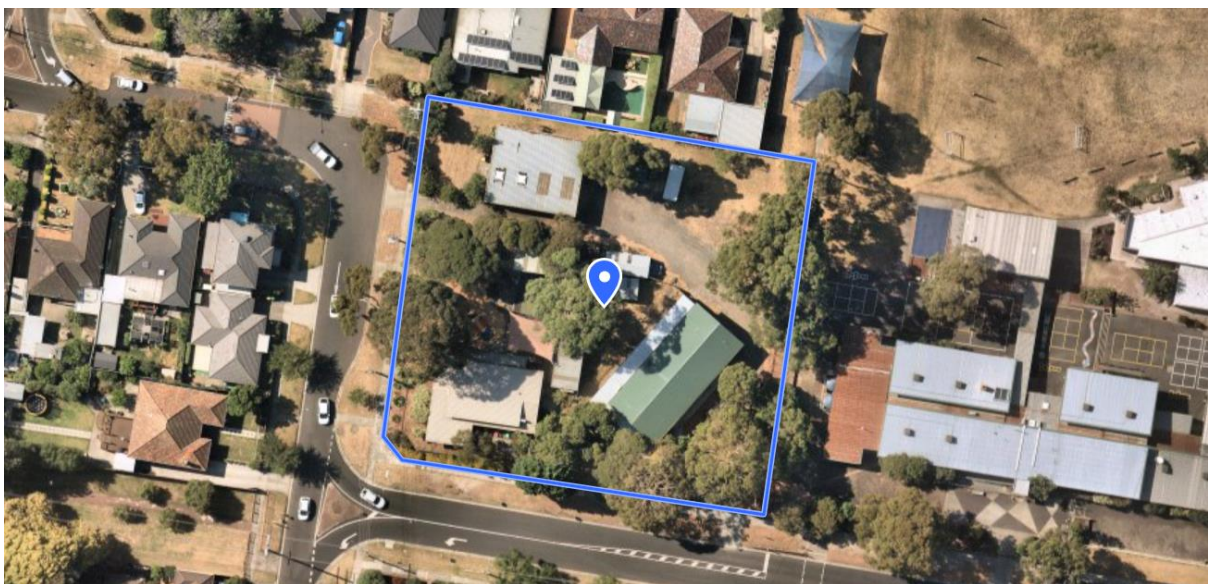
# City of Kingston Planning Committee Meeting

Agenda

19 April 2023

TREE SCHEDULE		
TREE #	SPECIES (COMMON NAMES)	TO BE REMOVED
T1	EUCALYPTUS BOTRYOIDES (SOUTHERN MAHOGANY)	No
T2	LOPHOSTEMON CONFERTUS (QUEENSLAND BRUSH BOX)	Yes
T3	EUCALYPTUS LEUCOXYLON (YELLOW GUM)	No
T4	MELALEUCA STYPHELOIDES (PRICKLY LEAVED PAPERBARK)	No
T5	MELALEUCA STYPHELOIDES (PRICKLY LEAVED PAPERBARK)	No
T6	MELALEUCA STYPHELOIDES (PRICKLY LEAVED PAPERBARK)	No
T7	MELALEUCA ARMILLARIS (BRACELET HONEY MYRTLE)	Yes
T8	MELALEUCA ARMILLARIS (BRACELET HONEY MYRTLE)	Yes
T9	MELALEUCA STYPHELOIDES (PRICKLY LEAVED PAPERBARK)	No
T10	MELALEUCA STYPHELOIDES (PRICKLY LEAVED PAPERBARK)	No
T11*	EUCALYPTUS BICOSTATA (BLUE GUM)	No
T12	FRAXINUS ANGUSTIFOLIA (DESERT ASH)	Yes
T13.1	CUPRESSUS SEMPERVIRENS (ITALIAN CYPRESS)	No
T13.2	CUPRESSUS SEMPERVIRENS (ITALIAN CYPRESS)	No
T13.3	CUPRESSUS SEMPERVIRENS (ITALIAN CYPRESS)	No
T13.4	CUPRESSUS SEMPERVIRENS (ITALIAN CYPRESS)	No
T13.5	CUPRESSUS SEMPERVIRENS (ITALIAN CYPRESS)	No
T13.6	CUPRESSUS SEMPERVIRENS (ITALIAN CYPRESS)	No
T14	EUCALYPTUS LEUCOXYLON (YELLOW GUM)	No
T15	EUCALYPTUS KITSONIANA (BOG GUM)	Yes
T16	ANGOPHORA HISPIDA (DWARF APPLE)	Yes
T17	EUCALYPTUS SP. (EUCALYPT)	Yes
T18.1	PITTOSPORUM EUGENIOIDES 'VARIEGATUM' (VARIGATEED PITTOSPORUM)	Yes
T18.2	PITTOSPORUM EUGENIOIDES 'VARIEGATUM' (VARIGATEED PITTOSPORUM)	Yes
T19	PITTOSPORUM UNDULYUM (SWEET PITTOSPORUM)	Yes

- 2.2 The proposed changes do not have any implications for the concerns that have been previously expressed by the Department.
- 2.3 The permit has not yet been acted on, with the funding and documentation of the project having recently been resolved and necessary changes made to the proposed development now necessitates the removal of trees referred to above.



(Source: Nearmap Aerial Imagery – 16<sup>th</sup> February 2023)

- 2.4 There have been no notable changes, since the issuing of the Permit, to the subject site's surrounds.



### **3 PLANNING PERMIT REQUIREMENT(S) FOR ORIGINAL APPLICATION**

- 3.1 The executive summary table on page 1 lists the applicable permit triggers for the original planning application.
- 3.2 Pursuant to Clause 32.08 – 2 of the Kingston Planning Scheme, a planning permit was required for the use of the land for a Kindergarten.
- 3.3 Since the issuing of the Permit, there have been no changes to the applicable planning controls.

### **4 REFERRAL ADVICE**

- 4.1 The sought amendment(s) to the endorsed plans, under the provisions of secondary consent, have not been referred to any external authorities.
- 4.2 The sought amendment(s) to the endorsed plans, was referred to Council's Vegetation Management Officer who reviewed the proposal in relation to tree retention and removal. The Vegetation Officer has no objection to the proposal. The Vegetation Officer suggested that the development should be undertaken with guidance from a tree management plan as there is construction within proximity to several large trees. This information was relayed to the applicant, who advised that a note would be added to the plans to ensure that the tree removal works would be undertaken with guidance from a tree management plan.

## **5 CONSIDERATION**

### **5.1 The principles, or tests, of Secondary Consent**

The Tribunal has set out the principles, or tests, of secondary consent. A notable case worth drawing from is *WestPoint Corporation PL v Moreland CC (Red Dot)* [2005] VCAT 1049. In summary, this case establishes four (4) principles for the assessment of amending plans under condition 2 (or equivalent condition) of a permit. The principles raise a number of questions which are to be asked and answered in respect to the sought amendments made under secondary consent.

### **5.2 To classify as a secondary consent application, the amendments sought must meet the following principles:**

- 'It [the proposed amendment] does not result in a transformation of the proposal.
- It [the proposed amendment] does not authorise something for which primary consent is required under the planning scheme.
- It [the proposed amendment] is of no consequence having regard to the purpose of the planning control under which the permit was granted.
- It [the proposed amendment] is not contrary to a specific requirement (or condition of the permit) as distinct from an authorisation within the permit, which itself cannot be altered by consent' [38].

NOTE: 'When deciding whether a use or development may be altered under a secondary consent provision in a permit, the scale of the change is not relevant per se' [38]. Therefore, provided the sought change meets the above tests, it need not be "minor" in nature to be considered and permitted under secondary consent.

## **6 ASSESSMENT**

### **6.1 An assessment is provided below in response to the relevant secondary consent test:**

#### **1. It [the proposed amendment] does not result in a transformation of the proposal**

The proposed amendment(s) do not result in a transformation of the original proposal. The altered plans do not make any change to the permitted land use. The nature of all changes and degree of all changes sought do not constitute a 'transformation' of the proposal.

#### **2. It [the proposed amendment] does not authorise something for which primary consent is required under the planning scheme.**

The proposed amendment(s) do not authorise something for which permission is either required or given in response to an application for a permit in accordance with the provisions of the Act and the Kingston Planning Scheme.



Vegetation removal is exempt pursuant to clause 62.02-3 of the Kingston Planning Scheme, unless specifically required under another clause. The General Residential Zone does not specifically require a permit to remove vegetation. Furthermore, the site is under 4,000 sq. metres in area and is exempt from the requirements of Clause 52.17 (native vegetation).

**3. It [the proposed amendment] is of no consequence having regard to the purpose of the planning control under which the permit was granted.**

The following proposed changes are considered to be trivial and inconsequential as they are generally in accordance with the endorsed plans, they do not conflict with any of the controls that led to the need for a permit in the first instance and they do not require separate assessment against policy contained within the Kingston Planning Scheme:

Item No.	Proposed Modification
	<p><b>The removal of ten (10) native and exotic trees on the subject site inclusive of:</b></p> <p><b>x1 Queensland Brush Box</b> <b>x2 Bracelet Honey Myrtles</b> <b>x1 Desert Ash</b> <b>x1 Yellow Gum</b> <b>x1 Dwarf Apple</b> <b>x1 Eucalypt</b> <b>x2 Variegated Pittosporum</b> <b>x1 Sweet Pittosporum</b></p> <p>The proposed change in the form of the removal of the ten (10) trees is considered to be acceptable for consideration under Secondary Consent and therefore recommended for approval for the following reasons:</p> <ul style="list-style-type: none"><li>• The proposed change does not result in the transformation of the original proposal.</li><li>• The proposed change does not conflict with any of the relevant planning controls.</li><li>• The proposed change does not impact or alter the intent of the permit preamble.</li><li>• The proposed change is minor in nature, and the change is not considered to cause, or have potential to cause, further detriment to the neighbouring properties.</li><li>• The alterations to the endorsed plans constitute a minor amendment.</li><li>• There are still a significant number of trees on site which will be retained (9 trees) and therefore the removal of the ten (10) identified trees is unlikely to result in any adverse amenity impacts.</li><li>• Pursuant to Clause 62.02-3 (vegetation removal), vegetation removal within the City of Kingston is exempt from requiring a planning permit, unless specifically required under another clause. Additionally, the General Residential Zone does not specifically require a permit to remove vegetation.</li><li>• Furthermore, the site is under 4,000 sq. metres in area and is exempt from the requirements of Clause 52.17 (native vegetation). Therefore,</li></ul>
1	

a planning permit is not otherwise required to remove vegetation from the site.

- The grounds of objection to the original application related to anti-social behaviour occurring in the existing car park and security fencing and gates being installed, with no objections or concerns raised regarding any vegetation on site. It is possible that the removal of certain trees in the property may facilitate better surveillance of the area, improving the perception of safety and concerns regarding anti-social behaviour.
- The proposal has been referred to Council's Vegetation Management Officer who has not raised objections to the proposal. Recommendations provided has been adopted through the inclusion of additional notes on revised plans.

- 4. It [the proposed amendment] is not contrary to a specific requirement (or condition of the permit) as distinct from an authorisation within the permit, which itself cannot be altered by consent'**

A full review of the relevant Permit has been undertaken and, accordingly, it has been established that all amendments sought by this application do not conflict with any of the conditions contained within the Permit or with the description of what the Permit authorises.

## **7 GENERAL COMMENTS**

- 7.1 Based on the above assessment against the relevant test established by the Tribunal, it is considered that the proposed modifications to the endorsed plans are satisfactory and meet the tests of secondary consent.
- 7.2 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.

## **8 RECOMMENDATION**

- 8.1 That the amended application at 71 Argus Street, CHELTENHAM VIC 3192 (Lot 1 on TP224133T) be supported to form part of the Permit, with consent issued by the Department, and the following occur:
- 8.2 Plans to be endorsed under this amendment: Drawing No. AC1000 Issue 2 by Design Worldwide Partnership, Project No. 20-0355, dated 21/03/2023.



**Appendices**

Appendix 1 - KP-2021/845 - 71 Argus Street, CHELTENHAM VIC 3192 (Lot 1 on TP224133T) - CONSIDERED PLANS (Ref 23/80144)  

Author/s: Harris Argyriou, Statutory Planner

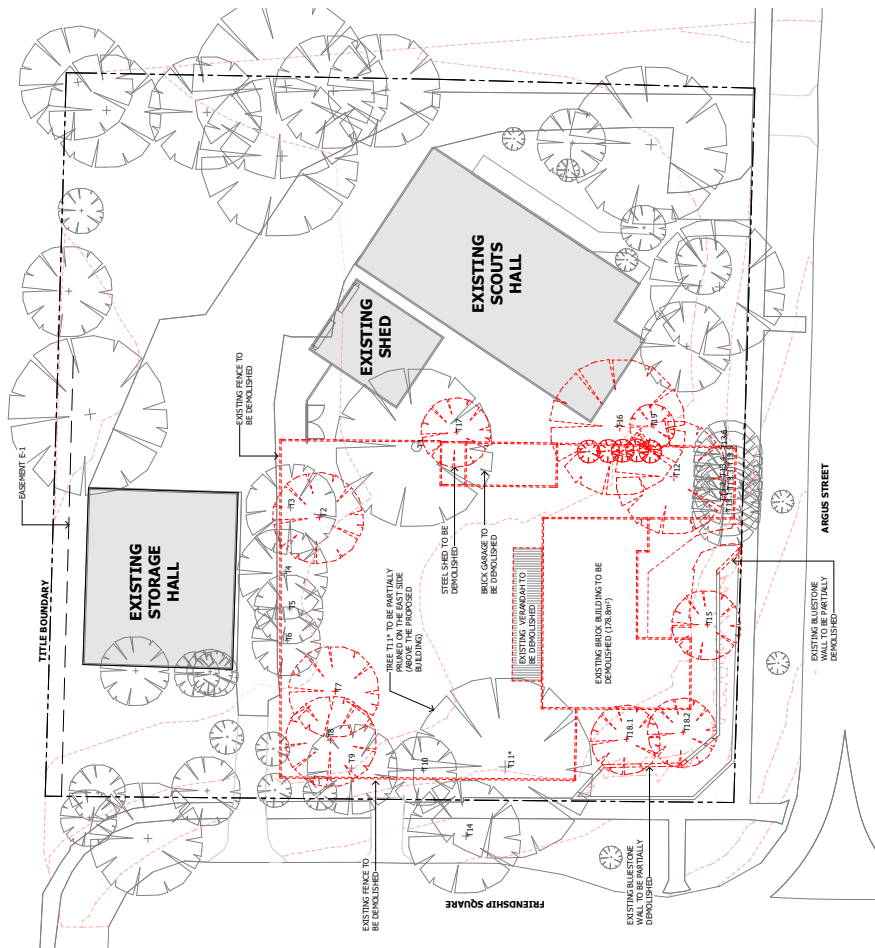
Reviewed and Approved By: Jaclyn Murdoch, Manager City Development

## 4.3

### **KP-2021/845 - 71 ARGUS STREET, CHELTENHAM**

<b>1</b>	<b>KP-2021/845 - 71 Argus Street, CHELTENHAM VIC 3192 (Lot 1 on TP224133T) - CONSIDERED PLANS .....</b>	<b>55</b>
----------	---	-----------

1. REFER TO ARBORIST REPORT FOR DETAILS.
2. TREE T11\* TO BE PARTIALLY PRUNED ON THE EAST SIDE (ABOVE THE IMPOSED BUILDING).
3. REMOVAL APPROVED VIA LOCAL LAWS IN CONSULTATION WITH THE RESPONSIBLE AUTHORITY.
4. THE DEVELOPMENT IS TO BE UNDERTAKEN WITH THE GUIDANCE OF A TREE MANAGEMENT PLAN / QUALIFIED ARBORICULTURIST AND THE RELEVANT AUTHORITY OR SIMILAR.



NOTES ADDED

**FOR TENDER**

Issue	Description	Date	OK
ISSUED FOR TENDER		21.03.23	
ISSUED FOR TENDER		27.03.23	

CITY OF KINGSTON

Subject

NORTH CHELTENHAM PRESS

11 ARGENT STREET, NORTH

HELTENHAM

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## Planning Committee Meeting

19 April 2023

**Agenda Item No: 4.4**

### **KP-2022/387 - 550-570 HEATHERTON ROAD, CLAYTON SOUTH**

**Contact Officer: Tim Yildirim, Statutory Planner**

#### **Purpose of Report**

This report is for the Planning Committee to consider Planning Permit Application No. KP-2022/387 - 550-570 Heatherton Road, Clayton South.

#### **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 planning permit for the construction of buildings and works including an additional hot house, an extension to the existing hothouse and a dispatch and storage building associated with the use of the land for agriculture (crop raising) and alterations to the access to a road in the Transport Zone 2 (Heatherton Road) at 550-570 Heatherton Road, Clayton South, subject to the conditions contained within this report.

This application requires a decision by the Planning Committee, as the proposed cost of development, on land outside the urban growth boundary, exceeds \$20,000.

**City of Kingston  
Planning Committee Meeting**

**Agenda**

**19 April 2023**

**EXECUTIVE SUMMARY**

<b>Address</b>	550-570 Heatherton Road, CLAYTON SOUTH VIC 3169
<b>Legal Description</b>	Lot 1 on TP 606467J
<b>Applicant</b>	The Frenchams Group
<b>Planning Officer</b>	Timur Yildirim

**PLANNING REQUIREMENTS**

<b>Planning Scheme</b>	Kingston
<b>Zoning</b>	Clause 35.04 – Green Wedge Zone (Schedule 2)
<b>Overlays</b>	Clause 43.02 – Design and Development Overlay (Schedule 5) Clause 45.01 – Public Acquisition Overlay (Schedule 1)
<b>Particular Provisions</b>	Clause 51.02 – Metropolitan Green Wedge Land: Core Planning Provisions Clause 52.05 – Signs Clause 52.06 – Car Parking Clause 52.17 – Native Vegetation Clause 52.29 – Land Adjacent to the Principal Road Network Clause 52.34 – Bicycle Facilities
<b>Permit Trigger/s</b>	Clause 35.04-5 – To construct or carry out buildings and works. Clause 52.29-2 – To alter access to a road in a Transport Zone 2.

**APPLICATION / PROCESS**

Proposal	The construction of buildings and works including an additional hot house, an extension to the existing hothouse and a dispatch and storage building associated with the use of the land for agriculture (crop raising) and alterations to the access to a road in the Transport Zone 2 (Heatherton Road).			
Reference No.	KP-2022/387	RFI Received	19 November 2022	
App. Received	9 June 2022	App. Amended	Section 50: 19 October 2022 Section 57A: 2 February 2023	
Site Inspection	Yes			
S.52 Advertising	Commenced: 17 November 2022	Advertising Completed	5 December 2022	
S.55 Referrals	Department of Transport			
Internal Referrals	Yes			
Objection(s)	Nil (TRIM checked on 8 March 2023).			
Vegetation	Trees > 8m	Yes	No. of Trees to be Removed (110cm circumference)	Three (3)

**LEGISLATIVE**

<b>Covenant/Other Restriction</b>	No	Complies: NA
<b>Aboriginal Cultural Sensitivity Area</b>	Yes	
<b>CHMP</b>	Exempt	
<b>Considered Plans</b>	Stephen D'Andrea Pty Ltd, Drawing number 6349/21, Landscape Plan (issue B; dated 18 January 2023) and Elevation Plan (Revision H; dated 18 January 2023), submitted to Council on 2 February 2023.	



## **1.0 KEY ISSUES**

- 1.1 The main issues arising from this proposal relate to:
- The proposed development in the context of a Green Wedge Zone.
  - Ancillary land uses.
  - Existing on-site vegetation.
  - Landscaping considerations.
  - Car parking and traffic considerations.
  - Alterations to the access to a road in the Principal Road Network.
  - Signage placed on-site.

## **2.0 SITE AND SURROUNDS**

- 2.1. The photographs below illustrate the subject site from a streetscape perspective.

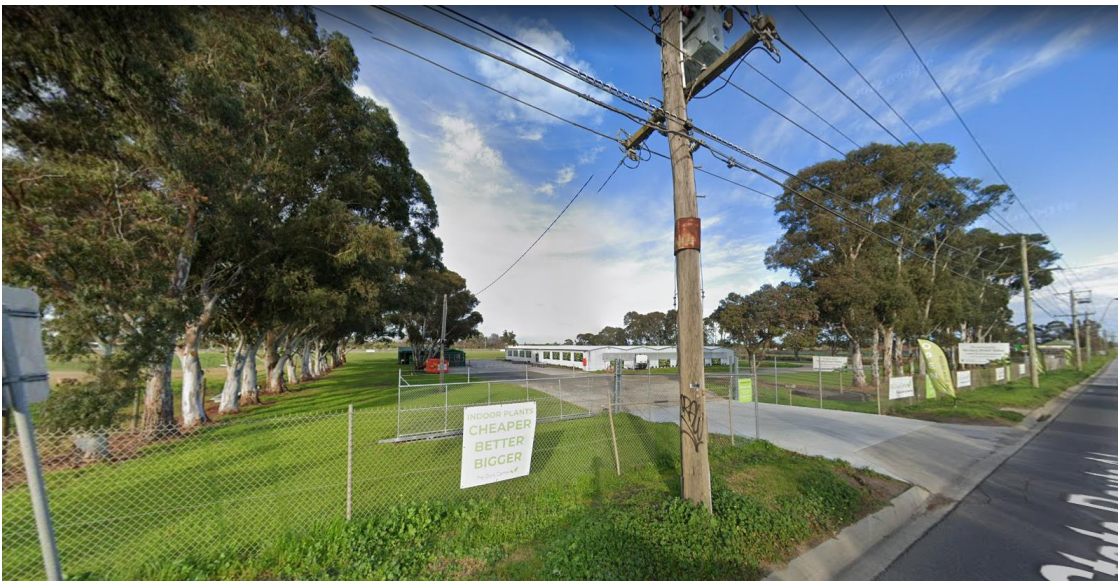


Image 1: Google Street View, July 2022. View from Heatherton Road, looking south-west at the existing structure on the subject site.

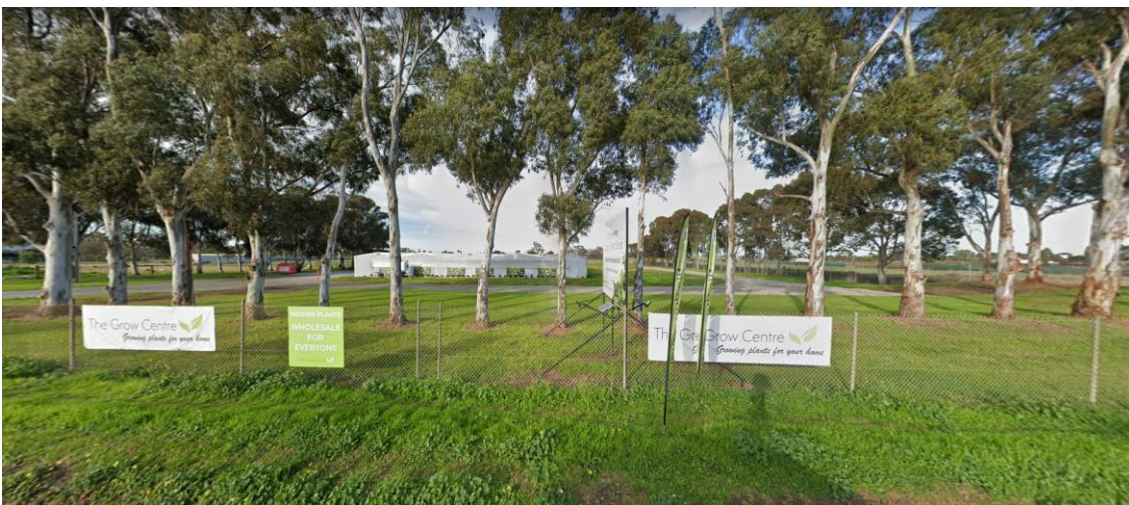


Image 2: Google Street View, July 2022. View from Heatherton Road, looking south at subject site.





Image 3: Google Street View, July 2022. View from Heatherton Road, looking south-east, standing at north-west corner of the subject site.



Image 4: Google Street View, April 2022. View from Dingley Bypass, looking north at subject site.

<b>Allotment Placement and Size</b>	<p>The subject site is located on the south side of Heatherton Road, Heatherton, and on the north side of the Dingley Bypass.</p> <p>The site has a frontage to Heatherton Road of 166.16 metres, a frontage to Dingley Bypass of 165.86 metres, and length of 159.51 metres (to the west boundary) and 158.62 metres (to the east boundary).</p>
<b>Size (m<sup>2</sup>)</b>	2.64 hectares (26,400 square metres).
<b>Built Form</b>	The site is occupied by one (1) large, galvanised iron structure (shed) towards the north-west portion of the site, west of the existing vehicle crossover. A concrete driveway providing access to these structures, which becomes a gravel driveway where adjacent to Heatherton Road.





There are also two (2) further rows of established canopy trees. One (1) row is located west of the existing crossover and along the northern (front) property boundary, running to the west (side) boundary. The other row runs along the west (side) boundary and intersects the aforementioned row at the north-west corner of the allotment.

There is additional scattered vegetation located in the southern half of the allotment, south of the 2.01 metre wide drainage easement. However, the proposal does not extend into this portion of the land and will not be discussed further:

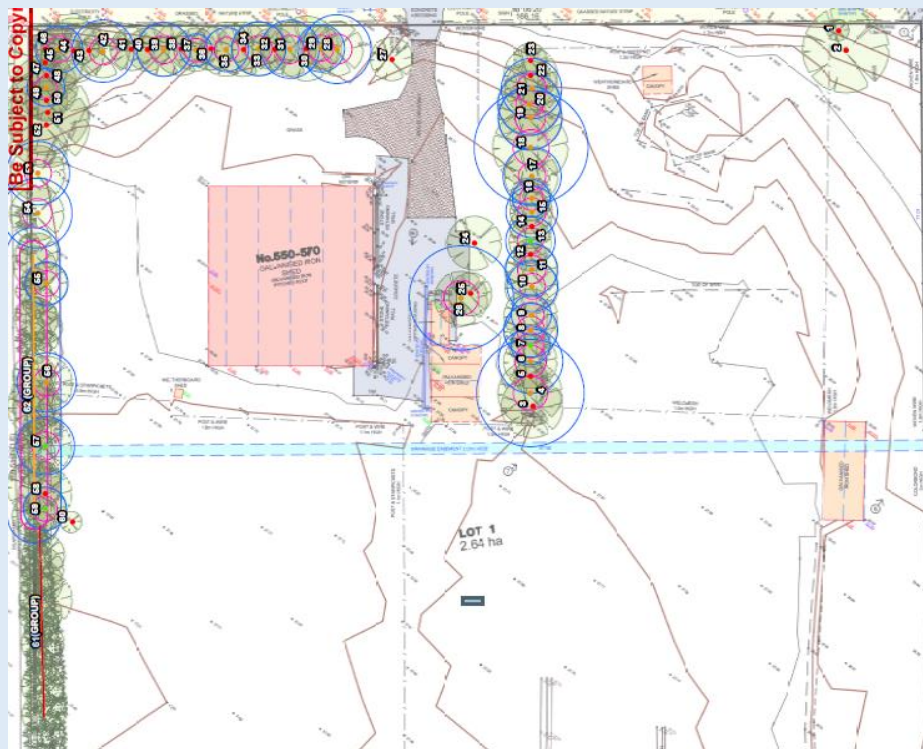


Image 7: Tree Location Plan (Arbor Survey, Arborist Report).

As identified in the arborist report prepared by Arbor Survey (21 February 2022), Trees 1, 3-26 and tree 28-52 (all inclusive) are the Wallangarra White Gum (*Eucalyptus scoparia*) species, which are Australian native species.

Trees 2 and 61 are identified as Narrow-leaved Black Peppermint's (*Eucalyptus nicholli*), which are Australian native species.

Tree 27 is identified as a Red Flowering Gum (*Corymbia ficiolia*), which is an Australian native species.

Trees 53-60 and 62 are identified as Spotted Gums (*Corymbia maculata*), which are Victorian native species.

Please note that Trees 61 and 62 are identified as groups of vegetation in the arborist report prepared by Arbor Survey (21 February 2022).

**Easement(s)**

A 2.01 metre wide drainage and sewerage easement approximately centre of the site, across the width of the site, and runs in an east-west axis and identified by the blue line below:



Image 8: Plan of Feature Survey.

**Footpath  
Assets /  
Access**

One (1) existing crossover is located just off centre, slightly to the western side of the property frontage to Heatherton Road. The location and alignment of the crossover can be seen in the Plan of Feature Survey extract above.

There are several power poles and drainage pits along the Heatherton Road road reserve. There are no street trees located on the adjoining road reserve.

**Covenant(s) /  
Restrictions**

There are no restrictions listed on the Certificate of Title.

**Site  
Inspection  
Findings**

A site inspection has revealed that the following has been carried out on site without approval (a planning permit):

- Alterations to the existing vehicle crossover have been carried out.
- Signage has also been placed on site, within the front setback and on the associated front fence.

The signage boards indicate that the crops grown are being sold on-site:





Image 9: Google Street View (July 2022).

Page 10 of the town planning report prepared by Hansen Partnership (June 2022) specifies that no retail sales are proposed as part of this application. Please see Section 4 of this report for further discussion.

### 3.0 SURROUNDING LAND

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

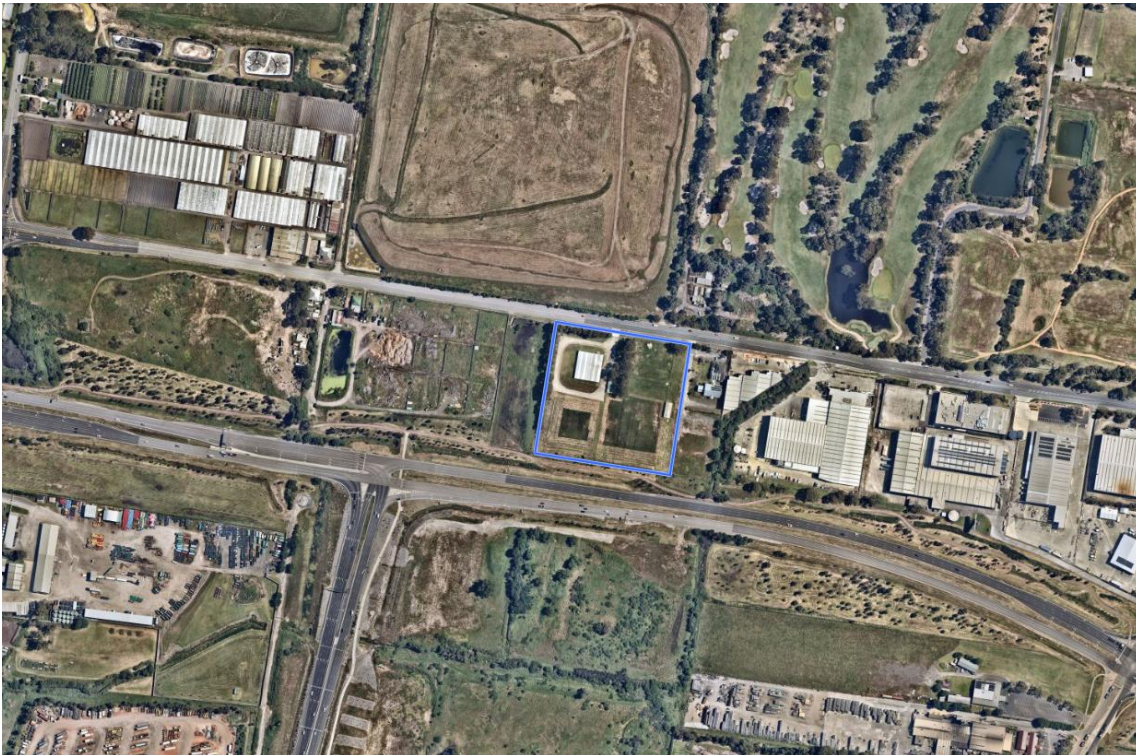


Image 10: NearMap (3 December 2022).



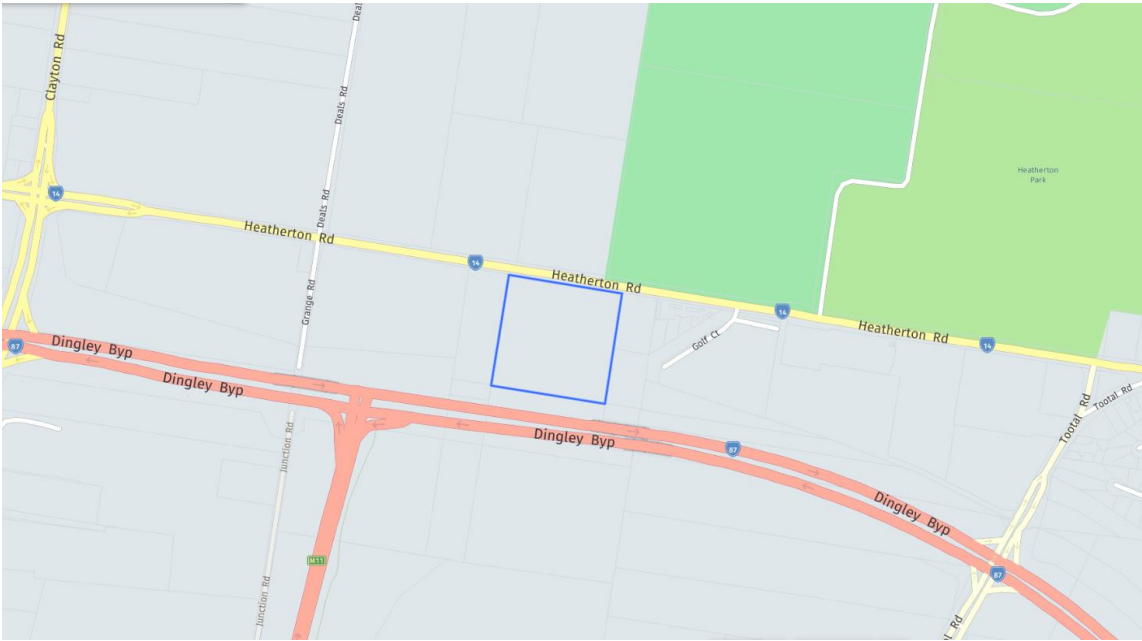


Image 11: NearMap (road map overlay).

- 3.2. Land to the adjoining west (side) is zoned as Green Wedge Zone (Schedule 2). The land is currently vacant. The land is listed as land to be acquired for Council's Chain of Parks project (see Green Wedge Management Plan 2012 assessment at Section 10). Aerial images indicate that the land may have been used for crop raising (agricultural) purposes in the past:

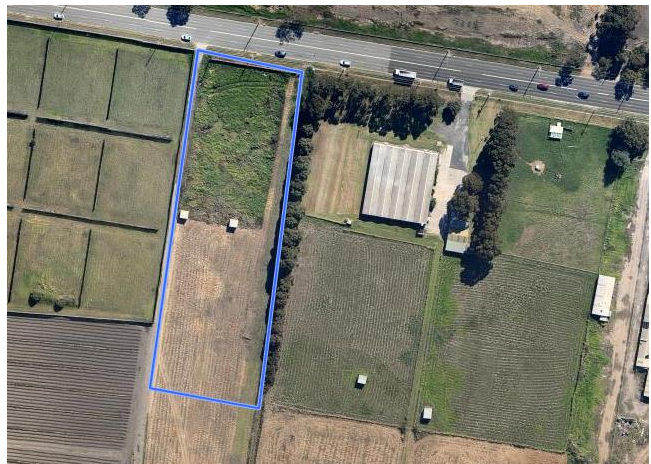


Image 12: NearMap (3 December 2022). Image: 13: NearMap (12 April 2012).

- 3.3. Land to the adjoining east (side) is also within the Green Wedge Zone. The site contains an Indian Orthodox Church (St. Gregorios).



Image 14: Google Street View (July 2022). On Heatherton Road looking south.

- 3.4. Further east is land used and developed for industrial purposes (a snippet can be seen on the left-hand side of the image above). The land contains several double storey warehouses in a side-by-side arrangement. The uses on-site comprise of a restricted retail premises, engineering office, flooring wholesaler, and an automotive repair centre.
- 3.5. Land to the south contains the Dingley Bypass. Land to the north contains Heatherton Road, followed by vacant land in the Green Wedge A Zone, and Heatherton Park to the adjoining east (side) of the vacant lot.

#### **4.0 PROPOSAL**

- 4.1. This application for a planning permit seeks approval for the construction of buildings and works in association with the use of the land as agriculture (crop raising) and alterations to the access to a road in the Transport Zone 2 (Heatherton Road). For the purpose of this application, reference to the southern (rear) boundary of the subject site is reference to the northern side of the east-west easement. The subject site is outlined below, with the easement highlighted in blue:





Image 15: Survey Plan (16 December 2021).



Image 16: 3D render of proposal facing Heatherton Road (14 October 2022).



Image 17: 3D render of proposal facing Heatherton Road (14 October 2022).

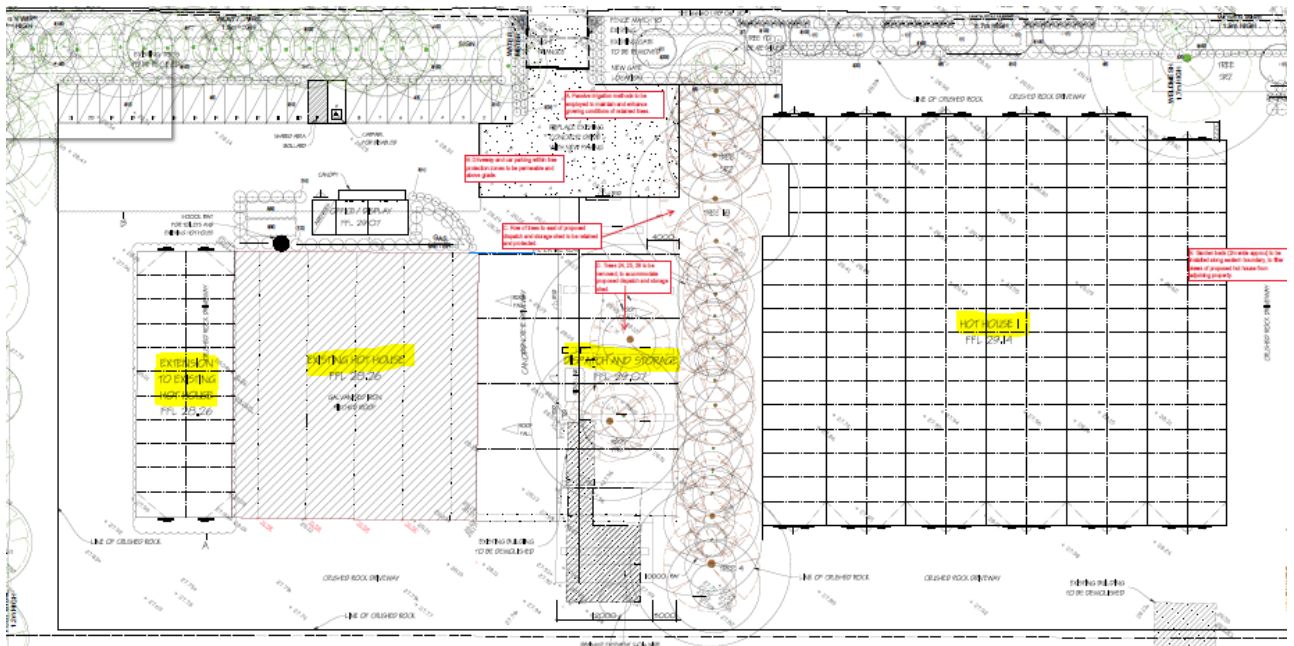


Image 18: Landscape plan (issue B; dated 18 January 2023).

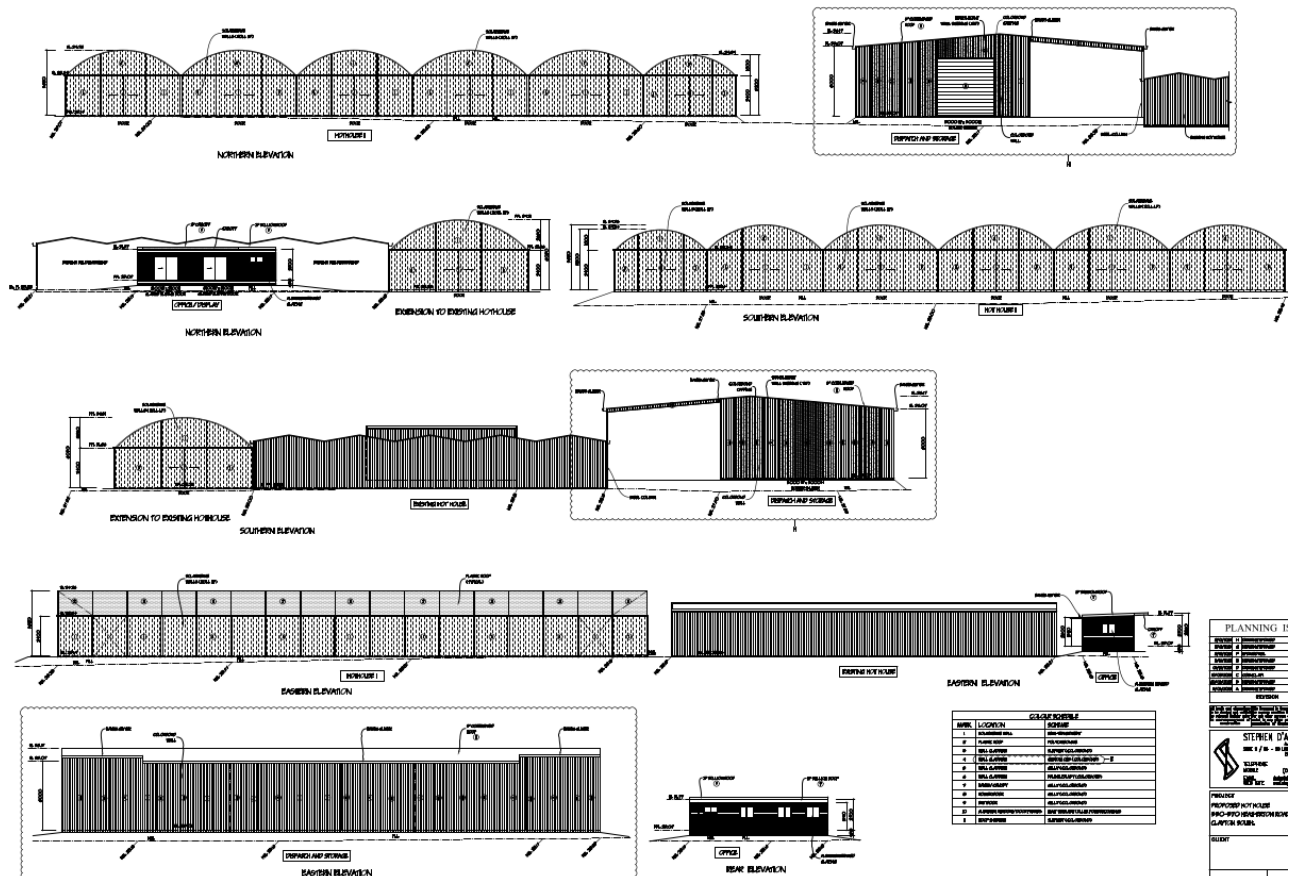


Image 19: Elevation plan (issue H; dated 18 January 2023).

4.2. In terms of the land use, it is proposed to:

- Use the land for agriculture, for the purposes of crop raising, utilising the existing hot house and associated extension and proposed additional hot house.
- It is also proposed to carry out ancillary packaging, storing and dispatching of crops grown. This is to occur in the dispatch and storage building proposed. Storing of

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- crops will be carried out in short increments, as the business operator intends to deliver and distribute crop whilst still fresh.
  - An ancillary office is also proposed, which would carry out associated administrative processes.
  - It is also proposed to carry out the ancillary sales of primary produce grown on-site.
- 4.3. A western (side) elevation plan was omitted, this is to be made a condition of any permit issued.
- 4.4. In terms of buildings and works, it is proposed to:
- Construct a hot house (hot house 1) towards the eastern boundary of the subject site.
  - Carry out alterations and additions to the existing hot house, including an extension towards the west (side) boundary.
  - Construct an office / display building to the north (front) of the existing hot house.
  - Construct a dispatch and storage facility located in the centre of the site, adjacent to the vehicle accessway.
  - Construct a canopy over the driveway, to the east (side) of the existing hot house, and to the west (side) of the proposed dispatch and storage building.
  - Construct a car parking area, with associated paved internal vehicle access.
  - Construct a crushed concrete driveway to the outer perimeter of the site.
  - Alter (retrospectively) access to a road in the Transport Zone 2 (Heatherton Road). Alterations seek to formalise the existing vehicle crossover, through paving the surface.
  - The existing gate to the accessway is proposed to be removed, with a new gate to be constructed to the south (rear) of the existing. A front setback of 6.5 metres is proposed.
- 4.5. Signage has been erected on the subject site. Signage does not formally form part of this application for a planning permit and a note is to be included on any permit issued to require the owner/applicant to obtain separate approval from Council.
- 4.6. Other elements of the proposal include:

<b>Operating Hours</b>	7.00am to 7.00pm, seven days per week.
<b>Staff</b>	A maximum of ten (10) staff are proposed on-site at any one time.
<b>Maximum Building Height</b>	<p>The proposed hot house (hot house 1) is to be a maximum height of 5.69 metres above natural ground level.</p> <p>The dispatch and storage building are proposed at a maximum height of 8.18 metres above natural ground level.</p> <p>The proposed extension to the existing hot house is proposed at a maximum height of 6.39 metres above natural ground level.</p> <p>The office / display building in front of the existing hot house is proposed at a height of 3.15 metres above natural ground level.</p>
<b>Car Parking</b>	Twenty-one (21) car parking spaces, inclusive of one (1) disabled parking space.
<b>Loading and Unloading</b>	Trucks are proposed to enter the site from Heatherton Road and are directed to the dispatch and storage building. Vehicles would park under the canopy to access the dispatch centre via either of the two (2) loading bays provided, which face west towards the driveway and overhead canopy:



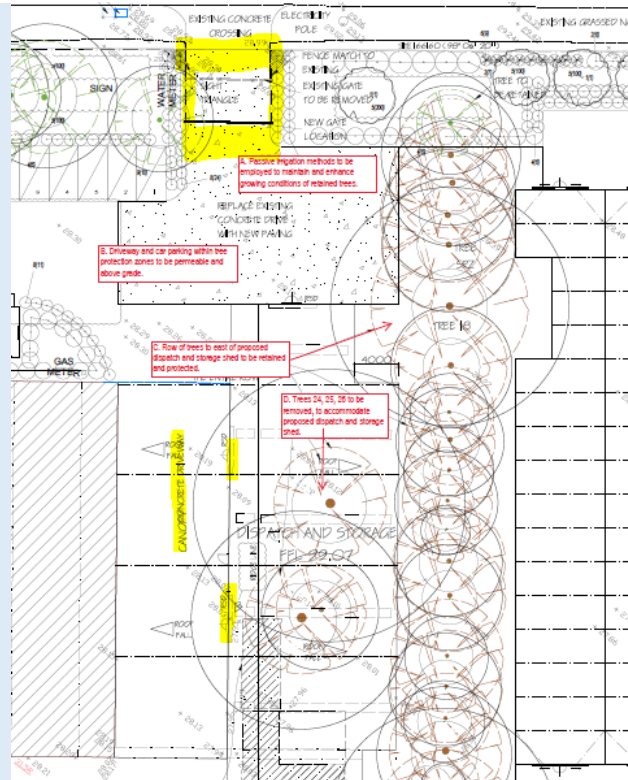


Image 20: Source: Landscape Plan (issue B; dated 18 January 2023).

**Setbacks**

The proposed hot house (hot house 1) is setback approximately 12 metres from the front boundary to Heatherton Road, 9 metres from the east (side) boundary and 13 metres from the easement towards the rear (south).

The proposed dispatch and storage centre is setback approximately 22 metres from the frontage and 6 metres from the easement towards the rear (south).

The office is proposed to be setback approximately 21 metres from the front (north) boundary.

The extension to the existing hot house provides for a front setback of approximately 29 metres, 21 metres to the side (west) boundary and 14.5 metres from the easement towards the south (rear). The proposed extension maintains the front and rear setbacks per the existing hot house, the western (side) boundary setback is reduced owing to the extension.

**Floor Area**

Existing hot house:	1,014 square metres.
Extension to existing hot house:	400 square metres.
Proposed hot house 1:	2,895 square metres.
Dispatch and storage building:	665 square metres.
Overhead canopy:	335 square metres.

**Access**

The existing crossover is proposed to be utilised and upgraded as necessary (in accordance with Council crossover design requirements), subject to conditions on any permit issued.

**Vegetation  
Removal /  
Retention**

The proposal also seeks to remove:

- Tree 24: 18 metres in height, with a canopy spread of 11 metres.
- Tree 25: 18 metres in height, with a canopy spread of 8 metres.
- Tree 26: 18 metres in height, with a canopy spread of 17 metres.



These trees are identified as Wallangarra White Gum's (*Eucalyptus scoparia*). Two (2) of these trees have been identified as having structural defects and removal is warranted.

The proposal will encroach into the tree protection zone of:

- Tree 2, a Narrow-leaved Black Peppermint (*Eucalyptus nicholli*), which is an Australian native species.
- Trees 4 and 18, Wallangarra White Gums (*Eucalyptus scoparia*), which are Australian native species.

The intrusion is owing to the gravel driveways proposed (Trees 2, 4 and 18), and the proposed hot house 1) and the dispatch and storage building (Trees 4 and 18).

Building Materials

Solarweave (semi-transparent wall), polycarbonate roofing, cladding (various colours), Colorbond canopy overhead, roller door and exit door, and aluminium window and door frames.

COLOUR SCHEDULE		
MARK	LOCATION	SCHEME
1	SOLARWEAVE WALL	SEMI-TRANSPARENT
2	PLASTIC ROOF	POLYCARBONATE
3	WALL CLADDING	SURFMIST (COLORBOND)
4	WALL CLADDING	CUSTOM ORB (COLORBOND) — E
5	WALL CLADDING	GULLY (COLORBOND)
6	WALL CLADDING	PALE EUCALYPT (COLORBOND)
7	EAVES/ CANOPY	GULLY (COLORBOND)
8	ROLLER DOOR	GULLY (COLORBOND)
9	EXIT DOOR	GULLY (COLORBOND)
10	ALUMINIUM WINDOW/ DOOR FRAMES	MATT WALLABY (DULUX POWDERCOATING)
11	ROOF SHEETING	SURFMIST (COLORBOND)

Source: materials and colour schedule (elevation plan, 18 January 2023).

Bicycle Spaces

No bicycle parking spaces are proposed.

## **5.0 AMENDMENTS UNDER SECTION 57A OF THE ACT**

5.1. A Section 57A amendment was submitted to Council on 2 February 2022.

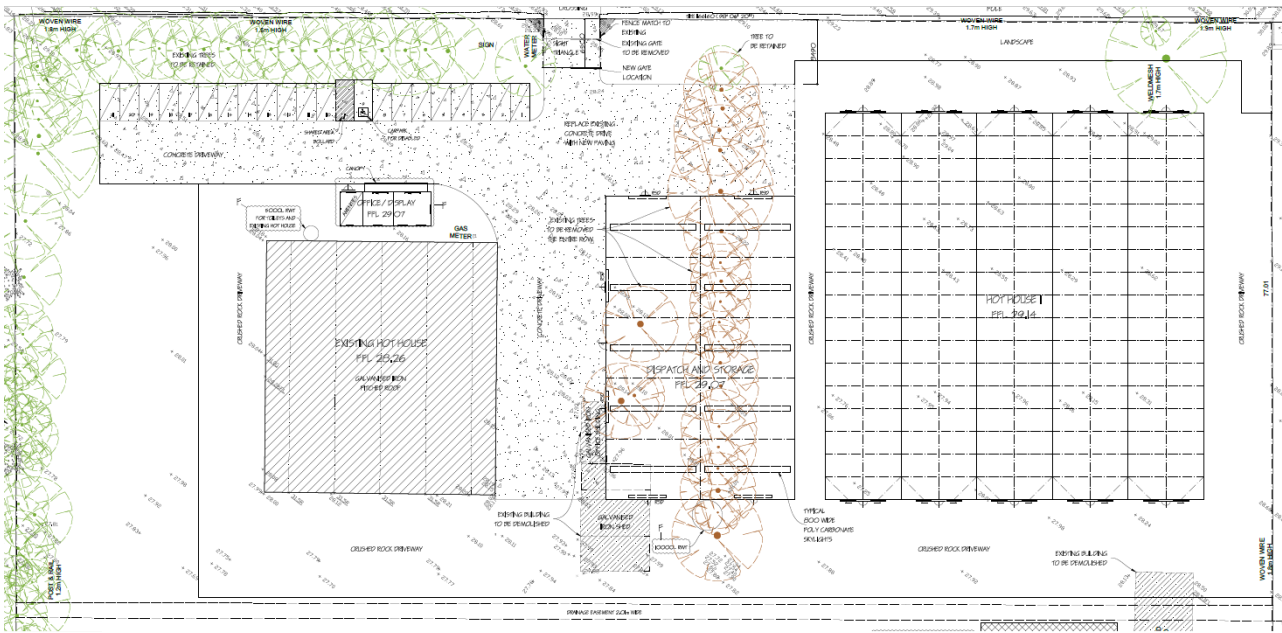


Image 21: Advertised layout.

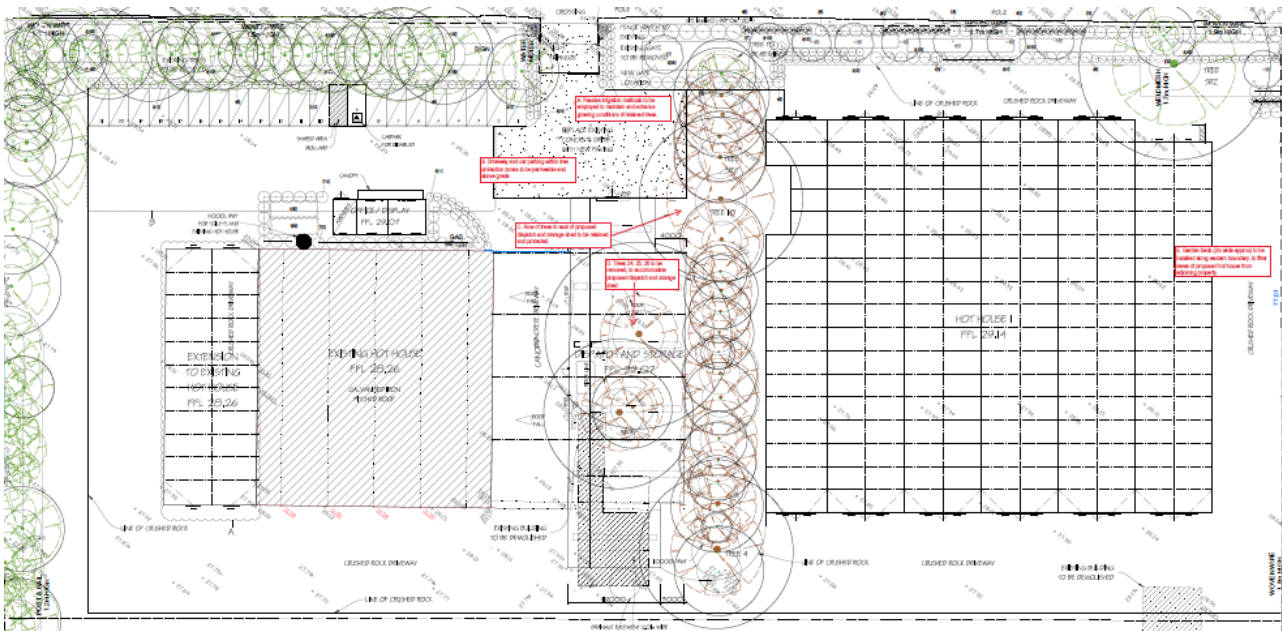


Image 22: Amended layout.

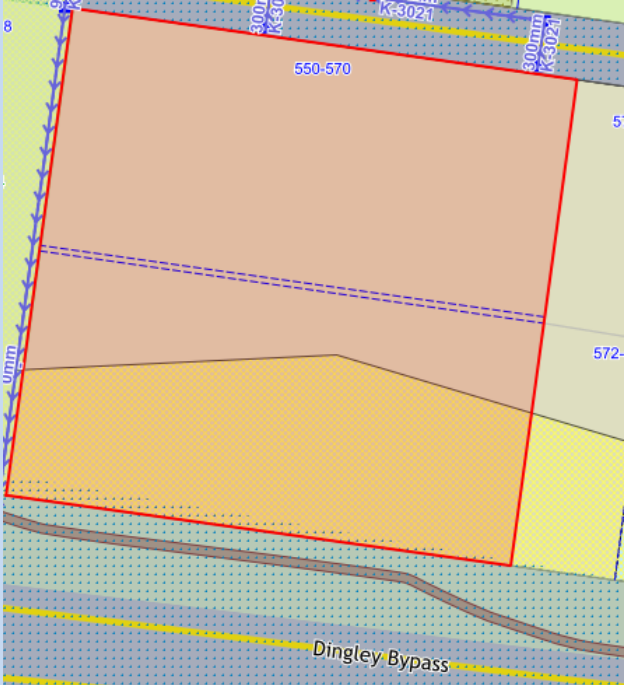
5.2. The amended plans included the following changes:

- Reduced driveway area to retain several trees contained in the established north-south row.
- Minor reductions to the proposed hot house 1) building envelopes, at the north-east and north-west corners, to remove buildings and works from tree protection zone(s).
- Shift the dispatch and storage building towards the west of the site to retain several trees contained in the established north-south row.
- Construct an overhead canopy between the dispatch and storage building, and the existing hot house.
- Extend the existing hot house towards the west (side) boundary.

- 5.3. As a result of the modifications carried out, the proposal seeks to remove Trees 24, 25 and 26, while the row of existing *Eucalyptus scoparia* (Wallangarra White Gum) along the centre of the site is now proposed to be retained.

## **6.0 PLANNING CONTROLS**

<b>Zone / Overlay / Particular Provisions</b>	<b>Rationale</b>
<b>Clause 35.04 – Green Wedge Zone (Schedule 2)</b>	<p>Pursuant to Clause 35.04-1, the use of land for agriculture (crop raising) is listed as a Section 1 use whereby a planning permit is not required.</p> <p>Pursuant to Clause 35.04-5, a permit is required to construct a building which is within:</p> <ul style="list-style-type: none"> <li>- <i>100 metres from a Transport Zone 2 or land in a Public Acquisition Overlay if the Head, Transport for Victoria is the acquiring authority and the purpose of the acquisition is for a road.</i></li> </ul> <p>The land is within 100 metres of Heatherton Road (a Transport Zone 2 road) and within 100 metres of land (the rear portion of the subject land) in a Public Acquisition Overlay (Schedule 1). The Head, Transport Victoria is the acquiring authority and a planning permit is required for buildings and works proposed.</p> <p>It appears the sale of crops is already occurring on site; this has not been proposed as part of this submission.</p> <p>Pursuant to Clause 73.03, the use of land to display and sell crops grown on the land or adjacent land, is defined as a primary produce sales.</p> <p>Pursuant to Clause 35.04-1 of the Green Wedge Zone, the use of land for primary produce sales is a Section 1 use (no permit required), so long as:</p> <ul style="list-style-type: none"> <li>- The land is not within 100 metres of a dwelling in separate ownership.</li> <li>- The area used for the display and sale of primary produce does not exceed 50 square metres.</li> </ul> <p>It is unclear if the total area utilised for the display and sale of primary produce exceeds 50 square metres. A condition on any permit issued is to restrict the sales of primary produce on the site, unless where the Section 1 use (no permit required) condition of Clause 35.04-1 is met.</p>
<b>Clause 43.02 – Design and Development Overlay (Schedule 5)</b>	<p>Pursuant to Clause 43.02 (Design and Development Overlay) a planning permit is required to construct a building or construct or carry out works. This does not apply:</p> <ul style="list-style-type: none"> <li>• <i>If a schedule to this overlay specifically states that a permit is not required.</i></li> </ul> <p>Pursuant to Schedule 5 of the Design and Development Overlay, a permit is required to construct a building or construct or carry out works, which exceeds 25 metres in height.</p> <p>As no buildings or works seek to exceed 25 metres in height, a planning permit is not required in respect of the Design and Development Overlay (Schedule 5).</p>
<b>Clause 45.01 – Public Acquisition</b>	<p>Pursuant to Clause 45.01 (Public Acquisition Overlay) a planning permit is required:</p> <ul style="list-style-type: none"> <li>• <i>Use land for any Section 1 or Section 2 use in the zone.</i></li> <li>• <i>Construct a building or construct or carry out works.</i></li> </ul>

Zone / Overlay / Particular Provisions	Rationale
<b>overlay (Schedule 1)</b>	 <p>Image 23: Intramaps, planning overlays.</p> <p>The proposed use and development do not extend onto land located in the Public Acquisition Overlay. Therefore, a planning permit is not required in respect of the Public Acquisition Overlay.</p>
<b>Clause 51.02 – Metropolitan Green Wedge Land: Core Planning Provisions</b>	<p>Clause 51.02 applies to land that is outside of the urban growth boundary as shown in the planning scheme contained at Clause 02.04 (Strategic Framework Plans). The subject site is outside of the urban growth boundary as shown in the map at Section 10.6 of this report.</p> <p>The overarching purpose of Clause 51.02 is to protect metropolitan green wedge land from uses and development that would diminish agricultural and landscape values and to protect productive agricultural land from incompatible uses. Use of land at Clause 52.01-2 outlines uses that are prohibited; the use of land for agriculture is not a listed use and the proposal aligns with the purpose(s) of the Metropolitan Green Wedge Land: Core Planning Provisions.</p>
<b>Clause 52.05 – Signs</b>	<p>Pursuant to Clause 35.04-7, land in the Green Wedge Zone falls into Category 3 and the signage requirements at Clause 52.05-13 (High Amenity Areas) would apply.</p> <p>Category 3 (High Amenity Areas) signage specifies that a planning permit is required to construct or put up for display any form of business identification signage.</p> <p>As discussed in Section 2 and Section 4 of this report, business identification signs have been erected on the site and it appears that a planning permit has not been obtained for these signs.</p>

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<b>Zone / Overlay / Particular Provisions</b>	<b>Rationale</b>
	<p>This application does not seek approval to construct or put up for display business identification signage.</p> <p>A note of any permit issued is to specify that no signs must be located on site without first obtaining the relevant approval (planning permit).</p>
<b>Clause 52.06 – Car Parking</b>	<p>Pursuant to Clause 52.06 (Car Parking), the predominant use of land for agriculture does not have a prescribed car parking requirement pursuant to the Table 1 at Clause 52.06-5.</p> <p>Where a use of land is not specified in Table 1 or where a car parking requirement is not specified for the use, car parking spaces must be provided to the satisfaction of the Responsible Authority.</p>
<b>Clause 52.17 – Native Vegetation</b>	<p>Pursuant to Clause 52.17-1 (Native Vegetation), a planning permit is required to remove, destroy or lop (including prune) native vegetation, including dead native vegetation.</p> <p>Council obtained advice from an expert ecologist (refer to Section 7) and it has been confirmed that the three (3) trees proposed to be removed from the site are not native to Victoria. Therefore, a planning permit is not required in respect of Clause 52.17.</p>
<b>Clause 52.29 - Land Adjacent to the Principal Road Network</b>	<p>Pursuant to Clause 52.29-2, a planning permit is required to alter the access to a road in the Transport Zone 2. Heatherton Road is designated as a Transport Zone 2 and the application seeks to alter the vehicle access arrangements from Heatherton Road.</p> <p>The proposal seeks to formalise the existing vehicle crossover, through paving the surface (retrospectively).</p> <p>The application was referred to the Department of Transport as the relevant referral authority, who considered the application.</p> <p>No objection was received, with no conditional requirements to be included on any permit issued (refer to Section 7 for further detail).</p>
<b>Clause 52.34 – Bicycle Facilities</b>	<p>Pursuant to Clause 52.34-5 (Bicycle Facilities) the use of land for agriculture does not have a prescribed bicycle parking rate. No bicycle parking spaces are required to be provided and no spaces have been proposed.</p>

## **7.0 REFERRALS**

### **External Referrals**

- 7.1. The application was referred to the following external authorities pursuant to Section 55 of the *Planning and Environment Act 1987*.

<b>Department</b>	<b>Section 52/55</b>	<b>Determining / Recommending</b>	<b>Objection</b>	<b>Comments</b>
<b>Department of Transport</b>	55	Determining	No	No conditional requirements.

### **External Advice from Expert Ecologist**



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- 7.2. It is noted that the subject site exceeds 4,000m<sup>2</sup> in overall area. In accordance with Council's revised Council Resolution, as vegetation is proposed to be removed, advice from an expert ecologist has been obtained.
- 7.3. Nine (9) trees on-site are native to Victoria (Spotted Gum - *Corymbia maculate*, Trees 53-60, and 62). These trees have all been identified as planted, and not indigenous to Kingston.

**Internal Referrals**

- 7.4. The application was referred to the following Council departments for comment:

Department / Area	Comments / Rationale / Recommended Conditions
Traffic Engineer	Council's traffic engineer advised of no objection to the application. The car parking and vehicle access arrangements, including vehicle loading and unloading bays, are deemed satisfactory.
Development Engineer	No objection raised. Conditions have been recommended to be included on any permit issued relating to integrated stormwater management and stormwater drainage.  It was also noted that recent flood mapping from Melbourne Water indicates the land may be subject to a future Land Subject to Inundation Overlay. Notice of the application was sent to Melbourne Water as the relevant floodplain management authority.
Roads and Drains Department	No objection raised. Conditions have been recommended to be included on any permit issued relating to the public footpath reinstatements and limitations, and front and side fences to be contained within title boundaries.
Sustainable Design Officer	Advised that the application will meet Council's expectations in relation to environmentally sustainable design for a development of this scale, subject to alterations to address issues therein. These are reflected as conditions in the recommendation section of this report.
Vegetation Management Officer	There is no objection to the removal of Trees 24, 25 and 26. Replacement planting, with large locally indigenous canopy trees, grasses and ground-covers is recommended to offset their removal. Tree protection fencing is recommended to be erected around all existing trees along the west (side) and north (front) boundaries of the site. A tree protection plan is also recommended, which details the tree protection methods and steps to be followed and implemented.  Additional canopy tree planting and a 3 metre wide garden bed along the southern boundary was recommended by Council's Vegetation management officer to screen the development from the south. However, this is not considered necessary given the setback of the existing and proposed buildings from the south, refer to Image 4 earlier in this report.

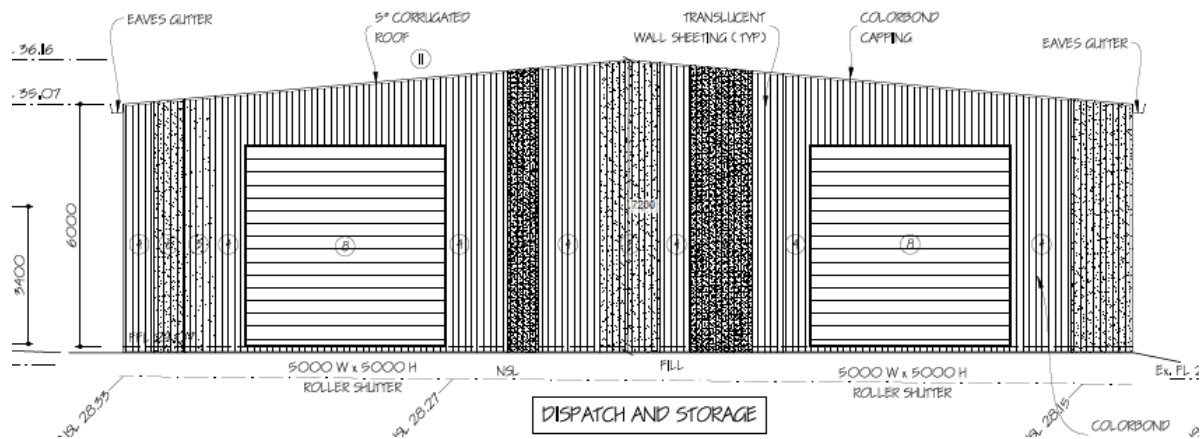
**8.0 ADVERTISING**

- 8.1. The proposal was advertised by sending notices to adjoining and opposite property owners and occupiers and by maintaining a notice on site for fourteen (14) days. No objections were received.
- 8.2. Pursuant to Section 57B(1)(a) of the *Planning and Environment Act 1987*, notice of the amendment to the application under Section 57A of the Act was not required for the following reasons:
- The grant of the planning permit would cause material detriment to any person. While the built form set back towards the side (west) boundary has been reduced, a setback

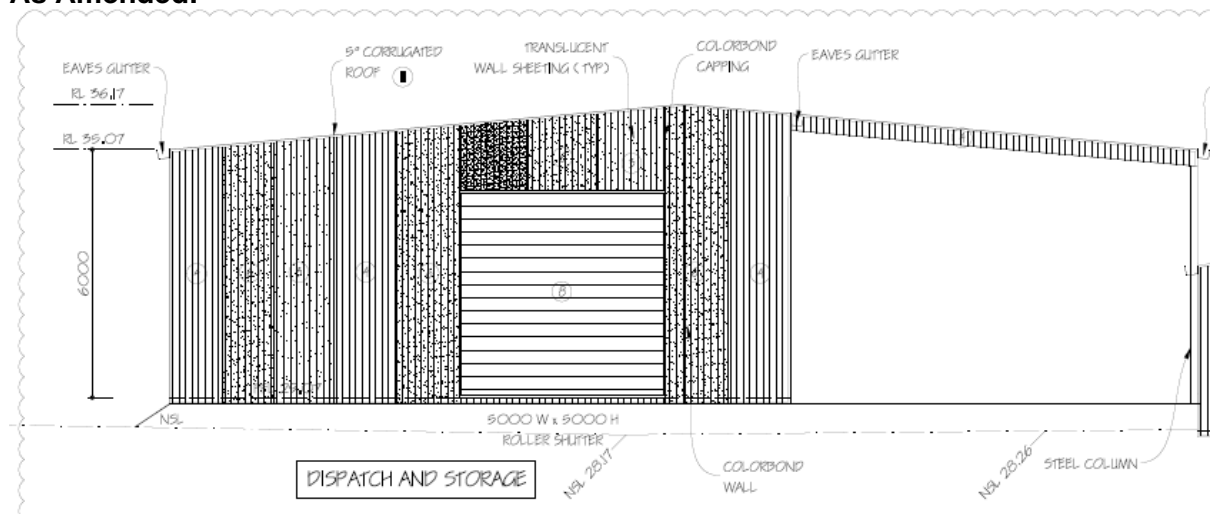


of approximately 21 metres is provided, plus there is a row of mature trees along the western boundary providing a screen towards the subject site. Additionally, the built form setback towards the side (east) boundary has been maintained and the reduced setback to the rear, owing to the proposed dispatch and storage building, is internal to the subject site and poses no amenity impact potential on adjoining properties. The presentation to the street substantially remains the same, with the dispatch and storage centre shifted slightly to the west, with an associated canopy overhead. In essence, the main façade of a portion of the building has been converted to an overhead canopy. A comparison is provided below of the advertised and amended elevations of this segment:

**As Advertised:**



**As Amended:**



**9.0 PLANNING CONSULTATION MEETING**

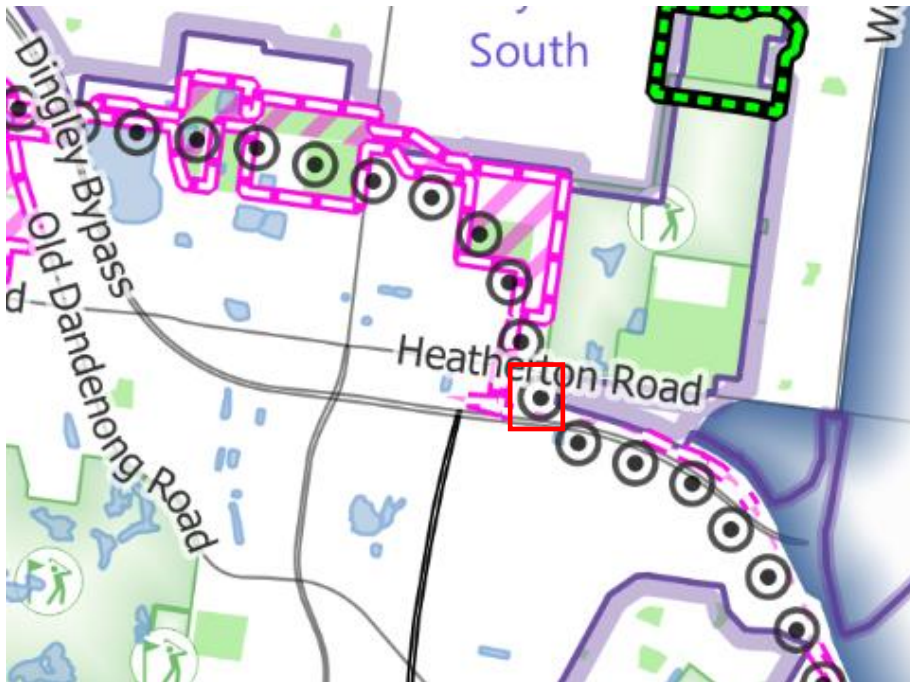
9.1. As no objections to this application were received, no planning consultation meeting was required.

**10.0 PLANNING CONSIDERATIONS**

**Municipal Planning Strategy**

10.1. **Clause 02.02** (Vision) seeks to ensure that green wedge land is effectively managed to achieve sustainable land use outcomes, in a manner which supports the long-term role of Kingston's green wedge.

- 10.2. **Clause 02.03-1** (Green Wedge) encourages land use outcomes in the green wedge which provide sustainable outcomes. Increased pressure for more intensive urban development has led to a decline in agricultural production. Activities must be consistent with, and contribute to, optimal long-term planning solutions for the whole of the south-eastern regional green wedge. Land use and development must respond to and support the following strategic directions:
- *Protect the green wedge land from intrusion of urban uses.*
  - *Ensure activities in the green wedge are consistent with, and contribute to, optimal long-term planning solutions for the whole of the south eastern regional green wedge.*
  - *Improve the region's environmental values (including flood storage, water quality and flora/fauna habitats).*
  - *Support development of regional parks and creation of a network of regional open space linkages, including a north-south open space spine (Chain of Parks – Sandbelt).*
  - *Manage the edge of urban areas to protect the green wedge and ensure that the green wedge area is both stable and enduring.*
  - *Protect and improve the rural landscape character of the green wedge particularly along main roads.*
  - *Protect the economic and operational viability of key industries and infrastructure.*
- 10.3. **Clause 02.03-2** (Environmental and Landscape Values) recognises the significance of Kingston's environmental landscape(s) contribution to the diversity of fauna and flora. The quality and ecological value of Kingston's natural environments must be maintained and enhanced (and not degraded), including retention and provision of native tree canopies, and vegetation corridors. Evolution of the green wedge area seeks to promote further development of the green wedge landscape character. As the site adjoins a road in the Transport Zone 2 road (Heatherton Road), the protection and improvement of the rural landscape character of the green wedge, particularly along main roads, is a relevant consideration.
- 10.4. **Clause 02.03-4** (Natural Resource Management) emphasises that the role of agricultural production throughout Kingston is on a decline, particularly agricultural land use along Heatherton Road. Fragmentation of land holdings through non-compatible land uses reduces land capabilities for agricultural purposes. High quality agricultural land must be protected for agricultural purposes.
- 10.5. **Clause 02.03-5** (Environmentally Sustainable Development) commits to integrate environmentally sustainable principles into all land-use planning, new developments, and redevelopments of existing infrastructure.
- 10.6. The site is included in the Open Space Framework Plan, at **Clause 02.04** (Strategic Framework Plans).



Extract of Open Space Framework Plan.

Open Space Framework Plan

- Open space areas of environmental significance
- Strategic open space links with potential for creation of habitat corridors
- Primary Foreshore Activity Precinct
- Major Foreshore Activity Precinct
- Neighbourhood Foreshore Activity Precinct
- Bay trail
- Chain of Parks
- Core parkland
- Golf courses
- Open space
- Foreshore
- Water body
- Urban growth boundary

Legend within Open Space Framework Plan.

- 10.7. The subject site is adjacent to land (to the west) forming part of Kingston's Chain of Parks. The solid circles with outer rings identify land with potential for creation of habitat corridors (the subject site forms part of this land). Proposed landscape planting on this site (to be enhanced by conditions on any permit issued) will contribute to the future enhancement of habitat corridors.

**Planning Policy Framework**

- 10.8. **Clause 11.01-1R** (Green Wedges – Metropolitan Melbourne) seeks to protect the green wedges of Melbourne from inappropriate development and includes various strategies relating to this objective. Agricultural areas must be protected and the growth of 'agribusiness' activity is encouraged. The environmental and landscape values must be safeguarded.
- 10.9. **Clause 11.01-1L** (Green Wedge – Kingston) encourages land use and development that contribute to the enhancement and re-creation of landscapes. Land use and development must support the rural role and function of Kingston's green wedge areas through their use, layout, building design and landscape elements, particularly in the Heatherton area.
- 10.10. **Clause 12.01-1S** (Protection of Biodiversity) emphasises the protection of biodiversity and significant landscapes as well as improving landscape qualities. Planning must limit the fragmentation of habitats and must protect and enhance habitats for indigenous plants and

animals in urban areas. **Clause 12.01-1L** (Protection of Biodiversity – Kingston) reinforces this and seeks to reinstate and enhance local biodiversity by way of retaining and replanting of native trees and vegetation cover.

- 10.11. As per the directives of **Clause 12.01-2S** (Native Vegetation Management), there should be no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation. Offset planting is required to compensate for the removal, destruction or lopping of native vegetation. This is reinforced at **Clause 12.01-2L** (Native Vegetation Management – Kingston) which promotes the use of indigenous plant species in all landscaping throughout the green wedge area. Existing native vegetation should be retained, where possible.
- 10.12. **Clause 13.07-1S** (Land Use Compatibility) incorporates strategies to ensure new uses do not create adverse offsite impacts and are compatible with the surrounding uses. **Clause 13.07-1L** (Land Use Compatibility – Kingston) further reinforces aforementioned policy.
- 10.13. The need to preserve Victoria's agricultural base is identified at **Clause 14.01-1S** (Protection of Agricultural Land). Strategies in place seek to:
- *Identify areas of productive agricultural land, including land for primary production and intensive agriculture.*
  - *Consider state, regional and local, issues and characteristics.*
  - *Protect productive farmland.*
  - *Protect productive agricultural land.*
- 10.14. **Clause 14.01-1R** (Protection of Agricultural Land – Metropolitan Melbourne) aims to protect agricultural land in Metropolitan Melbourne's green wedges and peri-urban areas. **Clause 14.01-2S** (Sustainable Agricultural Land Use) seeks to support the development with innovative and sustainable approaches to agricultural rural land use practices and encourage diversification and value-adding of agriculture through effective agricultural production.
- 10.15. **Clause 15** (Built Environment and Heritage) aims to ensure that all new land use appropriately responds to its landscape and character, valued built form and cultural context, and protects places and sites with significant heritage, architectural, aesthetic, natural, scientific and cultural value.
- 10.16. **Clause 15.01-2L** (Environmentally Sustainable Design) applies throughout the City of Kingston to residential and non-residential development that requires a planning permit. The overarching objective is that development should achieve best practice in environmentally sustainable development from the design stage through to construction and operation. A non-residential building exceeding a gross floor area of 2,499m<sup>2</sup> requires a sustainable management plan, including an assessment using BESS/Green star, STORM/MUSIC or other methods.
- 10.17. The application was accompanied by a sustainable management plan (BESS/STORM). An overview of the sustainable initiatives proposed is outlined in Section 11 of this report. The sustainable management plan was referred to Council's sustainable design officer. Subject to conditions, the proposal will meet Council's expectations in relation to environmentally sustainable design for a development of this scale. Alterations to the report and application drawings need to be undertaken and these are reflected in the conditions contained in the recommendation section of this report.
- 10.18. **Clause 15.03-2S** (Aboriginal Cultural Heritage) seeks to ensure the protection and conservation of places of Aboriginal cultural heritage significance.
- 10.19. The Subject Land **is** identified in an area of Aboriginal Cultural Heritage Sensitivity. The proposed development of the land is in association with the use of land for agriculture, which

is not a specified use at Regulation 46 of the *Aboriginal Heritage Regulation 2018*. Pursuant to Regulation 46(1)(a), whilst the construction of a building, or the construction or carrying out of works on the land would result in significant ground disturbance, it is not in association with a use specified under Regulation 46(1)(b) and therefore, the proposal is not a high impact activity. An approved cultural heritage management plan is not required as part of this application for a planning permit.

10.20. It is considered that the proposed development generally complies with and satisfies the Planning Policy Framework guidelines (subject to conditions included on any permit issued as discussed throughout this report), which aim to encourage suitable land use and development in the Green Wedge Zone.

10.21. Importantly (subject to conditions on any permit issued), the proposal provides for a sustainable agricultural land use outcome, which will assist in the protection of green wedge land from the intrusion of non-compatible urban uses. The proposed activities are consistent with the long-term planning outcomes for, and support the role of, the green wedge area. The proposal will preserve Victoria's agricultural base and will improve the agricultural efficiency of the site. The proposal will protect and enhance the rural landscape character, particular along Heatherton Road (main road) through provision of on-site native canopy tree planting. There will be no net-loss to biodiversity as a result of the removal of the three (3) non-indigenous canopy trees from the site (subject to tree planting conditions). The natural environment is maintained and will be enhanced.

#### **Zoning Provisions**

10.22. The application has been assessed against the relevant zoning (Green Wedge Zone) and it is considered that the proposed use and development satisfies the purpose of the zoning controls contained within the Kingston Planning Scheme.

10.23. The proposal is responsive to the purpose(s) of the Green Wedge Zone, which seek to:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To provide for the use of land for agriculture.*
- *To recognise, protect and conserve green wedge land for its agricultural, environmental, historic, landscape, recreational and tourism opportunities, and mineral and stone resources.*
- *To encourage use and development that is consistent with sustainable land management practices.*
- *To encourage sustainable farming activities and provide opportunity for a variety of productive agricultural uses.*
- *To protect, conserve and enhance the cultural heritage significance and the character of open rural and scenic non-urban landscapes.*
- *To protect and enhance the biodiversity of the area.*

10.24. Regard is given to the decision guidelines of **Clause 35.04-6**. In relation to general issues, the proposal satisfies the purpose and vision, and Planning Policy Framework of the Kingston Planning Scheme, relating to a rural land use, as the proposal is for agriculture. The suitability of the land is further reinforced because of the land's physical characteristics (size, access, orientation, topography etc.). In relation to environmental issues, the use provides for sustainable land management practices.

10.25. Having consideration to the sites physical characteristics, the location and the proposed use, in the context of its sites and surrounds, the proposal satisfies the overarching purpose of the Green Wedge Zone, including through implementing the Municipal Planning Strategy and the Planning Policy Framework.

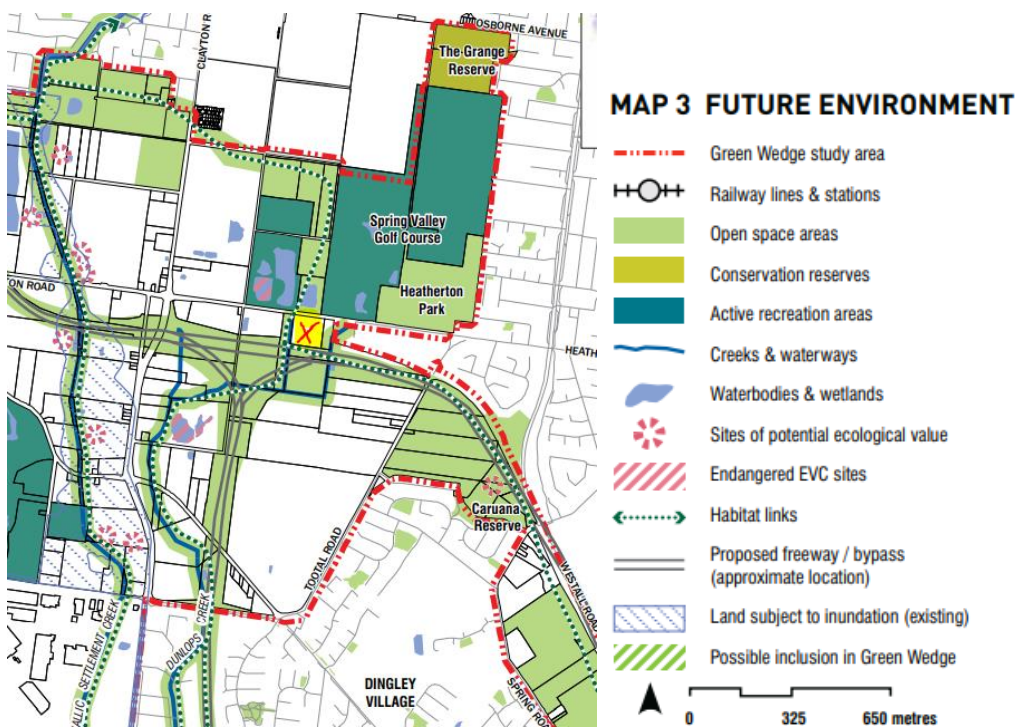


**Kingston Green Wedge Management Plan**

10.26. Regard must be given to the *Green Wedge Management Plan 2012*.

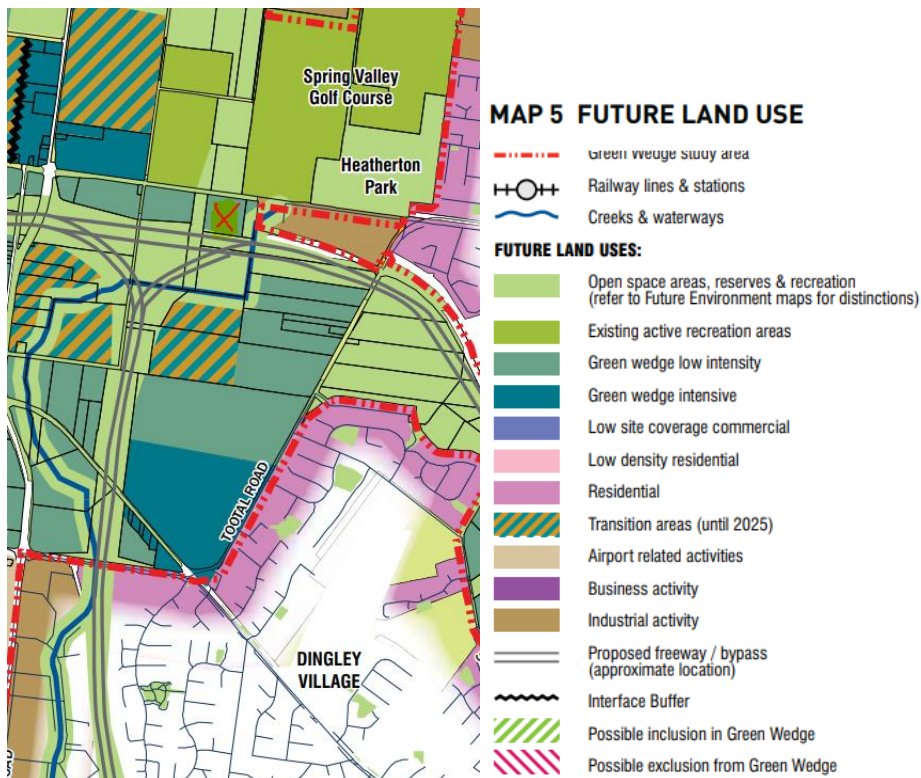
10.27. The Green Wedge Management Plan 2012, identifies the need to encourage new agriculture and other 'green' uses (and associated structures), including small-scale horticultural activities. In order to retain an agricultural presence within the green wedge, greenhouse agriculture activities are encouraged (subject to water supply). The site will have access to reticulated water.

10.28. Several maps are incorporated into the Green Wedge Management Plan:



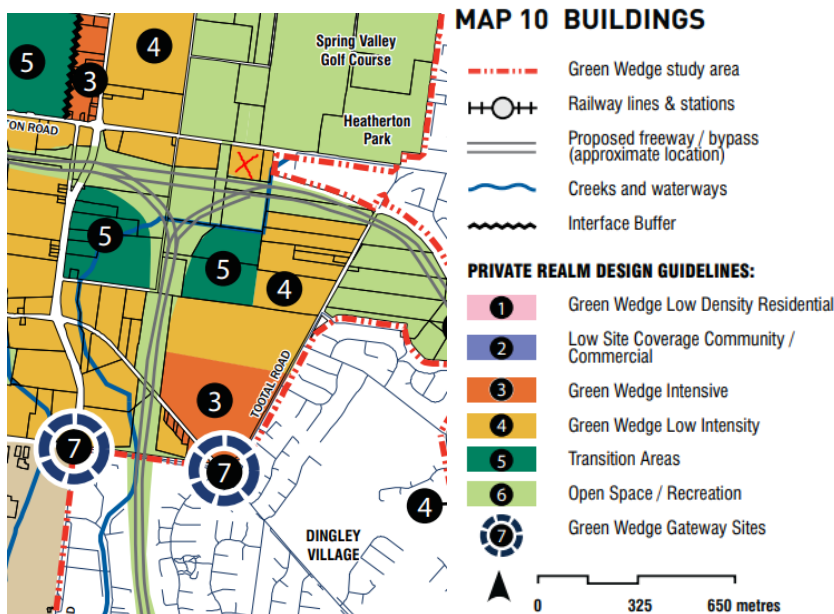
Kingston Green Wedge Management Plan (2012): Map 3 – Future Environment.

10.29. The subject site is on a parcel of land not identified for a future environmental setting. The site is directly adjacent to a future habitat link to the side (west) and rear (south), as well as land intended for future open space (east, west and south).



Kingston Green Wedge Management Plan (2012): Map 5 – Future Land Use.

- 10.30. Green wedge low intensity areas should minimise native vegetation removal in new development. Development which requires native vegetation removal should aim to replace or rehabilitate with an equivalent vegetation cover using locally appropriate species.



Kingston Green Wedge Management Plan (2012): Map 10 – Buildings.

- 10.31. Section 7 of the Green Wedge Management Plan guides development located in green wedge low intensity areas and seeks to:
- *Locate buildings and farming infrastructure such as sheds and machinery away from roads and where possible, within existing clusters of buildings/structures.*
  - *Locate horticultural structures so that they are not highly visible from roads or other public places, or screen with substantial vegetation.*

- *Avoid development on any property boundary.*
- *Limit building heights to a maximum of 8 metres (2 storeys) above natural ground level.*
- *Ensure development adopts best practice environmentally sustainable design and development principles.*
- *Utilise materials, colours and finishes that best immerse built form within the rural landscape (i.e. dark, natural colours, muted tones, matte finishes and nonreflective materials).*
- *Minimise the size and extent of signage and advertising, particularly internally illuminated signs.*

10.32. The proposal locates structures away from Heatherton Road, visibility will be further obscured through the retention and planting of indigenous vegetation. No structures are to be built on any property boundary and the proposed building heights will not exceed 8 metres. Best practice environmentally sustainable design will be achieved on-site, subject to conditions on any permit issued requiring an updated sustainable management plan and green travel plan. Conditions of any permit issued are to require the provision of an external colour and materials schedule, with colours and finishes that best immerse built form within the rural landscape (i.e. dark, natural colours, muted tones, matte finishes and nonreflective materials). No signage forms part of this application for a planning permit.

10.33. The proposal, to use and development the land for agriculture, aligns with the vision and directives of the Kingston Green Wedge Management Plan (2012) and the green wedge low intensity area.

**Particular Provisions**

10.34. The application has been assessed against the relevant particular provisions and it is considered that the proposed use and development meets the requirements contained within this section of the Kingston Planning Scheme.

10.35. Pursuant to **Clause 52.06** (Car parking) and having regard to the use of land for agriculture, car parking must be provided to the satisfaction of the Responsible Authority. A maximum of ten (10) persons are proposed on-site at any one time, with a total of twenty-one (21) on-site car parking spaces proposed. In accordance with **Clause 52.06-6** (Number of Car Parking Spaces Required for Other Uses), the proposed car parking provisions are to the satisfaction of the responsible authority, given the maximum number of persons expected on-site at any one time.

10.36. Corner splays are not clearly nominated and are to be made conditions of any permit issued to ensure appropriate sight lines are maintained when exiting the site.

10.37. The swept path diagrams prepared by Impact Traffic Engineering Pty Ltd (25 May 2022) have not been amended to have regard to the approved site arrangement. A condition of any permit issued is to require updated swept paths for the largest vehicle nominated to enter and egress the site, to the satisfaction of the Responsible Authority.

10.38. Pursuant to **Clause 52.06-9** (Design Standard 1 – Accessways) if an accessway connects to a road in a Transport Zone 2 (Heatherton Road) the accessway must be designed so that cars can exit the site in forward's direction. Personal vehicle parking bays and the associated accessway arrangement is satisfactory to allow for forwards egress from the site.

10.39. The recommended condition above is to specify the nominated vehicle must be demonstrated to exit in a forward's direction.

10.40. **Clause 52.29** (Land Adjacent to the Principal Road Network) is relevant to this application. A new crossover is proposed to Heatherton Road which is a road in the Transport Zone 2. A

permit is required according to Clause 52.29-2 to create or alter access to a road in a Transport Zone 2.

- 10.41. The Department of Transport raised no objection to the alterations to the existing crossover. The purpose and decision guidelines are satisfied by obtaining referral comments from the transport manager (Department of Transport).

**General Provisions**

- 10.42. Pursuant to **Clause 64.02** (Land Used in Conjunction with Another Use), there must be an essential association between the uses and the uses must have a genuine, close and continuing functional relationship in its operation with one another. In this instance it has been determined that the proposed uses (agriculture and ancillary storage / dispatch) cannot operate independently of one another as the storage and dispatch centre is reliant on the produce grown by the agricultural component.
- 10.43. Further, the ancillary use of land for an office also shares an essential association with the predominant agricultural land use. All associated administrative and logistical processes would be carried out in a manner which cannot operate without the agricultural productions on-site.
- 10.44. The additional component involving primary produce sales is also deemed to be ancillary to the predominant agricultural land use (subject to conditions). Under the provisions of Clause 73.03 (Land Use Terms), primary produce sales is defined as:
- *Land used to display and sell primary produce, grown on the land or adjacent land, it may include processed goods made substantially from the primary produce.*
- 10.45. As discussed in Section 6 of this report, the use of land for primary produce sales is a Section 1 land use (no permit required), subject to the land being at least 100 metres from a dwelling in separate owner, and the total area used for the display and sale does not exceed 50 square metres.
- 10.46. The land is not within 100 metres of a dwelling in separate ownership. A condition of any permit issued will control the total area permitted to be used for primary produce sales, unless otherwise approved by the Responsible Authority.
- 10.47. As established already, where one use is ancillary to another, there must be an essential association between the uses and the uses must have a genuine, close and continuing functional relationship in its operation with one another. The restricted use of land for primary produce sales relies wholly upon the crops grown (agricultural use) for its product to be sold. Any associated activity at a greater intensity than the as of use right of 50 square metres holds the potential to sever the 'essential association'.
- 10.48. The proposal satisfies **Clause 64.02**. A separate planning permit is not required to use the land for the purposes of ancillary storage and distribution, or primary produce sales (subject to conditions).
- 10.49. The decision guidelines of **Clause 65.01** (Approval of an Application or Plan) 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. All matters have been considered. The proposed use and development are found to result in the continued orderly planning of the area with no significant effect on the amenity of the area, subject to conditions on any permit issued.



## **11.0 ENVIRONMENTALLY SUSTAINABLE DESIGN**

11.1. This application for planning permit was accompanied by a sustainability management plan (BESS/STORM). The sustainable design initiatives proposed to be incorporated into the construction and fit-out the buildings include:

- Daylight sensors to all external lighting.
- Individual building metering and monitoring of energy consumption.
- Improved insulation for exposed floors and ceilings in accordance with the requirements of National Construction Code 2019 (NCC 2019).
- Glazing systems in accordance with NCC2019.
- Energy efficient electric inverter air-conditioner/heat pump units.
- External shading provided to façade of the office.
- Natural ventilation through the considered provision of windows and doors.
- Structurally design the roof to allow for future installation of solar PV systems to office / display and dispatch / storage buildings.
- Installation of 100kW capacity solar PV panels on the roof of Hothouse 1.
- Buildings to be sealed in accordance with NCC 2019.
- Water efficient fixtures, fitting and appliances incorporated.
- Provision of rainwater tanks to reduce potable water consumption.
- Recycled and/or sustainably sourced materials will be used for the construction process.

11.2. The sustainability management plan was referred to Council's sustainable design officer. The proposal will meet Council's expectations in relation to environmentally sustainable design for a development of this scale. Some alterations to the report and application drawings need to be undertaken to achieve the requirements of each category in BESS and reflected on plans. These changes are to form conditions of any permit issued and are outlined in Section 14 of this report.

## **12.0 VEGETATION AND LANDSCAPING**

12.1. As set out in Section 4.6 of this report, the proposal seeks to remove three (3) Wallangarra White Gum's (*Eucalyptus scoparia*) from the subject land. Whilst these trees are mature native specimens, two of the trees have structural defects and removal of all three trees is warranted to allow for the proposed works at this site. To offset and enhance the on-site vegetation and landscaping outcome achieved by this proposal, conditions will be included on any permit issued requiring the planting of indigenous canopy trees throughout the subject land.

12.2. By way of conditions on any permit issued, the provision of landscape planting along the site's front, side and rear boundaries, including the planting two (2) indigenous canopy trees capable of growing to 8 metres at mature height planted every 10 metres within the subject site's eastern (side) and southern (rear) boundaries. This will compensate for the removal of these trees.

12.3. No other trees are proposed to be removed from the site.

## **13.0 CONCLUSION**

13.1. On balance, the proposal is considered to substantially comply with the relevant planning policy and therefore should be supported, subject to the inclusion of suitable conditions.

13.2. 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 or economic effects.

- 13.3. The proposed use and development is considered appropriate for the site as evidenced by:
- The design and siting of the proposed development to be compatible with the surrounding area.
  - The proposal should not have a detrimental impact on surrounding properties (subject to appropriate conditions).
  - The proposal satisfies the requirements of the Kingston Planning Scheme, including the Municipal Planning Strategy, Planning Policy Framework, zoning controls, Kingston's Green Wedge Management Plan (2012) and Particular Provisions.

#### **14.0 RECOMMENDATION**

- 14.1. That the Planning Committee determine to support the proposal and issue a planning permit for the construction of buildings and works including an additional hot house, an extension to the existing hothouse and a dispatch and storage building associated with the use of the land for agriculture (crop raising) and alterations to the access to a road in the Transport Zone 2 (Heatherton Road), at 550-570 Heatherton Road, Clayton South VIC 3169 (Lot 1 on TP 606467J), subject to the following conditions:

#### **Amended Plans**

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 prepared by Stephen D'Andrea Pty Ltd, Drawing number 6349/21, landscape plan (issue B; dated 18 January 2023) and elevation plan (Revision H; dated 18 January 2023), submitted to Council on 2 February 2023, but modified to show:
  - a. A western (side) elevation plan.
  - b. The area used for the display and sale of primary produce not exceeding 50 square metres.
  - c. The provision of corner splays in accordance with Clause 52.06-9.
  - d. An external colour and materials schedule, with colours and finishes that best immerse the built form within the rural landscape (i.e. dark, natural colours, muted tones, matte finishes and nonreflective materials).
  - e. A minimum 3 metre wide garden bed along the length of the site's eastern (side) boundary, north of the easement.
  - f. All car parking and driveway surfaces within the tree protection zone (TPZ) of the trees to be retained entirely permeable and constructed above-grade. A cross-sectional diagram of the car parking and driveway surfaces and sub-base layers in relation to natural ground level (NGL) in this position must be included.
  - g. Details of the passive irrigation to the existing trees to be retained along the centre of the site, to the satisfaction of the Responsible Authority.
  - h. The landscape plan prepared by Stephen D'Andrea (18 January 2023, Rev.B) amended by a suitably qualified landscape professional to the satisfaction of the Responsible Authority to show:
    - i. A survey, including, botanical names of all existing trees to be retained or removed on the site including tree protection zones for trees to be retained calculated in accordance with AS4970-2009.
    - ii. The delineation of all garden beds, paving, grassed area, retaining walls, fences and other landscape works.

- iii. A range of plant types from ground covers to large shrubs and trees, provided at adequate planting densities (e.g. plants 1 metre width at maturity planted 1 metre apart); with the species chosen to be 100% indigenous to the City of Kingston and to comprise predominantly of locally-occurring species as described by Gippsland Plains EVC numbers 3, 48, 53, 55 and 125.
- iv. The *Eucalyptus leucoxylon* 'Rosea' to be substituted for locally-occurring canopy trees capable of growing to a minimum 15 meters in height at maturity.
- v. One (1) locally occurring canopy tree capable of growing to a minimum 15 metres at mature height and two (2) indigenous canopy trees capable of growing to 8 metres at mature height, to be planted every 10 metres within along the garden beds to site's eastern (side) boundary.
- vi. Under-storey planting of grasses, ground-covers and small-large shrubs etc., throughout the garden beds along the site's eastern boundary and the garden-area surrounding the trees to be retained along the centre of the site.
- 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.
- ix. Tree protection measures including for street trees accurately drawn to scale and labelled as per the endorsed tree management plan.
- x. Details of the passive irrigation to be provided to the existing trees to be retained along the centre of the site.
- i. The location of tree protection measures illustrated to scale and labelled on the ground floor plan as per the endorsed tree management plan.
- j. Any changes necessitated by the tree management plan required by condition 4.
- k. All relevant commitments identified within the amended sustainable management plan required under condition 9 of this permit.

### **Endorsed Plans**

- 2. The development and use as shown on the endorsed plans must not be altered without the 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.

### **Tree Management and Protection Plan**

- 4. Concurrent with the endorsement of plans, a tree management plan prepared by a suitably qualified arborist in accordance with AS4970-2009, must be submitted to and be endorsed by the Responsible Authority and incorporating:
  - a. A tree management plan (written report) must provide details of:
    - i. Any non-destructive root investigation undertaken to determine the location and distribution of roots of trees nominated on the tree protection plan.
    - ii. Proposed footings and construction methods for any buildings or structures within the tree protection zone nominated on the tree protection plan.

- iii. How excavation impacts, including soil level changes, on trees to be retained will be managed.
  - iv. How the canopy of trees nominated on the tree protection plan will be protected.
  - v. Any other measures required to demonstrate the successful ongoing retention and viability post-construction of any trees nominated on the tree protection plan for retention.
  - vi. No changes to existing conditions, including no changes to existing ground level and no services, including for drainage and infiltration, installed within 4 meters either side of the trees to be retained on site.
- b. A tree protection plan (scale drawing) must provide details of:
  - i. The tree protection zone and structural root zone, calculated in accordance with AS4970-2009, for all trees to be retained on the site and for all trees on neighbouring properties where the tree protection zone falls partially within the subject site.
  - ii. Tree protection fencing, or ground protection where required, provided in accordance with AS4970-2009.
  - iii. Stages of development at which inspections are required to ensure tree protection measures are adhered to must be specified.
  - iv. Appropriate signage on any tree protection fencing prohibiting access, excavation, changes in soil levels, or any storage within the tree protection zone in accordance with AS4970-2009 unless with the prior written consent and under the direct supervision of the consulting arborist.
  - v. Maintenance of the area(s) within the tree protection zone in accordance with AS4970-2009.
  - vi. Any pruning to be undertaken being in accordance with AS4373-2007.
  - vii. A notation to refer to the tree management plan.
- 5. All protection measures identified in the tree management plan must be implemented, and development works undertaken on the land must be undertaken in accordance with the tree management plan, to the satisfaction of the Responsible Authority.
- 6. Prior to the commencement of works, the name and contact details of the project arborist responsible for implementing the tree management plan must be submitted to the Responsible Authority.

### **Drainage and Water Sensitive Urban Design**

- 7. 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 engineering 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 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.



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- c. The water sensitive urban design treatments as per conditions 7(a) and (b) above must be implemented on-site, unless an alternative agreement for stormwater quality in-lieu contribution is reached with the Responsible Authority.
  - d. Detailed stormwater management (drainage) plan(s) must be prepared, with supporting computations, showing the stormwater (drainage) works to the nominated point of discharge in line with approved stormwater management (drainage) strategy report. 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.
8. 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 calculated as per Council's "Civil Design requirements for Developers – Part A: Integrated Stormwater Management".
  - c. All stormwater (drainage) works must be maintained to the satisfaction of the Responsible authority.

**Sustainable Management Plan**

9. Concurrent with the endorsement of plans required pursuant to condition 1 of this permit, the provision of an amended sustainable management plan (SMP) prepared by a suitably qualified professional must be submitted to and approved by the Responsible Authority. The amended sustainable management plan (and revised plans as relevant) must:
- a. Achieve a minimum 50% overall score and minimum in Energy (50%), Water (50%), IEQ (50%) and Stormwater (100%) categories in BESS.
  - b. Plans to indicate rainwater tank location, size and connection to all toilets and outdoor taps.
  - c. Plans to indicate proposed 10kWp solar photovoltaic system.
  - d. Bicycle parking space indicated on the plans.
  - e. The non-visible flat roofs and exposed concrete driveway must specify light coloured or reflective finishes / materials (Solar Reflective Index >50 or Solar Absorptance<0.6).
  - f. All fabricated structural steelwork to be supplied by a steel fabricator/contractor accredited to the Environmental Sustainability Charter of the Australian Steel Institute.
- Or to the satisfaction of the Responsible Authority.
10. All works must be undertaken in accordance with the endorsed sustainable design assessment to the satisfaction of the responsible authority. No alterations to the sustainable design assessment may occur without the written consent of the Responsible Authority.

**Infrastructure and Road Works**

11. Property boundary levels must not be altered without the prior written consent from the Responsible Authority.

12. Vehicle crossovers and other reinstatements must be constructed to council's industrial strength specifications.
13. All redundant vehicle crossovers must be removed (including redundant portions of vehicle crossovers) to the satisfaction of the Responsible Authority.
14. All front and side fences must be contained wholly within the title property boundaries of the subject land.

**General Amenity**

15. The amenity of the area must not be detrimentally affected by the development through the:
  - i) Transport of materials, goods or commodities to or from the land.
  - ii) Appearance of any building, works or materials.
  - iii) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil.
  - iv) Presence of vermin.
  - v) Any other way.
16. The loading and unloading of goods to and from vehicles must only be carried out on the land.
17. No goods or packaging materials shall be stored or left exposed outside the building so as to be visible to the public from a road or other public place.
18. All external surfaces of the building elevations must be finished in accordance with the schedule on the endorsed plans and maintained in good condition to the Responsible Authority's satisfaction.
19. The development of the site shall not cause nuisance or be detrimental to the amenity of the neighbourhood by the emission of noise. In this regard any nuisance shall be assessed in accordance with the Australian Standards AS1055 and AS2107 relating to the measurement of Environmental Noise and recommended sound levels.

**Car Parking and Access**

20. Before occupation of the development hereby permitted, areas set aside for parking vehicles, access lanes and paths as shown on the endorsed plans must be:
  - i) Constructed to the satisfaction of the Responsible Authority.
  - ii) Properly formed to such levels that they can be used in accordance with the plans.
  - iii) Drained to the satisfaction of the Responsible Authority.
  - iv) Line-marked to indicate each car space, all access lanes and, if necessary, the direction in which vehicles are to travel to the satisfaction of the Responsible Authority.
  - v) In accordance with any Council adopted guidelines for the construction of car parks.

Parking areas and access lanes must be kept available for these purposes at all times and maintained to the satisfaction of the Responsible Authority.
21. In areas set aside for car parking, measures must be taken to the satisfaction of the Responsible Authority to prevent damage to fences or landscaped areas.

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22. Prior to the occupation of the building(s) 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.
23. Before occupation of the development hereby permitted, 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.
24. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.

**Permit Expiry**

25. 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 before two (2) years from date of this permit.
- The development is not completed before 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:** Prior to the commencement of the use or development you are required to obtain the necessary building permit.
- Note:** Environment Protection Authority (EPA) Victoria set out the requirements pertaining to site construction hours and permissible noise levels.
- 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:** Before removing / pruning any vegetation from the site, the applicant or any contractor engaged to remove any vegetation, should consult Council's vegetation management officer to verify if a Local Laws permit is required for the removal of such vegetation.
- Note:** Any landscape plan prepared in accordance with conditions must comply with Council's Landscape Checklist.
- Note:** No sign(s) or advertising or identification may be erected or displayed on the site without the prior written consent of the Responsible Authority, unless where exempt from the requirements of a planning permit.
- Note:** Recent Melbourne Water flood mapping indicates a Land Subject to Inundation Overlay will be introduced on the land. Please contact Melbourne Water for further information (i.e., required finished floor levels etc).

**City of Kingston  
Planning Committee Meeting**

**Agenda**

**19 April 2023**

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**Appendices**

Appendix 1 - KP-2022/387 - 550-570 Heatherton Road, Clayton South (Ref 23/73854)



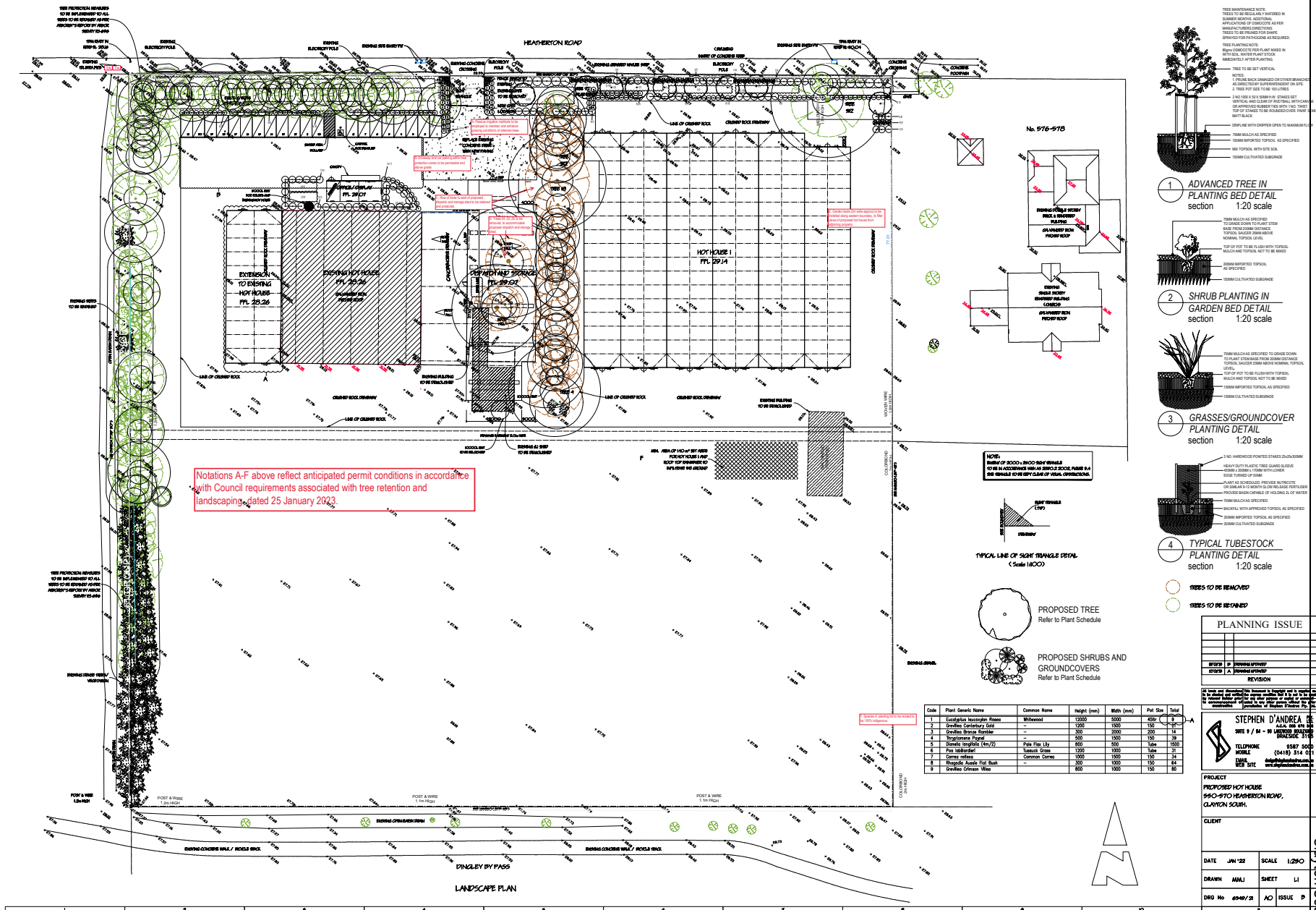
Author/s:	Tim Yildirim, Statutory Planner
Reviewed and Approved By:	Nikolas Muhllechner, Team Leader - Statutory Planning Jaclyn Murdoch, Manager City Development

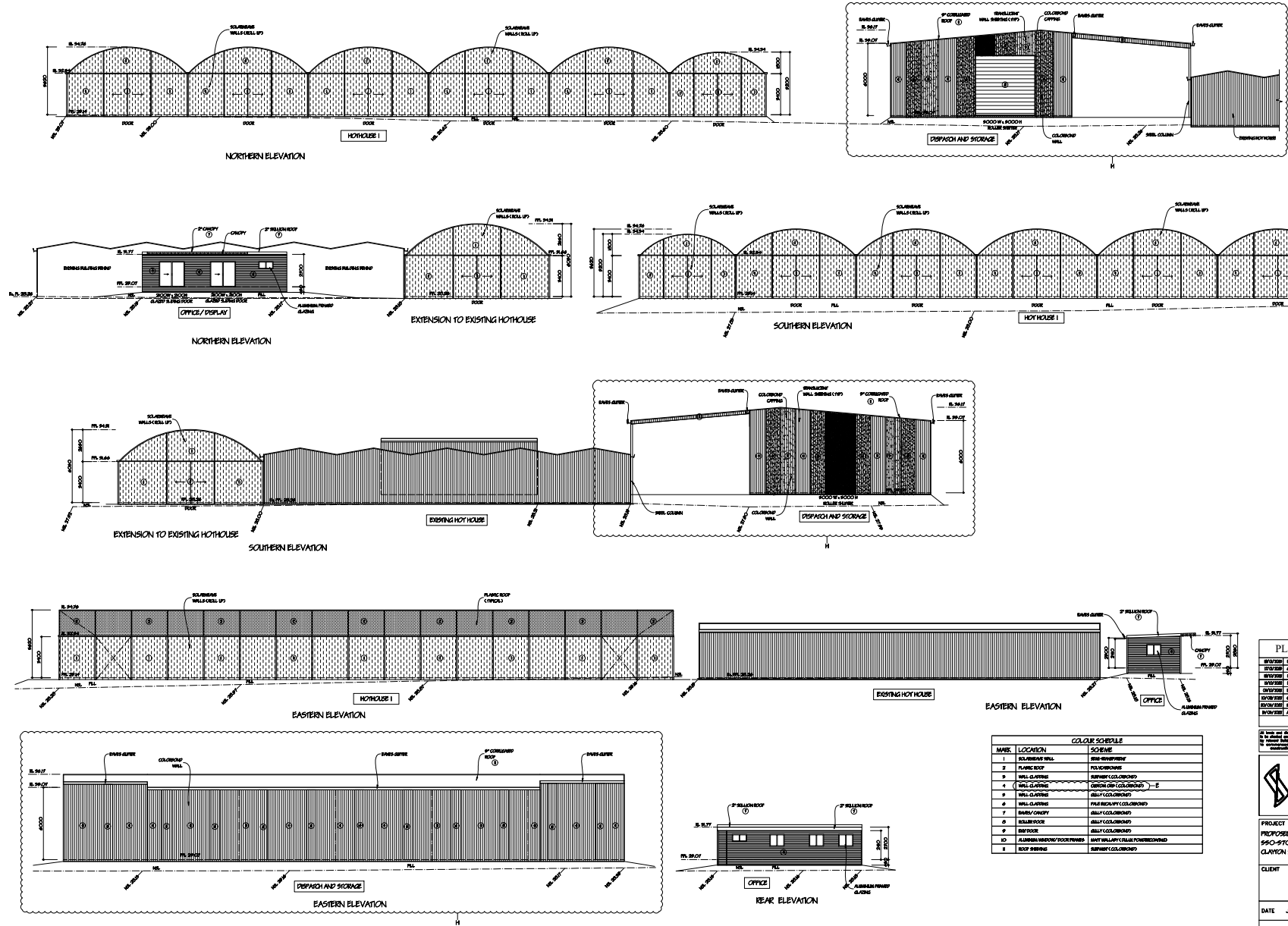


## **4.4**

### **KP-2022/387 - 550-570 HEATHERTON ROAD, CLAYTON SOUTH**

<b>1</b>	<b>KP-2022/387 - 550-570 Heatherton Road, Clayton South ..... 97</b>
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**PLANNING ISSUE**

REVISION	DATE	DESCRIPTION
1	2022/01/12	ISSUED FOR PERMIT
2	2022/01/12	ISSUED FOR PERMIT
3	2022/01/12	ISSUED FOR PERMIT
4	2022/01/12	ISSUED FOR PERMIT
5	2022/01/12	ISSUED FOR PERMIT
6	2022/01/12	ISSUED FOR PERMIT
7	2022/01/12	ISSUED FOR PERMIT
8	2022/01/12	ISSUED FOR PERMIT
9	2022/01/12	ISSUED FOR PERMIT
10	2022/01/12	ISSUED FOR PERMIT
11	2022/01/12	ISSUED FOR PERMIT
12	2022/01/12	ISSUED FOR PERMIT

**STEPHEN D'ANDREA**  
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 FAX (0418) 314 011  
 EMAIL stephen@stephendandrea.com.au

**PROJECT**  
 PROPOSED HOT HOUSE  
 550-570 HEATHERTON ROAD,  
 CLAYTON SOUTH.

**CLIENT**

**COLOR SCHEDULE**

NO.	LOCATION	SCHEME
1	SOLARISE WALL	SCHEME 1
2	GLASS/ROOF	SCHEME 2
3	WALL CLADDING	SCHEME 3
4	WALL CLADDING	SCHEME 4
5	WALL CLADDING	SCHEME 5
6	WALL CLADDING	SCHEME 6
7	WALL CLADDING	SCHEME 7
8	WALL CLADDING	SCHEME 8
9	WALL CLADDING	SCHEME 9
10	WALL CLADDING	SCHEME 10
11	WALL CLADDING	SCHEME 11
12	WALL CLADDING	SCHEME 12