

# Agenda

## Planning Committee Meeting

**Wednesday, 14th December 2022**

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

## **ACKNOWLEDGEMENT OF COUNTRY**

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The City of Kingston proudly acknowledges the Bunurong People of the Kulin Nation as the Traditional Owners and Custodians of this land, and we pay our respect to their Elders, past and present and emerging.

Council acknowledges the Bunurong's continuing relationship to the land and waterways and respects that their connection and spiritual identity is maintained through ancient ceremonies, songlines, dance, art and living culture.

Council pays tribute to the invaluable contributions of the Bunurong and other Aboriginal and Torres Strait Island elders who have guided and continue to guide the work we do.



**City of Kingston  
Planning Committee Meeting**

**Agenda**

**14 December 2022**

**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, 14 December 2022.

**1. Apologies**

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

Minutes of Planning Committee Meeting 23 November 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**

4.1	Town Planning Application Decisions - November 2022 .....	5
4.2	KP-2015/336/C - Mentone Girls Grammar School.....	21
4.3	KP-2021/832 - Railway Reserve, Balcombe Road, Mentone (Lots 1 and 2 on TP597980P) .....	111
4.4	KP-2016/465/A - Moorabbin Reserve, 32-60 Linton Street Moorabbin .....	181
4.5	1233 Nepean Highway, Highett KP-2016/124/B S87A amendment ..	205

**5. Confidential Items**

Nil

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

## Planning Committee Meeting

14 December 2022

Agenda Item No: 4.1

### TOWN PLANNING APPLICATION DECISIONS - NOVEMBER 2022

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 November, 2022.

A summary of the decisions is as follows:

Type of Decision	Number of Decisions Made	Percentage (%)
Planning Permits	89	74
Notice of Decision	16	13
Refusal to Grant a Permit	2	2
Other - Withdrawn (9) - Prohibited (0) - Permit not required (1) - Lapsed (3) - Failure to Determine (0)	13	11
<b>Total</b>	<b>120</b>	<b>100</b>

(NB: Percentage figures have been rounded)

#### OFFICER RECOMMENDATION

That the report be noted.

#### Appendices

Appendix 1 - Town Planning Application Decisions November 2022 (Ref 22/345117) 



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 - NOVEMBER 2022**

<b>1</b>	<b>Town Planning Application Decisions November 2022 .....</b>	<b>9</b>
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Planning Decisions November, 2022							
APPL. No.	PROPERTY ADDRESS	SUBURB	APPL. DATE	DATE DECIDED	PROPOSAL DESCRIPTION	DECISION	VCAT DECISION
KP-2022/578	97 Old Dandenong Road	OAKLEIGH SOUTH	29/08/2022	2/11/2022	Removal of Drainage Easement	Withdrawn	No
KP-2022/512	Restaurant 18 21 Thompson Road	PATTERSON LAKES	1/08/2022	2/11/2022	The use of the land for a place of assembly (shisha lounge), in association with the existing restaurant	Notice of Decision	No
KP-2022/220	10 Leonard Close	CLARINDA	6/04/2022	2/11/2022	The construction of two (2) double storey dwellings	Notice of Decision	No
KP-2018/180/C	39 De Havilland Road	MORDIALLOC	11/10/2022	2/11/2022	Use and development of the land for industry (brewery) and tavern, sale and consumption of liquor, display of business identification signage and a reduction to the car parking requirements of Clause 52.06 under the Kingston Planning Scheme	Permit	No
KP-2022/666	Warehouse 2 1-5 Lake Drive	DINGLEY VILLAGE	9/10/2022	2/11/2022	The construction of a mezzanine within the existing warehouse	Permit	No
KP-2022/125	45 Tennyson Avenue	CLAYTON SOUTH	2/03/2022	2/11/2022	Subdivide the Land into Four (4) Lots	Permit	No
KP-2022/546	21 Bondi Road	BONBEACH	16/08/2022	2/11/2022	Subdivide the land into three (3) lots in accordance with the endorsed plans	Permit	No
KP-2001/284/A	Unit 1 1 Bevan Avenue	CLAYTON SOUTH	25/05/2022	3/11/2022	The development of this site for two (2), dwellings, in accordance with plans to be submitted pursuant to condition 1 hereof	Permit	No
KP-2022/102	47 Sixth Street	PARKDALE	22/02/2022	3/11/2022	The construction of two (2) double storey dwellings	Notice of Decision	No
KP-2021/861	260-280 Governor Road	BRAESIDE	8/12/2021	3/11/2022	Develop the land for the construction of buildings and works in a Land Subject to Inundation	Withdrawn	No

					Overlay, reduction of the car parking requirement for warehouses and industry, create access to a Transport Zone 2.		
KP-2022/586	55-57 Wilson Street	CHELTENHAM	31/08/2022	3/11/2022	Subdivide the Land into Nine (9) Lots	Permit	No
KP-2021/904	2 Gavin Street	MOORABBIN	22/12/2021	4/11/2022	Develop the land for the construction of two (2) dwellings	Permit	No
KP-2021/732	56 Taunton Drive	CHELTENHAM	21/10/2021	4/11/2022	Use the land for Restricted Recreation Facility (fitness studio and boxing gym)	Permit	No
KP-2022/624	47 Tennyson Avenue	CLAYTON SOUTH	14/09/2022	4/11/2022	Subdivide the land into four (4) lots in accordance with the endorsed plans	Permit	No
KP-2004/515/A	27 Fifth Street	PARKDALE	31/05/2022	4/11/2022	The construction of two (2) dwellings on this site	Permit	No
KP-2022/593	1 Southern Road	MENTONE	5/09/2022	4/11/2022	Subdivide the land into two (2) lots	Permit	No
KP-2022/671	31 McKay Street	PARKDALE	12/10/2022	4/11/2022	Subdivide the land into two (2) lots	Permit	No
KP-2020/254/A	111 Lower Dandenong Road	MENTONE	3/08/2022	4/11/2022	Development of one (1) dwelling to the rear of an existing dwelling and extension to the existing dwelling and alter access to a Road Zone, Category 1	Permit	No
KP-2021/928	50 Cedric Street	MORDIALLOC	29/12/2021	4/11/2022	The development of two (2) dwellings on land affected by a Special Building Overlay	Permit	No
KP-2022/652	21 Parnell Street	CHELTENHAM	3/10/2022	4/11/2022	Subdivide the land into two (2) lots	Permit	No
KP-2022/661	13 Elliminya Court	CLARINDA	5/10/2022	4/11/2022	Subdivide the land into two (2) lots	Permit	No
KP-2021/919	41 Baxter Avenue	CHELSEA	10/01/2022	4/11/2022	Development of four (4) double storey dwellings and a front fence exceeding exceed 1.2 metres in height, in a Special Building Overlay	Permit	No

KP-2022/163	27 Axford Crescent	OAKLEIGH SOUTH	17/03/2022	4/11/2022	The construction of two (2) double storey dwellings	Permit	No
KP-2017/218/A	15 Sixth Avenue	CHELSEA HEIGHTS	4/05/2021	4/11/2022	In accordance with the endorsed plans:  Use and development of a Childcare centre; Construction of up to 59 dwellings on a lot; The creation and alteration of access to a Road Zone - Category 1; To remove native vegetation.	Permit	No
KP-2021/455	179-217 Centre Dandenong Road	DINGLEY VILLAGE	21/07/2021	4/11/2022	Remove Native Vegetation (Tree 1487 Acacia implexa [Lightwood])	Permit	Yes
KP-2021/492	179-217 Centre Dandenong Road	DINGLEY VILLAGE	27/07/2021	4/11/2022	Remove Native Vegetation (Tree 360 Eucalyptus botryoides [Southern Mahogany])	Permit	Yes
KP-2022/554	23-25 Murdock Street	CLAYTON SOUTH	17/10/2022	4/11/2022	The construction of five (5) warehouses and a reduction in the car parking requirement	Permit	No
KP-2021/486	179-217 Centre Dandenong Road	DINGLEY VILLAGE	27/07/2021	4/11/2022	Remove Native Vegetation (Tree 757 Eucalyptus botryoides [Southern Mahogany])	Permit	Yes
KP-2021/487	179-217 Centre Dandenong Road	DINGLEY VILLAGE	27/07/2021	4/11/2022	Remove Native Vegetation (Tree 748 Eucalyptus botryoides [Southern Mahogany])	Permit	Yes
KP-2021/490	179-217 Centre Dandenong Road	DINGLEY VILLAGE	27/07/2021	4/11/2022	Remove Native Vegetation (Tree 525 Eucalyptus botryoides [Southern Mahogany])	Permit	Yes

KP-2021/485	179-217 Centre Dandenong Road	DINGLEY VILLAGE	27/07/2021	4/11/2022	Remove Native Vegetation (Tree 759 Eucalyptus botryoides [Southern Mahogany])	Permit	Yes
KP-2021/482	179-217 Centre Dandenong Road	DINGLEY VILLAGE	27/07/2021	4/11/2022	Remove Native Vegetation (Tree 974 Eucalyptus botryoides [Southern Mahogany])	Permit	Yes
KP-2022/623	130 McLeod Road	PATTERSON LAKES	14/09/2022	4/11/2022	Proposed carport to replace original carports that were removed	Permit Not Required	No
KP-2021/480	179-217 Centre Dandenong Road	DINGLEY VILLAGE	27/07/2021	4/11/2022	Remove Native Vegetation (Tree 994 Eucalyptus botryoides [Southern Mahogany])	Permit	Yes
KP-2021/475	179-217 Centre Dandenong Road	DINGLEY VILLAGE	27/07/2021	4/11/2022	Remove Native Vegetation (Tree 1318 Eucalyptus botryoides [Southern Mahogany])	Permit	Yes
KP-2021/474	179-217 Centre Dandenong Road	DINGLEY VILLAGE	27/07/2021	4/11/2022	Remove Native Vegetation (Tree 1319 Eucalyptus botryoides [Southern Mahogany])	Permit	Yes
KP-2021/470	179-217 Centre Dandenong Road	DINGLEY VILLAGE	27/07/2021	4/11/2022	Remove Native Vegetation (Tree 1482 Eucalyptus botryoides [Southern Mahogany])	Permit	Yes
KP-2021/469	179-217 Centre Dandenong Road	DINGLEY VILLAGE	27/07/2021	4/11/2022	Remove Native Vegetation (Tree1483 Eucalyptus botryoides [Southern Mahogany])	Permit	Yes
KP-2021/466	179-217 Centre Dandenong Road	DINGLEY VILLAGE	27/07/2021	4/11/2022	Remove Native Vegetation (Tree 1484 Eucalyptus viminalis [Manna Gum])	Permit	Yes
KP-2022/613	2-6 Swansea Road	CHELSEA	31/08/2022	7/11/2022	Alterations and additions to the existing boatshed (1251)	Permit	No



KP-2022/201	13 Chandler Street	PARKDALE	29/03/2022	7/11/2022	The construction of a three storey building including an extension to the existing shop and two (2) dwellings and a reduction in the car parking requirement	Notice of Decision	No
KP-2022/216	1 Alward Avenue	CLAYTON SOUTH	5/04/2022	7/11/2022	Construction of a double storey dwelling to the rear of an existing single storey dwelling	Permit	No
KP-2022/296	Unit 1 3 Afton Way	ASPENDALE	5/05/2022	7/11/2022	The construction of a ground floor extension and deck to the existing dwelling	Permit	No
KP-2022/699	82 Levanswell Road	MOORABBIN	25/10/2022	7/11/2022	Subdivide the land into twenty-one (21) lots (stage 2)	Permit	No
KP-2018/511/B	238-242 Chesterville Road	MOORABBIN	15/06/2022	7/11/2022	Use of land for Industry (Bakery) and an ancillary Food and Drink Premises (Cafe/Commercial Bakery), associated buildings and works, a reduction in the car parking requirements, alteration of access in a Road Zone Category 1 and erection of advertising signage	Permit	No
KP-2022/548	20 Matilda Road	MOORABBIN	17/08/2022	7/11/2022	The construction of two (2) double storey dwellings	Permit	No
KP-2021/612/A	630 Heatherton Road	CLAYTON SOUTH	24/10/2022	7/11/2022	The construction of works to an existing warehouse and to reduce the car parking requirement	Permit	No
KP-2022/570	11 View Street	HIGHETT	24/08/2022	8/11/2022	Subdivide the Land into Six (6) Lots	Permit	No
KP-2022/620	24 Broome Avenue	MENTONE	14/09/2022	8/11/2022	Subdivide the land into two (2) lots	Permit	No
KP-2022/181	297-301 Boundary Road	MORDIALLOC	22/03/2022	8/11/2022	The construction of a warehouse to the rear of the existing building	Permit	No
KP-2022/508	1 23 Gillman Street	CHELTENHAM	1/08/2022	8/11/2022	Alterations and addition to an existing dwelling	Permit	No
KP-2022/573	6 Ruvina Street	ASPENDALE	26/08/2022	9/11/2022	Construction of two (2) dwellings	Permit	No

KP-2022/356	43 Brentwood Close	CLAYTON SOUTH	27/05/2022	9/11/2022	The construction of a ground floor extension and a first floor addition to the existing building and a reduction in the car parking requirement associated with an office and dwelling	Notice of Decision	No
KP-2022/306	28 Railway Parade	HIGHETT	9/05/2022	9/11/2022	The construction of two (2) double storey dwellings	Refused	No
KP-2022/504	51 Marcus Road	DINGLEY VILLAGE	1/08/2022	9/11/2022	The display of two (2) internally illuminated business identification signs	Permit	No
KP-2021/706	10 Jean Street	CHELTENHAM	7/10/2021	10/11/2022	The construction of four (4) double storey dwellings	Lapsed	No
KP-2022/552	16 Dallas Street	MENTONE	23/08/2022	10/11/2022	Develop the land for the construction of two (2) dwellings	Notice of Decision	No
KP-2021/874	6 First Street	CLAYTON SOUTH	10/12/2021	10/11/2022	Development of two (2) dwellings	Notice of Decision	No
KP-2018/808/A	5-7 Manikato Avenue	MORDIALLOC	26/08/2022	10/11/2022	Develop the land for the construction of 30 dwellings in a Special Building Overlay	Permit	No
KP-2022/408/A	Gnd Floor 14-16 Station Street	MOORABBIN	11/11/2022	14/11/2022	Increase in patronage from 72 patrons to 133	Withdrawn	No
KP-2022/408	Gnd Floor 14-16 Station Street	MOORABBIN	16/09/2022	14/11/2022	Increase in patronage from 72 patrons to 133	Withdrawn	No
KP-2021/293/A	25 107 Wells Road	CHELSEA HEIGHTS	19/08/2022	14/11/2022	The use of the land for an indoor recreation facility (Brazilian Jiu Jitsu studio)	Notice of Decision	No
KP-2022/41	44 Glen Street	ASPENDALE	27/01/2022	14/11/2022	The construction of two (2) double storey dwellings.	Notice of Decision	No
KP-2001/773/A	73 Broadway	BONBEACH	22/08/2022	14/11/2022	Development of the land for two dwellings and to construct a front fence exceeding 1.2 metres	Notice of Decision	No
KP-2022/703	Level 1 14-16 Station Street	MOORABBIN	28/10/2022	14/11/2022	Seeking amendments to KP-638/2016;	Withdrawn	No

					<p>WHAT WILL THE PERMIT ALLOW? Change 'Dance Studio' to 'Fitness Studio' (teaching mobility, martial arts, meditation, etc)</p> <p>WHAT WILL THE CONDITIONS BE? - Change opening hours to M-F 6:00am-9:30pm, Sun 10am-5pm - Maximum of 16 patrons and 3 staff at any one time</p> <p>AI</p>		
KP-2022/571	100 Broadway	BONBEACH	24/08/2022	14/11/2022	The construction of buildings and works, including fourteen (14) cabins, in association with the existing camping and caravan park	Permit	No
KP-2022/637	Part LEVEL 3 1001 Nepean Highway	MOORABBIN	21/09/2022	15/11/2022	Use of the land as a medical centre	Permit	No
KP-2021/620	4A Keiller Avenue	PARKDALE	14/09/2021	15/11/2022	Alterations & additions to the existing dwelling	Withdrawn	No
KP-2021/596	4 Brigantine Court	PATTERSON LAKES	6/09/2021	16/11/2022	The development of two (2) dwellings	Notice of Decision	No
KP-2020/452/A	35 Manoon Road	CLAYTON SOUTH	28/06/2022	16/11/2022	The development of four (4) dwellings	Permit	No
KP-2022/395	52 Herald Street	CHELTENHAM	12/06/2022	16/11/2022	The development of two (2) dwellings	Permit	No
KP-2004/782/B	56 Nepean Highway	MENTONE	14/06/2022	16/11/2022	The construction of buildings and works on this site comprising the re-development of the site for a service station with associated convenience shop and advertising signs, and to alter and create access to land adjacent to a Road Zone Category 1	Permit	No
KP-2022/532	36 The Crescent	HIGHETT	9/08/2022	16/11/2022	Develop the land for the construction of two (2) dwellings	Permit	No

KP-2022/615	10 Fonceca Street	MORDIALLOC	12/09/2022	16/11/2022	Use the land for a Restricted Recreation Facility in accordance with the endorsed plans	Permit	No
KP-2022/602	22 Eulinga Road	CLARINDA	7/09/2022	16/11/2022	Subdivide the land into four (4) lots	Permit	No
KP-2022/204	1 16 Golden Avenue	BONBEACH	29/03/2022	17/11/2022	The construction of one (1) single storey dwelling to the rear of the existing dwelling	Notice of Decision	No
KP-2020/164/A	119-120 Beach Road	PARKDALE	26/09/2022	17/11/2022	Subdivide the land into four (4) lots	Permit	No
KP-2022/640	1 23 Mills Road	BRAESIDE	26/09/2022	17/11/2022	Subdivide the land into three (3) lots	Permit	No
KP-2021/664/A	1126-1146 Centre Road	OAKLEIGH SOUTH	15/08/2022	17/11/2022	The use and development of a warehouse and office, a reduction in the car parking requirement, alterations to the access to a road in a Road Zone, Category 1 and the display of signage	Permit	No
KP-2022/234	41 Brentwood Close	CLAYTON SOUTH	9/04/2022	17/11/2022	The construction of a ground floor extension and a first floor addition to the existing shop and a reduction in the car parking requirement	Permit	No
KP-2022/79	1-3 Libbett Avenue	CLAYTON SOUTH	28/03/2022	17/11/2022	The use of the land as an education centre (motor mechanics) and a place of assembly	Permit	No
KP-2021/663	1 36 Lanark Street	CLAYTON SOUTH	28/09/2021	17/11/2022	Alteration & additions to the existing dwelling (first floor extension)	Withdrawn	No
KP-2022/352	51 Riviera Street	MENTONE	26/05/2022	17/11/2022	Development of four (4) double storey dwellings	Permit	No
KP-2022/436	16 Clay Street	MOORABBIN	30/06/2022	17/11/2022	Development of two (2) dwellings	Permit	No
KP-2022/730	39 Kallay Street	CLAYTON SOUTH	9/11/2022	18/11/2022	Subdivide the land into two (2) lots	Permit	No
KP-2020/64	7 Edithvale Road	EDITHVALE	5/02/2020	19/11/2022	In accordance with the endorsed plans The construction of a three storey building	Permit	Yes

KP-2022/574	3 Vialls Avenue	PARKDALE	5/09/2022	21/11/2022	Develop the land for the construction of buildings and works (pool)	Withdrawn	No
KP-2022/385	10 Meriton Place	CLAYTON SOUTH	7/06/2022	21/11/2022	Buildings and works to construct a veranda (outdoor storage)	Permit	Yes
KP-2022/614	29 Fourth Street	PARKDALE	13/09/2022	21/11/2022	Proposed extension to garage	Permit	Yes
KP-2021/29	10-12 Balcombe Road	MENTONE	21/01/2021	22/11/2022	Change of use to Retail space	Withdrawn	Yes
KP-2022/650	1 1 Swan Walk	CHELSEA	28/09/2022	22/11/2022	Subdivide the land into five (5) lots	Permit	Yes
KP-2022/694	206-213 Bay Trail	MORDIALLOC	24/10/2022	23/11/2022	The demolition of existing play equipment, retaining edging and fencing	Permit	Yes
KP-2022/250	20 Swanpool Avenue	CHELSEA	19/04/2022	23/11/2022	The construction of two (2) double storey dwellings	Permit	Yes
KP-2022/252	25-27 Wells Road	CHELSEA HEIGHTS	20/04/2022	24/11/2022	The removal of pedestrian and bicycle easement E-1 and the variation of easement E-2 to delete the pedestrian and bicycle access and retain the sewerage purpose	Permit	Yes
KP-2021/585	21 Warrigal Road	MENTONE	4/05/2022	24/11/2022	The construction of two (2) double storey dwellings and alterations to the access to a road in a Transport Zone 2	Notice of Decision	Yes
KP-2022/199	95 Valetta Street	CARRUM	29/03/2022	24/11/2022	The construction of three (3) double storey dwellings	Permit	Yes
KP-2022/485	5 Byron Street	CLAYTON SOUTH	19/07/2022	24/11/2022	The development of two (2) double storey dwellings	Lapsed	Yes
KP-2019/449/A	19 Avondale Avenue	CHELSEA	17/08/2022	24/11/2022	Development of two (2) dwellings and associated works in accordance with the endorsed plans	Lapsed	Yes
KP-2022/294	24 Bridges Avenue	EDITHVALE	4/05/2022	24/11/2022	The development of two (2) dwellings and associated works in accordance with the endorsed plans	Permit	Yes

KP-2022/405	33-35 Spray Avenue	MORDIALLOC	15/06/2022	24/11/2022	Construction of Warehouses on land affected by Land Subject to Inundation Overlay	Permit	Yes
KP-2009/722/B	2 308-310 Lower Dandenong Road	MORDIALLOC	20/05/2022	24/11/2022	To use and develop the land, which is designated within a Land Subject to Inundation Overlay, for the purpose of materials recycling, waste transfer station and retail premises (bin hire), in accordance with plans to be submitted pursuant to Condition 1 hereof:	Permit	Yes
KP-2022/115	13 James Street	CLAYTON SOUTH	25/02/2022	24/11/2022	Construction of a warehouse in the Special Building Overlay	Permit	Yes
KP-2022/358	12 Tonbridge Street	CARRUM	27/05/2022	24/11/2022	The construction of four (4) double storey dwellings	Permit	Yes
KP-2016/1078/C	13-15 Chesterville Road	CHELTENHAM	11/05/2022	25/11/2022	The construction of an eleven (11) storey mixed use building comprising 120 dwellings, offices and a food and drink premises and a reduction in the car parking requirement	Permit	Yes
KP-2022/600	13-15 Chesterville Road	CHELTENHAM	6/09/2022	25/11/2022	Subdivide the Land into One Hundred and Twenty-Eight (128) Lots	Permit	Yes
KP-2021/831	1 657 Nepean Highway	CARRUM	24/11/2021	25/11/2022	The development of two (2) dwellings and alter access to a road in a Transport Zone 2	Notice of Decision	Yes
KP-2022/589	SHOP 3 1295-1297 Nepean Highway	CHELTENHAM	2/09/2022	25/11/2022	Use of the land for a place of assembly (children's entertainment venue) and a reduction of the car parking requirement	Notice of Decision	Yes
KP-2022/476	1 16 Chapel Road	MOORABBIN	9/08/2022	25/11/2022	Extension to a dwelling on a lot less than 300sqm	Permit	Yes
KP-2022/355	34 Plummer Road	MENTONE	27/05/2022	28/11/2022	The development of two (2) dwellings and associated works in accordance with the endorsed plans	Permit	Yes
KP-2022/718	118 Main Road	CLAYTON SOUTH	7/11/2022	29/11/2022	Subdivide the land into two (2) lots	Permit	Yes

KP-2021/532	453 Boundary Road	HEATHERTON	17/08/2021	29/11/2022	In accordance with the endorsed plans: Use and development of the land for Leisure and Recreation (Paintball Games Facility) in a Green Wedge Zone Schedule 2; Construct or carry out buildings and works on the lan in the Land Subject to Inundation Overlay; Alter access to a road in a Transport Zone 2	Permit	Yes
KP-2022/394	1 Hallinan Court	CHELTENHAM	10/06/2022	29/11/2022	The construction of two (2) double storey dwellings	Permit	No
KP-2022/587	26-30 Pietro Road	HEATHERTON	1/09/2022	29/11/2022	The use and development of the land for one (1) double storey dwelling	Permit	No
KP-2022/173	35 Sixth Avenue	ASPENDALE	21/03/2022	29/11/2022	Development of nine (9) dwellings, reduction of the visitor car parking requirement of one (1) space and associated works in accordance with the endorsed plans	Refused	No
KP-2022/113	1 Northcliffe Road	EDITHVALE	24/02/2022	29/11/2022	The construction of three (3) triple storey dwellings and one (1) double storey dwelling	Notice of Decision	No
KP-2022/313	49 Fifth Avenue	CHELSEA HEIGHTS	11/05/2022	29/11/2022	Develop the land for two (2) dwellings	Permit	No
KP-2022/721	62 Eulinga Avenue	ASPENDALE	7/11/2022	29/11/2022	Subdivide the Land into Two (2) Lots	Permit	No
KP-2022/729	56 Marriott Street	PARKDALE	9/11/2022	29/11/2022	Subdivide the Land into Two (2) Lots	Permit	No
KP-2022/518/A	56-62 Cochranes Road	MOORABBIN	3/11/2022	30/11/2022	Buildings and works associated with the existing industrial use and a reduction in the car parking requirement	Permit	No
KP-2022/643	4 51-53 Barkly Street	MORDIALLOC	26/09/2022	30/11/2022	To construct alterations & additions to an existing dwelling on a lot less	Permit	No

					than 300msq (first floor extension over existing garage)		
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## Planning Committee Meeting

14 December 2022

**Agenda Item No: 4.2**

### **KP-2015/336/C - MENTONE GIRLS GRAMMAR SCHOOL**

**Contact Officer: Kirsty Slater, Principal Statutory Planner**

#### **Purpose of Report**

This report is for the Planning Committee to consider an application to amend Planning Permit No. KP-2015/336/C - 11, 17 and 21 Mentone Parade and 36 and 40 Naples Road, Mentone.

#### **Disclosure of Officer / Contractor Direct or Indirect Interest**

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

#### **RECOMMENDATION**

That the Planning Committee determine to support the proposal and issue a Notice of Decision to grant an Amended Planning Permit to amend the wording of permit conditions to allow the limited use of the School's multi-purpose sports courts and playing fields and increased use of the Aquatic Centre by external users at 11, 17 and 21 Mentone Parade and 36 and 40 Naples Road, Mentone, subject to the conditions contained within this report.

This application requires a decision by the Planning Committee as the application has been deemed a significant application by virtue of the extent of community interest it has attracted.

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EXECUTIVE SUMMARY			
Address	No. 11, 17 and 21 Mentone Parade, Mentone No, 36 and 40 Naples Road, Mentone		
Legal Description	Lot 1 on TP 234514Y Lot 1 on TP 616785M Lot 1 on TP 082358E Lot 1 on PS 084907 Lot 1 on TP418704U Lot 2 on PS 087016 Lot 1 and Lots 3-5 on PS 014650 Lots 1, 2 and 3 on TP 428874L		
Applicant	Mentone Girls Grammar School		
Planning Officer	Kirsty Slater		
PLANNING REQUIREMENTS			
Planning Scheme	Kingston		
Zoning	Clause 32.08 – General Residential Zone (Schedule 2) Clause 32.08 – General Residential Zone (Schedule 3) Clause 36.04 – Transport Zone		
Overlays	Clause 43.02 – Design and Development Overlay (Schedule 1)		
Particular	Clause 52.06 – Car Parking		
Provisions	Clause 52.34 – Bicycle Facilities		
APPLICATION / PROCESS			
Proposal	Section 72 amendment to permit conditions to allow the limited use of the school's multi-purpose sports courts and playing fields and increased use of the aquatic centre by external users.		
Reference No.	KP-2015/336/C	RFI Received	21 June 2022
App. Received	29 April 2022	App. Amended	NA
Site Inspection	Yes		
S.52 Advertising	Commenced: 4 July 2022	Advertising Completed	25 July 2022
S.55 Referrals	None		
Internal Referrals	Traffic Engineering		
Written representation: objection(s)/ support	Thirty-two (32) objections inclusive of a petition submitted on behalf of forty-four (44) residents and six (6) written submissions of support (TRIM checked on 9 November 2022).		
LEGISLATIVE			
Covenant/Other Restriction	No	Complies: NA	
Aboriginal Cultural Sensitivity Area	Yes	CHMP	NA
Considered Plans	None. Condition and permit preamble amendments sought only.		

**1.0 RELEVANT PERMIT HISTORY**

- 1.1. The original Planning Permit KP-2015/336 was issued by Council at the direction of the Victorian Civil and Administrative Tribunal on the 18 October 2016 and allowed the development of the land for the construction of buildings and works associated with the existing education centre (Mentone Girls' Grammar School) and the use and development of the land at No. 36, 38 and 40 Naples Road for an education centre.
- 1.2. The permit was not a permit issued under Division 6 (Powers of Minister in relation to applications) of the *Planning and Environment Act 1987 (Act)*.

- 1.3. The planning permit was amended pursuant to Section 72 of the Act on 16 June 2017 and plans endorsed concurrently, in accordance with condition 1. The approved amendments facilitated changes to stormwater management arrangements on site and a requirement to provide an 'in-lieu' monetary contribution.
- 1.4. The endorsed plans were further amended pursuant to secondary consent provisions of the permit on 11 July 2019 and allowed modifications to landscaping across the site and thus the removal of eight (8) trees and mitigation planting with indigenous trees.
- 1.5. A further amendment was approved on 22 January 2020 pursuant to Section 72 of the Act and allowed a variation to the wording of condition 12 of the permit to remove reference to the aquatic centre, the insertion of new conditions 13 to 21 to control the use of the aquatic centre by external parties and the consequential re-numbering of conditions. The wording of condition 22 was also varied to reference indoor lighting associated with the aquatic centre and a new condition 40 added requiring a review of compliance with acoustic conditions.
- 1.6. Two administrative amendments, pursuant to Section 71 of the Act were undertaken on 1 June 2020 and 5 June 2020 respectively, to correct permit conditions relating to Council's recorded resolution and the renumbering of conditions as a consequence of nesting sub-conditions under a parent condition.

**2.0 SITE PARTICULARS**

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



Site visit: 12 November 2022.



<b>Allotment Placement and Size</b>	The subject site is a large, irregular-shaped property generally bounded by Mentone Parade, Naples Road and Beach Road, Mentone. The majority of the site is currently developed and used for the purpose of an education centre (Mentone Girls Grammar School).
<b>Footpath Assets / Access</b>	Vehicular access is gained to the site from Beach Road and Mentone Parade and gives access to three car parking areas on the site.
<b>Covenant(s) / Restrictions</b>	Several easements (including a carriageway easement) are contained within the subject land. There appears to be no restrictions registered on any of the Certificate of Titles relating to the subject site.

### **3.0 SURROUNDING LAND**

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



<b>North</b>	The public road and footpath of Naples Road and Mentone Parade with residential properties beyond.
<b>East</b>	The former Mentone Hotel now converted and extended into multiple dwellings with associated car parking.
<b>South</b>	Beach Road and a number of residential properties.
<b>West</b>	Residential properties

### **4.0 PROPOSAL**

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

<b>Description</b>	The applicant seeks to amend Planning Permit KP-2015/336/B to provide for the limited use of the school's multi-purpose sports courts and playing fields and increased use of the aquatic centre by external users. To facilitate this, it is
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proposed to vary and where applicable, replace or delete conditions attached to the permit with the effect that they allow:

- The limited use of all sports facilities at Mentone Girls Grammar School ('MGGS').
- Extension to the hours during which external users can utilise the aquatic centre.
- An increase in the 60-student capacity limit on external users after 7:30am.
- An increase in the 40-student capacity limit before 7:30am,
- An extension in the hours during which outdoor lighting may be used.
- The gateway adjacent to Naples Road to be used for general access.

A variation is therefore sought to the wording of conditions 1(b), 13, 14, 15, 17 and 22, a substitution of condition 12, the deletion of condition 24 and a consequential renumbering of conditions as follows:

Condition	Current Wording	Recommended Amendment ( <del>strikethrough</del> to remove and <u>underline</u> to add)
1b	(v) Details of the maintenance access gate to the landscaped area adjacent to Naples Road, generally as shown on the landscape plan by John Patrick Pty Ltd, drawing no. L-VM01 dated August 2016;	(v) Details of the <del>maintenance</del> access gate to the landscaped area adjacent to Naples Road, generally as shown on the landscape plan by John Patrick Pty Ltd, drawing no. L-VM01 dated August 2016;
12	Unless with the prior written consent of the Responsible Authority, the sports facilities (excluding the aquatic centre) hereby approved must only be used by Mentone Girls' Grammar School for the delivery of its curriculum and for co-curricular programs offered to students enrolled at the school.	Unless with the prior written consent of the Responsible Authority, <del>the multi-use courts, multi-purpose space, and Wellness Centre hereby approved</del> must only be used <u>by a maximum of 90 patrons not enrolled at Mentone Girls' Grammar School at any one time, for the delivery of its curriculum and for co-curricular programs offered to students enrolled at the school. This patronage is in addition to the patron limits specified in conditions 13 and 15.</u>
13	Subject to Condition 15 of this Permit, unless with the prior written consent of the Responsible Authority, the aquatic centre may be used at any one time by a maximum of sixty (60) students who are not enrolled in Mentone Girls' Grammar School for swimming and diving activities such as "learn to swim" classes, swimming squad and diving training and other club swimming sports practice sessions (eg life saving, water polo etc) at the following hours:  School Terms: Monday to Friday 6am – 7:30pm and Saturdays 7:30am – 1:30pm; and  School Breaks: Monday to Friday 8am – 6pm and Saturdays 7:30am – 1:30pm.	Subject to Condition 15 of this Permit, unless with the prior written consent of the Responsible Authority, the aquatic centre may be used at any one time by a maximum of <del>sixty (60) students</del> <u>120 patrons (weekdays during school terms) and 240 patrons (weekends and weekdays during school breaks)</u> who are not enrolled in Mentone Girls' Grammar School for swimming and diving activities such as "learn to swim" classes, swimming squad and diving training and other club swimming sports practice sessions (eg life saving, water polo etc) at the following hours:  School Terms: Monday to Friday <del>6am – 7:30pm</del> <u>5am – 8pm; and</u> Saturdays <del>7:30am – 1:30pm</del> <u>6am – 4pm;</u> Sundays <u>9am – 4pm;</u> and School Breaks: Monday to Friday 8am – 6pm and Saturdays <del>7:30am – 1:30pm</del> <u>6am – 4pm.</u>
14	Unless with the prior written consent of the Responsible Authority, the aquatic centre may be used by students not enrolled in Mentone Girls' Grammar School for activities not associated with the delivery of the curriculum or co-curricular programs offered to students of	Unless with the prior written consent of the Responsible Authority, the aquatic centre may be used by <del>students</del> <u>patrons</u> not enrolled in Mentone Girls' Grammar School for activities not associated with the delivery of the curriculum or co-curricular programs offered to students of



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15	Between the hours of 6.00am – 7:30am, Monday to Friday, the aquatic centre must not be used by students who are not enrolled in Mentone Girls' Grammar School at the same time as any aquatic programme is being delivered to Mentone Girls' Grammar School students. A maximum of 40 students who are not enrolled in Mentone Girls' Grammar School are to be present on site during these hours.	Between the hours of <del>6.00am – 7:30am</del> <u>5:00am – 7:30am</u> , Monday to Friday, the aquatic centre must not be used by <del>patrons students</del> who are not enrolled in Mentone Girls' Grammar School at the same time as any aquatic programme is being delivered to Mentone Girls' Grammar School students. A maximum of <del>40</del> <u>60 patrons</u> <del>students</del> who are not enrolled in Mentone Girls' Grammar School <del>may are to</del> be present on site during these hours.
17	Notwithstanding the times specified in Condition 13 during school terms, 'Learn to Swim' programs are only to use the facility on Saturdays (between 7:30am – 1:30pm) and after 4:30pm on weekdays.	Notwithstanding the times specified in Condition 13 during school terms, 'Learn to Swim' programs are only to use the facility <del>on during approved Saturday hours Saturdays (between 7:30am – 1:30pm)</del> and after <del>4:30pm</del> <u>4:00pm</u> on weekdays.
19	The operator must provide literature to all external parties in relation to the availability of onsite car parking, program hours and the requirement that no students who are not enrolled in Mentone Girls' Grammar School may arrive at the facility by private motorised vehicles during school hours.	The operator must provide literature to all external parties in relation to the availability of onsite car parking, program hours and the <u>access restrictions outlined in Condition 16.</u> <del>requirement that no students who are not enrolled in Mentone Girls' Grammar School may arrive at the facility by private motorised vehicles during school hours.</del>
22	The outdoor lighting to the multi-sport pitch and multi-use courts must only operate between the hours of 8.00am and 9.00pm.	The outdoor lighting to the multi-sport pitch and multi-use courts must only operate between the hours of <del>8.00am</del> <u>7:00am</u> and 9.00pm.
24	The maintenance access gate referred to in condition 1(b)(v) of this permit must be closed at all times except when required to provide access for the maintenance of the landscaped area, to the satisfaction of the Responsible Authority.	Delete condition 24.

Source: Extract from written Town Planning submission prepared by Tract dated 16 June 2022 in response to RFI.

- 4.2 The below image is an extract from the endorsed plans that form part of KP-2015/336/B and show the location of the aquatic centre, multi-sport pitch, multi-use courts and car parking areas in the context of the wider school site.



## 5.0 LEGISLATIVE PROVISIONS

5.1 The amendment has been requested pursuant to Section 72 of the Act. Section 72 of the Act states:

- (1) *A person who is entitled to use or develop land in accordance with a permit may apply to the responsible authority for an amendment to the permit.*
- (2) *This section does not apply to-*
  - (a) *a permit or a part of a permit issued at the direction of the Tribunal, if the Tribunal has directed under section 85 that the responsible authority must not amend that permit or that part of the permit (as the case requires); or*
  - (b) *a permit issued under Division 6.*

5.2 It has been established that the planning permit:

- Was issued at the direction of the Tribunal, however no direction was made under section 85 that The Permit was not to be amended; and,
- Was not issued under Division 6 of the Act.

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

5.4 Accordingly, the relevant sections will be addressed in this report.

## 6.0 PLANNING CONTROLS

Zone / Overlay / Particular Provision	Rationale
<b>Clause 32.08 – General Residential Zone (Schedule 2)</b> <b>Clause 32.08 – General Residential Zone (Schedule 3)</b>	The proposal accords with the purpose of the zones by allowing an existing education facility to serve local community needs on land.
<b>Clause 36.04 – Transport Zone</b>	There is no proposal to alter or create access to the Transport Zone 2 (Beach Road) as part of this amendment application.

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<b>Clause 43.02 – Design and Development Overlay (Schedule 1)</b>	There are no buildings and works proposed as part of this amendment application and the provisions of this clause do not therefore apply.
<b>Clause 52.06 – Car Parking</b>	<p>Before an existing use is increased by the measure specified in Column C of Table 1 in Clause 52.06-5 for that use, the number of car parking spaces required under Clause 52.06-5 must be provided to the satisfaction of the responsible authority.</p> <p>As the site is within the Principal Public Transport Network area, rates within Column B of Table 1 apply and thus a requirement to provide 0.3 car parking spaces to each student is required, noting the use of the site is classified as an education centre.</p>

**7.0 REFERRALS**

**Internal Referrals**

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

<b>Department / Area</b>	<b>Comments / Rationale / Recommended Conditions</b>
<b>Traffic Engineer</b>	Discussed later within this report within the Clause 52.06 assessment.

**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. Thirty-two (32) objection(s) to the proposal were received. The valid grounds of objection raised are summarised as follows:

- Parking and traffic concerns.
- Amenity impacts including noise and disturbance.
- Light spill from outdoor lighting.
- Neighbourhood character.
- Proposal tantamount to a commercial enterprise.

8.2 The following objections raised are not valid planning considerations:

- Devaluation of property.
- Existing parking and traffic concerns.
- Selection criteria for new aquatic development.

**9.0 PLANNING CONSULTATION MEETING**

9.1 A planning consultation meeting was held on 18 August 2022 with the Council's planning officer, Ward Councillor, the applicant, the school's aquatic centre manager and business operations manager and seven (7) objectors in attendance. The above-mentioned issues were discussed at length.

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

**10.0 SECTION 57A – AMENDMENT TO APPLICATION**

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

**11.0 PLANNING CONSIDERATIONS**

**General Provisions**

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



**Planning Policy Framework**

- 11.2 The Municipal Planning Strategy at **Clause 02.03-9** provides direction for community infrastructure, where relevant, to provide all residential neighbourhoods in Kingston with supporting community infrastructure adequate for the populations needs and which supports the education cluster in Mentone as a significant attractor to the liveability of the municipality.
- 11.3 The Planning Policy Framework sets out the relevant state-wide policies for residential development at **Clause 13** (Environmental Risks and Amenity), **Clause 18** (Transport) 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).
- 11.4 **Clause 13** (Environmental Risks and Amenity) 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 through land use and development compatibility and effective controls to prevent or mitigate significant impacts.
- 11.5 **Clause 18** (Transport) aims to ensure a safe, integrated and sustainable transport system that, as relevant, provides access to social and economic opportunities to support individual and community wellbeing, facilitates network-wide efficient, coordinated and reliable movements of people and goods and supports health and wellbeing. Strategies at **Clause 18.02-4S** to support this, inter alia, are to plan an adequate supply of car parking that is designed and located to protect the role and function of nearby roads, protect residential areas from the effects of road congestion created by on-street car parking, enable easy and efficient use, protect the amenity of the locality, including the amenity of pedestrians and other road users.
- 11.6 **Clause 19** (Infrastructure) aims to recognise social needs by providing for a range of accessible community resources, such as education, cultural, health and community support facilities. Strategies, as relevant, at **Clause 19.02-2S** are to facilitate the establishment and expansion of primary and secondary education facilities to meet the existing and future education needs of communities.
- 11.7 It is submitted that the proposal satisfies the aforementioned State strategies and policy direction. Specifically, an expansion in the use of the existing and well-established facilities on site for the on-going limited use of external persons would allow collaborations between the school and other schools and sporting groups to continue and support further interactions of a similar nature. Further, it would support the sporting endeavours and health and well-being of students and facility users alike.

**Zoning Provisions**

- 11.8 The subject site is located within the General Residential Zone (Schedules 2 and 3). The purpose of the zones as relevant to the proposed amendment is to allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.
- 11.9 The decision guidelines of the zones relied upon in the assessment of this application are listed below:
- *Whether the use or development is compatible with residential use.*
  - *Whether the use generally serves local community needs.*
  - *The scale and intensity of the use and development.*
  - *The provision of car and bicycle parking and associated accessways.*
  - *Any proposed loading and refuse collection facilities.*

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- *The safety, efficiency and amenity effects of traffic to be generated by the proposal.*
- 11.10 Mentone Girls Grammar School is a well-established education facility that takes benefit from existing use rights and planning approval (KP-2015/336) for the use of land, which now forms its curtilage, to be used as an education centre.
- 11.11 The use of the land for the delivery of school curriculum in the completed aquatic centre benefits from existing use rights held by the school. Similarly, the limited use of the aquatic centre by external users by those not enrolled in the school is permitted by virtue of the issue of amended planning permit KP-2015/336/B.
- 11.12 The use of the existing aquatic centre is therefore already extended to a number of different user groups including other schools, sporting groups (i.e. water polo, synchronised swimming teams, life-saving clubs and the 'learn-to-swim' programme).
- 11.13 In allowing external persons to use the aquatic centre facility, it was considered in the assessment of KP-2015/336/B, that the integrated use of the school's facilities fulfilled an important function in reducing demand on other facilities and allowed community access to high quality infrastructure. However, it was considered appropriate to control the use of the facilities by imposing controls to limit potential amenity impacts to neighbouring residential properties. Accordingly, the following conditions were varied/included in the amended planning permit and these remain in force:

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12. Unless with the prior written consent of the Responsible Authority, the sports facilities (excluding the aquatic centre) hereby approved must only be used by Mentone Girls' Grammar School for the delivery of its curriculum and for co-curricular programs offered to students enrolled at the school.
13. Subject to Condition 15 of this Permit, unless with the prior written consent of the Responsible Authority, the aquatic centre may be used at any one time by a maximum of sixty (60) students who are not enrolled in Mentone Girls' Grammar School for swimming and diving activities such as "learn to swim" classes, swimming squad and diving training and other club swimming sports practice sessions (eg life saving, water polo etc) at the following hours:
  - School Terms: Monday to Friday 6am – 7:30pm and Saturdays 7:30am – 1:30pm; and
  - School Breaks: Monday to Friday 8am – 6pm and Saturdays 7:30am – 1:30pm.
14. Unless with the prior written consent of the Responsible Authority, the aquatic centre may be used by students not enrolled in Mentone Girls' Grammar School for activities not associated with the delivery of the curriculum or co-curricular programs offered to students of Mentone Girls' Grammar School within the following hours:
  - a) School Terms: Monday to Friday 6am – 7:30pm and Saturdays 7:30am – 1:30pm
  - b) School Breaks: Monday to Friday 8am – 6pm and Saturdays 7:30am – 1:30pm
15. Between the hours of 6.00am – 7:30am, Monday to Friday, the aquatic centre must not be used by students who are not enrolled in Mentone Girls' Grammar School at the same time as any aquatic programme is being delivered to Mentone Girls' Grammar School students. A maximum of 40 students who are not enrolled in Mentone Girls' Grammar School are to be present on site during these hours.
16. During school hours, all students who are not enrolled in Mentone Girls' Grammar School are to be bused to the school or otherwise arrive by modes other than private motorised vehicles (i.e. foot, cycle,).
17. Notwithstanding the times specified in Condition 13 during school terms, 'Learn to Swim' programs are only to use the facility on Saturdays (between 7:30am – 1:30pm) and after 4:30pm on weekdays.
18. The existing gate to the northern main car park must be programmed to open 15 minutes prior to commencement of programs and to close 30 minutes after programs end.
19. The operator must provide literature to all external parties in relation to the availability of onsite car parking, program hours and the requirement that no students who are not enrolled in Mentone Girls' Grammar School may arrive at the facility by private motorised vehicles during school hours.
20. The aquatic facility must not be made available to the general public for recreational swimming.
21. All indoor and outdoor lighting associated with the aquatic centre, and outdoor lighting associated with the multi-sport pitch and multi-use courts must be designed, fitted with suitable baffles and located to prevent any adverse effect on adjoining land, to the satisfaction of the Responsible Authority and must be completed prior to the commencement of the additional activities and hours outlined in condition 13, 14 and 15.

11.14 Through this current amendment application, the applicant has sought to amend the planning permit KP-2015/336/B as follows:

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- To allow limited external use of external sports facilities to a maximum of 90 users.
- To increase the maximum number of external users allowed in the aquatic centre from 60 users to 120 users (on weekdays during school terms) or 240 (during school breaks and on weekends).
- To increase the early morning limit on external users from 40 users to 60 users.
- To extend the allowable hours for external users of the aquatic centre, including limited use on Sundays

		Monday to Friday	Saturday	Sunday
<u>School Terms</u>	<u>Maximum # users</u>	<u>120</u>	<u>240</u>	<u>240</u>
	<u>Allowable hours</u>	<u>5:00am – 8:00pm</u>	<u>6:00am – 4:00pm</u>	<u>9:00am – 4:00pm</u>
<u>School Breaks</u>	<u>Maximum # users</u>	<u>240</u>	<u>240</u>	<u>240</u>
	<u>Allowable hours</u>	<u>8:00am – 6:00pm</u>	<u>6:00am – 4:00pm</u>	<u>9:00am – 4:00pm</u>

- To extend outdoor lighting hours on the multi-sports pitch and multi-use courts by one hour earlier in the mornings (from 8am to 7am).
- To allow the access gate along Naples Road to be used for pedestrian access and egress to and from the school grounds by students of Mentone Girls Grammar School on school days.

Source: Extract from written submission prepared by Tract dated 28 October 2022.

- 11.15 Following discussions with Council and following receipt of the grounds of objection received from members of the public, the applicant has offered an alternative proposal in response. In doing so, greater clarity has also been given with respect to the purpose of seeking greater access to facilities (aquatic centre and multi-purpose sports courts) by external users.

### Multi-purpose Sports Courts

- 11.16 The applicant advises that the use of the multi-purpose sports courts by external users is sought in response to demand from a range of community users, including and not limited to, nearby schools (i.e. St Bede's College) and local teams and sports clubs. MGGS wish to offer reciprocal use of sports fields with nearby schools and otherwise allow access to local clubs and teams to run practice or training sessions.
- 11.17 Further, that given the small number of courts available and lack of spectator seating, the anticipated usage of these areas is primarily intended for individual team training sessions or small matches. The courts are not designed or suitably sized for large matches or competitions.
- 11.18 In originally seeking a maximum ninety (90) external user cap, flexibility was sought to accommodate occasional instances where multiple matches or training sessions would be booked and multiple teams accessing the site. It is not the intention that the external sports facilities be made available to external users during school hours, as this would impede the operation of the school and safety of students.
- 11.19 The applicant acknowledges a desire to reduce potential amenity impacts from external users of the sports facilities, however, seek to maintain flexibility in the hours and frequency of use to meet scheduling demands of external users.
- 11.20 The applicant is therefore willing to:
- Reduce the maximum number of external users on the sports fields to seventy (70) external users. This is twenty (20) less than originally sought.
  - Restrict external use of the external sports fields to outside school hours (no restriction previously sought).
  - Prohibit general recreational activities on external sports fields.
  - Restrict external use of the external sports fields to lighting hours during weekends and school breaks (no restriction previously sought).

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- Restrict external user start times to 8:00am outside of school term (no restriction previously sought).

11.21 The following limitation of hours for use of the sports courts for external users is offered:

	Monday to Friday	Saturday	Sunday
School Terms	3.30pm – 9:00pm	8.00am – 9.00pm	8:00am – 9:00pm
School Breaks	8:00am – 9:00pm	8:00am – 9:00pm	8:00am – 9:00pm

Source: Extract from written submission prepared by Tract dated 28 October 2022.

- 11.22 Other than the limitations on the hours of use of the two northern-most multi-use courts adjacent to Naples Road, there are no restrictions on the hours of use of the other external sports pitches/ courts. Nor is there restriction on the number of MGGS students that can use the external facilities at any one time. There is however a limitation on the use of outdoor lighting associated with the multi-sport pitches and multi-use courts to between the hours of 8:00am and 9:00pm.
- 11.23 Whilst use of the external sports facilities is currently not extended to external users, it is not considered unreasonable that these facilities be made available for the limited use of external sporting groups. It will allow use of facilities that are currently under-utilised to the benefit of the community. The limited use by external users is not incompatible with the residential zoning of the land or with adjacent residential land use. It is reasonable that the maximum number of external users be capped at seventy (70) users as now envisaged by the applicant.
- 11.24 As the external sports courts are capable of being used by students up to 9:00pm it is considered that the impact of noise generated by their use on the amenity of neighbouring residential properties, over and above what could reasonably occur, is negligible. However, it is considered appropriate that there be a limitation of the hours of use and that control of the hours of use of the northernmost sports courts be maintained as per condition 23.
- 11.25 Otherwise, that the use of the other external sports pitches/ courts should be limited to between the hours of 8:00am to 5:00pm on Saturdays and 10:00am and 2:00pm on Sundays and not to the hours of 8:00am and 9:00pm as envisaged by the applicant.
- 11.26 The restriction to commence use of the external sports courts by external users from 8am on Saturdays is consistent with the start time sought by the applicant but is limited to the hour of 5:00pm, consistent with the use of the northernmost sports courts on Saturdays.
- 11.27 As the external sports courts are capable of being used by MGGS students for co-curricular activities on both Saturday and Sunday, it is considered reasonable that there be opportunity for this to be extended to external user groups but that this be to a limited extent (i.e. between the hours of 10:00am and 2:00pm).
- 11.28 It is proposed that wellness and yoga programs be offered to parents/guardians of swim students, with a total of thirty-two (32) patrons using the facilities. This extent of usage would however form part of the 120 person cap associated with use of the aquatic centre. A recommended condition of the amended permit will ensure that attendance of these classes is limited to those persons associated with swim students.
- 11.29 It is also proposed to vary the operation of outdoor lighting used in association with the multi-sport pitch and multi-use courts such that the lights commence at 7:00am as opposed to 8:00am.

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- 11.30 Condition 21 of the planning permit ensures that all outdoor lighting associated with the multi-sport pitch and multi-use courts is designed, fitted with suitable baffles and located to prevent any adverse effects on adjoining land, to the satisfaction of the Responsible Authority and completed prior to activities outlined in conditions 13, 14 and 15 of the planning permit.
- 11.31 Independent assessment of the obtrusive lighting impacts of the sports facilities was undertaken by WEBB Australia (Vic) Pty Ltd in response to resident complaint on 2 February 2021. The conclusions of which were that luminaries associated with the hockey court did not comply with AS 4282 (Control of the Obtrusive Effects of Outdoor Lighting) and unreasonably impacted the residential property of 11 Coryule Court. Modifications to the tilt angles were therefore recommended.
- 11.32 The re-aiming of the luminaires was undertaken by MGGS on 7 July 2021 with the effect that they now comply with the AS 4282. This was confirmed by WEBB in their addendum report (letter) of 12 July 2021 and representatives of the residents of Coryule Court appraised of this on 8 March 2022.
- 11.33 On the basis that assessment of the impact of the outdoor lighting complies with the relevant Australian Standard and the use of the multi-use courts can commence from 7:00am, it is considered reasonable that the illumination of them also commence at 7:00am.
- 11.34 It is proposed to delete condition 24 of the permit that requires the maintenance access gate referred to in condition 1(b)(v) of the permit to be closed at all times except when required to provide access for the maintenance of the landscaped area, to the satisfaction of the Responsible Authority.
- 11.35 The permit applicant has cited that the purpose in doing so is to reinstate the school's historic pedestrian access to Naples Road and to increase campus permeability and ease congestion during peak times. Use of the gate is to assist with student pedestrian traffic and not to allow external users to access the site. In this regard, it would be prudent to retain condition 24 but vary the wording of it to restrict the use of the access gate.
- 11.36 Accordingly, it is recommended that the conditions of the permit which relate to the use and operation of the external sports facilities be amended as follows:

Condition	Recommended conditions ( <del>strike-through to remove</del> and embolden to add)
12	<p><b>Unless with the prior written consent of the Responsible Authority, the multi-use courts, multi-sport pitch and wellness centre hereby approved must only may be used by a maximum of seventy (70) external users not enrolled at Mentone Girls Grammar School at any one time, this usage is in addition to the external user limits specified in conditions 13 and 15 and within the following hours:</b></p> <p><b>a) School Terms:</b>  <b>Monday – Friday 3:30pm to 9:00pm</b>  <b>Saturdays 8:00am to 5:00pm</b>  <b>Sunday 10:00am to 2:00pm.</b></p> <p><b>b) School Breaks:</b>  <b>Monday to Friday 8:00am to 9:00pm</b>  <b>Saturday 8:00am to 5:00pm</b>  <b>Sundays 10:00am to 2:00pm</b></p> <p><b>External users of the wellness centre for the purpose of yoga or gym classes are limited to the parent/guardian of swim students</b></p>

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	<b>and must not attend the facility independent from the swim student's scheduled session.</b>
22	The outdoor lighting associated to the multi-sport pitch and multi-use courts must only operate between the hours of <del>8:00am</del> <b>7:00am</b> and 9:00pm.
24	The maintenance gate referred to in condition 1(b)(v) of this permit <b>must be programmed to open 15 minutes prior to the commencement of the school day and to close 30 minutes after the school day closed</b> <del>at all times</del> except when required to provide access for the maintenance of the landscaped area, to the satisfaction of the Responsible Authority.
<b>New Condition 25</b>	<b>The multi-use pitch and multi-use courts must not be made available to the general public for recreation purposes.*</b>

\*All other conditions to be renumbered accordingly including any consequential referencing of conditions contained therein.

**Aquatic Centre**

- 11.37 The aquatic centre is inclusive of two swimming pools, spectator seating, a fitness centre and wellness/yoga studio space.
- 11.38 The applicant advises that an increase in the maximum number of external users of the aquatic centre is sought to accommodate occasional higher-capacity events that occur a few times annually. Regular scheduled programs would, however, operate below this number.
- 11.39 Further, the applicant has advised that the aquatic centre is capable of accommodating a capacity of 250 people. However, the typical weekly operation currently sees fifty (50) to sixty (60) active participants using the centre at any one time. The anticipated 'typical' schedule proposed would see approximately eighty (80) to ninety (90) active participants at any one time. Additional people may also be in the centre during this time including parents or family members who stay to watch or user crossover from previous upcoming sessions.
- 11.40 The anticipated 'typical' or 'normal' operation of the aquatic centre has informed the proposed 120 cap during school term weekdays, to provide adequate flexibility in numbers to accommodate users who are not active participants in the pool itself.
- 11.41 The 240 cap outside of school days was originally proposed to offer flexibility for occasional higher-capacity sessions where a larger number of participants may be present on the site. These higher capacity sessions would only occur outside school hours to avoid impacting the operation of the school and was therefore proposed for weekends or school breaks only.
- 11.42 During term time, the weekday start time for swim training sessions is 6:00am. The applicant seeks a 5:00am start time to accommodate the typical swimming training session lengths which are 90 minutes. A 5:00am start time will therefore allow two training sessions to take place on nominated days.
- 11.43 Currently, Saturday morning swim sessions commence at 7:30am. The applicant originally sought to vary this to allow sessions to commence at 6:00am.
- 11.44 The applicant acknowledges the concerns of objectors with respect to reducing car parking demand and potential traffic impacts on the surrounding road network, they are therefore willing to accept the following changes:
- Reduce the maximum external user cap in the aquatic centre outside of school days to 200 at any one time (reduced from 240).
  - Restrict 5:00am start times in the aquatic centre to no more than three (3) days per week, reduced from five (5) days per week.



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- Saturday swim sessions to commence at 7:00am (requested 6:00am and currently 7:30am start time).
- 11.45 It is understood that flexibility is sought with respect to the maximum number of users on site and with this a need to accommodate for any future school sporting event (i.e. swimming carnivals or competitions). This is not unreasonable given the reciprocal use of the sporting facilities and the user groups already permitted to attend the aquatic centre.
- 11.46 The increase in the maximum external users of the aquatic centre on weekdays from sixty (60) persons to 120 is considered appropriate when considering a total of eighty (80) MGGS students are typically enrolled in swim programs each day and use of the facility by external users is otherwise controlled by condition 15 of the permit.
- 11.47 As the maximum external user limit of 200 persons is proposed only at weekends and school breaks it is not anticipated that there will be a cumulative impact on car parking demands that would otherwise result if this capacity limit was sought on weekdays and during school term. For this reason, it is considered the maximum limit sought by the applicant is acceptable.
- 11.48 The proposal to allow swim sessions to commence at 5:00am is however resisted, noting that the existing 6:00am start time is already generous in scope and the overall hours of operation give reasonable parameters for swim programs to take place, be this for students or external users.
- 11.49 An extension of weekday operating hours until 8:00pm and on Saturdays from 7:00am to 4:00pm is considered reasonable, noting that there will continue to be controls in place to impose curfew hours for operation, restrict user numbers and otherwise requirements to ensure noise and light emissions from the aquatic centre are within tolerable limits.
- 11.50 Accordingly, it is recommended that the conditions of the permit which relate to the use and operation of the aquatic centre facilities be amended as follows:

Condition	Recommended Condition ( <del>strike-through</del> to remove and embolden to add)
13	<p>Subject to condition 15 of this permit, unless with the prior written consent of the Responsible Authority, the aquatic centre may be used at any one time by a maximum of <del>sixty (60) students</del> <b>120 students (weekdays during school terms) and 200 external users (weekends and weekdays during school breaks)</b> not enrolled at Mentone Girls Grammar School for swimming and diving activities such as "learn to swim" classes, swimming squad and diving training and other club swimming sports practice sessions (e.g. life saving, water polo etc) at the following hours:</p> <p>School term:  Monday to Friday 6:00am to <del>7:30pm</del> <b>8:00pm</b>  Saturdays <del>7:30am</del> <b>7:00am to 4:30pm 4:00pm</b>  <b>Sundays 9:00am to 4:00pm</b>; and</p> <p>School Breaks:  Monday to Friday 8:00am to 6:00pm and,  Saturdays <del>7:30am</del> <b>7:00am to 4:30pm 4:00pm</b>.  <b>Sunday 9:00am to 4:00pm</b></p>
14	<p>Unless with the prior consent of the Responsible Authority, the aquatic centre may be used by students not enrolled in Mentone Girls Grammar School for activities not associated with the delivery of the curriculum or</p>



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	co-curricular programs offered to students of Mentone Girls Grammar School within the following hours: a) School Terms: Monday to Friday 6:00am to 7:30pm <b>8:00pm</b> and Saturdays 7:30am <b>7:00am to 4:00pm</b> <b>Sundays 9:00am to 4:00pm</b> b) School Breaks: Monday to Friday 8:00am to 6:00pm Saturdays 7:30am <b>7:00am to 4:00pm</b> <b>Sundays 9:00am to 4:00pm</b>
15	Between the hours of 6:00am and 7:30am, Monday to Friday, the aquatic centre must not be used by students who are not enrolled in Mentone Girls Grammar School at the same time as any aquatic program is being delivered to Mentone Girls Grammar School students. A maximum of <del>40</del> <b>sixty (60)</b> students who are not enrolled in Mentone Girls Grammar School <del>are to</del> <b>may</b> be present on site during these hours.
17	Notwithstanding the times specified in condition 13 during school terms, 'Learn to Swim' programmes are only to use the facility on Saturdays (between <del>7:30am</del> <b>7:00am</b> and <del>4:30pm</del> <b>4:00pm</b> ) and after <del>4:30pm</del> <b>4:00pm</b> on weekdays.
19	The operator must provide literature to all external parties in relation to the availability of onsite car parking, program hours and the <del>requirement that no students who are not enrolled in Mentone Girl's Grammar School may arrive at the facility by private motorised vehicles during school hours</del> <b>arrival restrictions at condition 16.</b>

**Nature of Land Use**

- 11.51 Planning permit KP-2015/336 allowed the development of the land for the construction of buildings and works associated with an existing education centre and to use and develop the land at Nos. 36, 38 and 40 Naples Road for an education centre.
- 11.52 In allowing external users (i.e. sporting groups and clubs) access to the aquatic centre through the approval of amended planning permit KP-2015/336/B, it was acknowledged that the nature of the approved land use had not changed. The limited use of the facility for leisure and recreation activities, being confined in nature by permit conditions, was deemed incidental to the dominant or substantial use of the land as an education centre.
- 11.53 The considerations for the current amendment application are whether an intensification of leisure and recreation activity on the land is no longer considered incidental and therefore ancillary to the use of the land as an education centre.
- 11.54 The applicant holds the view that the proposed amendments do not change the nature of the current and permitted use instituted on the land and in this, the amendment still seeks a limitation of the external use of the school facilities by a number of different user groups.
- 11.55 It is maintained that although the parameters of the permit conditions limiting external user access are to be varied that the purpose and control of the conditions remain in force.
- 11.56 In support of this view, the permit applicant provided case law citing the position of the Court in *Cascone v City of Whittlesea* (1994) 11 AATR 175 that it is wrong to determine the relevant purpose of a use simply by identifying activities, processes or transactions and then fitting them to some, one or more uses defined in the scheme.

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- 11.57 It is acknowledged that the external use of the aquatic centre and sports facilities can be considered a use for recreation or sport but that these activities in themselves do not render it a separate defined land use.
- 11.58 In the matter of Pacific Seven Pty Ltd v City of Sandringham (1982) VR 157 the question raised was “*what is the real and substantive purpose?*”
- 11.59 To consider this further, the applicant has sought to rely on the findings of the Court in Northcote Wholesalers Pty Ltd v City of Northcote and Ors ((1994) 13 AATR 175) whereby it was considered there was no single test to determine ancillary land use but that it was a question of fact and degree.
- 11.60 Further they rely on the matter of Notre Dame College v Greater Shepparton CC [2012] VCAT 463 (19 April 2012) which considered the ancillary uses to an education centre and the impacts to residential amenity. Specifically, it was examined that the nature and purpose of a proposed retail outlet was an ancillary to the college.
- 11.61 The tests that were applied in this case, determined the following:
1. The retail outlet (shop) was a much more restrictive or specialised form of our that was tailored to meet the specific needs of the college (i.e. the sale of school uniforms, etc.)
  2. The proposed retail shop was only one part of a much larger campus containing a number of facilities, services and buildings.
  3. Part of the shop building was already in use for college purposes which were not to be extinguished by the shop use.
  4. Conditions were placed on the planning permit to ensure the shop remained ancillary to the use of the land as an education centre.
- 11.62 Applying these tests to the current proposal:
1. The aquatic centre and sports courts have principally been provided as facilities for the sporting and wellness endeavours of the students of MGGS and therefore are tailored in the form and function. The use of the facilities by external users will continue to be limited in nature so as not to interfere with the primary function of the facilities to deliver the school's sporting curriculum and co- curricular activities.
  2. The use of the facilities by external users is limited in nature to specific facilities (i.e. the aquatic centre and multi-use pitch and courts). It does not extend to other areas of the campus.
  3. The use of the aquatic centre and multi-use pitch and courts by MGGS students will not be excluded by allowing limited use of the facilities by external users.
  4. The existing planning permit (KP/2015/336/B) contains conditions to limit external access and operation of sporting facilities to ensure it does not prejudice the delivery of the school curriculum or co-curricular activities.
- 11.63 On the foregoing considerations, the limited use of the aquatic centre and multi-use pitch and courts by external users can reasonably be maintained as ancillary to the substantive use of the land as an education centre.

**Overlay Provisions**

- 11.64 The amendment application does not propose any buildings and works. Therefore, the Design and Development Overlay provisions do not apply to the assessment of the proposal.

**Particular Provisions**

- 11.65 Pursuant to **Clause 52.06** (Car Parking), before an existing use is increased by the measure specified in Column C of Table 1 in Clause 52.06-5 for that use, the number of car parking spaces required under Clause 52.06-5 must be provided to the satisfaction of the responsible authority.

- 11.66 As the site is within the Principal Public Transport Network area, rates within Column B of Table 1 apply and thus a requirement to provide 0.3 car parking spaces to each student, noting use of the site is classified as an education centre.
- 11.67 A total of 103 car parking spaces are provided on site comprising eighty-six (86) car parking spaces located east of the aquatic centre, accessed from Mentone Parade and seventeen (17) car parking spaces south of the multi-use sports pitch accessed from Beach Road.
- 11.68 The car parking demand assessment prepared by *Traffix Group* submitted in support of the application advises of survey analysis undertaken to establish existing on-street car parking demand within a 300 metre walking distance of the site and the on-site shared car park east of the aquatic centre. The survey analysis was undertaken on the following dates and times:
- 19<sup>th</sup> March 2022 (Saturday) at approximately 10:15am (in-person survey),
  - 24<sup>th</sup> March 2022 (Thursday) between 6am-8am and 3:30pm-6:30pm at hourly intervals (in-person survey),
  - 31<sup>st</sup> October 2021 (Sunday) at 4:02pm (Nearmap survey),
- 11.69 And within the following survey area:
- Predominately unrestricted kerbside parking spaces along both sides of Naples Road,
  - Unrestricted kerbside parking spaces along both sides of Kilara Road,
  - Unrestricted kerbside parking spaces along both sides of Coryule Avenue,
  - Unrestricted kerbside parking spaces along both sides of Harkin Avenue,
  - Unrestricted kerbside parking spaces along both sides of Eblana Avenue, and
  - A mixture of short-term and long-term kerbside parking spaces along both sides of Mentone Parade.
- 11.70 The survey of on-street car parking capacity in the survey area found that parking spaces were not fully utilised across the survey periods. Peak occupancy recorded on Thursday 24 March 2022 at 3:30pm saw an occupancy of thirty-two (32) out of 174 on-street car parking spaces and therefore 142 vacant car parking spaces within the survey area.
- 11.71 A car parking occupancy of seventy-eight (78) spaces out of 231 of on-street car parking spaces within the survey area were recorded on Saturday 19 March 2022 and therefore 153 vacant car parking spaces were available.
- 11.72 The conclusion of this analysis indicates the availability of on-street car parking proximate to the site on both weekdays and weekends.
- 11.73 During the survey period (intervals on Thursday 24 March 2022), on-site car parking demand was found to be well utilised. At 8:00am (the start of the school day), twenty-three (23) car parking spaces were recorded as available. At 3:30pm (the end of the school day), eleven (11) car parking spaces were recorded as available. Early evening, car parking vacancies increased to thirty-nine (39) car parking spaces by 6:30pm.
- 11.74 As noted by *Traffix Group* in their assessment of car parking demand, there is no provision within Clause 52.06 for variations in student numbers during certain periods. Nevertheless, they have summarised car parking requirements for each of the relevant usage periods relative to the external user numbers originally indicated as follows:

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Day	Time	School Terms	School Holidays
Weekday	Before School (5am-8am)	36	72
	School Periods (8am-4pm)	No Demand (no car drivers)	72
	After School (4pm-7:30pm)	36	72
Saturday	6am-4pm	72	72
Sunday	9am-4pm	72	72

Source: Table 3 on p10 of Car Parking Demand Assessment prepared by Traffix Group dated 17 June 2022.

- 11.75 *Traffix Group* hold the view that car parking requirements during these periods will be met by the existing on-site car parking provision and that should there be an over-lap of arrival and departure periods that the limitations on patronage during these times manage demand. They note that whilst there are no on-street car parking demands weekdays during school term as external students are required to travel to the aquatic centre other than by private car, any potential demands on on-street car parking associated with external users can reasonably be met given the recorded occupancy rates.
- 11.76 Further they hold the view that with the availability of on-site car parking south of the multi-use pitch, seventeen (17) spaces, would support some external use of the multi-use sporting facilities. This is when considering underutilised car parking at the aquatic centre car park presuming a maximum occupancy of seventy-two (72) spaces by aquatic centre users.
- 11.77 With the availability of thirty-one (31) car parking spaces across the site, this would support up to 100 student using the multi-use sporting facilities.
- 11.78 The conclusions of the car parking demand assessment are that:
- Car parking requirements during morning and afternoon on a school day and at weekends and school holidays would be met by the existing on-site car parking provision.
  - The school does not appear to be significantly impacting on car parking in the area and if there was moderate reliance on on-street car parking this would be acceptable.
  - Based on the proposed aquatic centre user numbers there is available parking on-site to accommodate external use of the multi-use sports facilities (to an extent).
  - The peak traffic generation associated with an increase in external user numbers and hours is unlikely to coincide with school peak hours and the extent of additional traffic generated by the proposal is expected to be acceptable.
- 11.79 Council's traffic engineer has peer reviewed the car parking assessment and based on their own analysis has chosen to consider the use of the multi-use sports facilities per activity and made an assumption that they are including the aquatic centre being made available for use by the general public.
- 11.80 There is no proposal to make the multi-use sports facilities or aquatic centre available to the general public. The existing and recommended conditions of permit prohibit this.
- 11.81 It is therefore reasonable to assess the increased use of the multi-use sports facilities and aquatic centre on the basis of demand generated at specific periods of usage and taking into account the student numbers at those times.
- 11.82 Further that the applicable rate to be applied to this assessment be that attributed to an education centre noting that the aquatic centre and associated sports facilities were defined

as works associated with an existing education centre and use of land for an education centre. They cannot now be divorced from this land use definition when it is considered that the limited use of the facilities by external users is ancillary and does not become its own dominant land use.

**12.0 ABORIGINAL CULTURAL HERITAGE**

12.1 It is important to note that the subject land is identified in an area of Aboriginal cultural heritage sensitivity.

12.2 An Aboriginal Heritage Planning Tool test on the Department of Planning and Community Development (DPCD) website has been undertaken and established that the proposed activity is exempt from requiring a cultural heritage management plan.

**13.0 RESPONSE TO GROUNDS OF OBJECTIONS**

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

13.2 The following objector concerns, however, remain outstanding:

Ground(s)	Response
Property devaluation	Pursuant to the <i>Planning and Environment Act 1987</i> and Kingston Planning Scheme, this concern falls outside of the scope of planning considerations.
Public Notice	Council officers acknowledge that an error was made in the initial notification of the application, where letters and signs erected on the site did not include details of the full extent of the amendments sought. A correction was made, and letters were re-sent to all affected properties noting the correction. It is considered that the notification requirements of Section 52 of the <i>Planning and Environment Act 1987</i> have been satisfied through the corrected letters sent to all affected properties.

**14.0 CONCLUSION**

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

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

14.3 The proposed amendment is considered appropriate for the site as evidenced by:

- The extension of the limitations of the external use of the facilities is compatible with the surrounding area;
- The proposal will not have a detrimental impact on surrounding properties; and,
- The proposal satisfies the requirements of the Kingston Planning Scheme, including the PPF, MSS and Zoning controls.

**15.0 RECOMMENDATION**

15.1 That the Planning Committee determine to support the proposal and issue a **Notice of Decision to grant an Amended Planning Permit** to amend conditions 12, 13, 14, 15, 17, 19, 20, 24 and the inclusion of a new condition 24 and the consequential renumbering of conditions of the planning permit to allow for the limited external use of the aquatic centre and multi-use pitch and courts at Mentone Girls Grammar School, No. 11, 17 and 21

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Mentone Parade and No. 36 and 40 Naples Road, Mentone, based on the following conditions:

1. Before the development starts amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be substantially in accordance with the plans by Peddle Thorp, drawing nos. TP005 Rev E, TP006 to TP008 all Rev C, TP100 and TP101 all Rev C, TP110 and TP111 all Rev C and TP210 Rev C, but modified to show:
  - a) the provision of a landscape plan in accordance with the submitted development plan and the City of Kingston Landscape Plan Checklist, with such plans to be prepared by a suitably qualified landscape professional and incorporating:
    - (i) an associated planting schedule showing the proposed location, species type, mature height and width, pot sizes and number of species to be planted on the site. The schedule must be shown on the plan;
    - (ii) the delineation of all garden beds, paving, grassed areas, retaining walls, fences and other landscape works including areas of cut and fill throughout the development;
    - (iii) all existing trees on the site and within three (3) metres to the boundary of the site on adjoining properties, accurately illustrated to represent actual canopy width and labelled with botanical name, height and whether the tree is proposed to be retained or removed;
    - (iv) a range of plant types from ground covers to large shrubs and trees provided at adequate planting densities (e.g. plants with a mature width of 1 metre, planted at 1 metre intervals);
    - (v) provision of a landscape buffer along the Naples Road frontage, and showing the retention of the *Corymbia ficifolia* (Red Flowering Gum) currently growing near the northern boundary at No. 36 Naples Road;
    - (vi) the provision of five (5) additional medium sized (at maturity) canopy trees within the landscape buffer pursuant to Condition 1 (a)(v);
    - (vii) the provision of an improved landscape buffer, incorporating the existing trees growing along the western boundary;
    - (viii) all trees provided at a minimum of two (2) metres in height at time of planting and medium to large shrubs to be provided at a minimum pot size of 200mm;
    - (ix) no trees with a mature height over five (5) metres are to be planted over proposed or existing easements;
    - (x) the provision of notes on the landscape plan regarding site preparation, including the removal of all weeds, proposed mulch, soil types and thickness, subsoil preparation and any specific maintenance requirements, and
    - (xi) a notation of the Tree Protection details as required by conditions 6, 7 and 8 of this permit. This includes all nominated tree protection zones to be drawn to scale on the plans.
  - b) An improved site plan showing greater details and dimensions including:
    - (i) The eastern most multi-use court must be repositioned to be setback not less than 3 metres from Naples Road with the setback area landscaped;
    - (ii) All other setbacks of the multi-use courts from property boundaries;
    - (iii) Details of all new boundary and internal fencing;



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- (iv) The cyclone fence at the northern end of the multi-use courts at a maximum height of 3.6 metres above natural ground level;
  - (v) Details of the maintenance access gate to the landscaped area adjacent to Naples Road, generally as shown on the landscape plan by John Patrick Pty Ltd, drawing no. L-VM01 dated August 2016;
  - (vi) Clearly defined locations of all outdoor lighting;
  - (vii) The setbacks of the aquatic building from property boundaries and the Wellness Centre;
  - (viii) Corrections to the depiction of car parking adjacent to the Willow Building to reflect existing conditions and car parking numbers, and
  - (ix) Clearly defined pedestrian access to the new aquatic building, demonstrating compliance with disability access requirements.
- c) Acoustic attenuation recommendations identified in the acoustic report required by condition 4 of this permit, and
- d) Notations of all initiatives nominated by the Sustainable Management Plan required by condition 5 of this permit.
- 2. The use and development, as shown on the endorsed plans, must not be altered without the written consent of the Responsible Authority.
- 3. The school must make available at the start of the school year, all current student enrolment numbers, to the Responsible Authority.
- 4. Prior to the endorsement of plans required by Condition 1, two (2) copies of an acoustic report prepared by a suitably qualified acoustic engineer must be submitted to the Responsible Authority for approval. When approved, the report will be endorsed and will then form part of the permit. The report must:
  - (a) Identify all potential noise sources associated with the aquatic building that will impact on adjoining residential properties, having regard to the maximum operating conditions, and
  - (b) Provide details of all noise control measures to be incorporated into the development required to achieve compliance with the relevant State Environment Protection Policies.
  - (c) Once approved, the development must be constructed in accordance with the recommendations of the endorsed acoustic report to the satisfaction of the Responsible Authority.
- 5. Prior to the endorsement of plans required by Condition 1, three (3) copies of a Sustainable Management Plan (SMP), to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority. When approved, the SMP will be endorsed and will then form part of the permit and shall thereafter be complied with. The SMP must include, but is not limited to the following criteria:
  - (a) Indoor Environment Quality
  - (b) Energy Efficiency
  - (c) Water Efficiency
  - (d) Stormwater Management
  - (e) Building Materials
  - (f) Transport
  - (g) Waste Management

- (h) Urban Ecology
  - (i) Innovation
  - (j) Construction and Building Management.
6. A Tree Protection Zone (TPZ) must be installed at a distance of 13.8 metres from the northern front property boundary directly adjacent to the *Corymbia ficifolia* (Red Flowering Gum), and 9 metres to the east and west of the tree. The following must be observed within this zone:
- (a) the existing soil level must not be altered either by fill or excavation;
  - (b) the soil must not be compacted or the soil's drainage changed;
  - (c) no fuels, oils, chemicals, poisons, rubbish and other materials harmful to trees are to be stored or dispersed;
  - (d) no storage of equipment, machinery or material is to occur;
  - (e) open trenching to lay underground services e.g.: drainage, water, gas, etc. must not be used;
  - (f) a layer of organic composted mulch to a depth of between 80mm and 100mm must be spread;
  - (g) tree roots must not be severed or injured; and
  - (h) machinery must not be used to remove any existing concrete, bricks or other materials
  - (i) without the further written consent of the Responsible Authority.
7. All demolition works including removal of existing infrastructure within the nominated Tree Protection Zone of the *Corymbia ficifolia* (Red Flowering Gum), must be done under the supervision of Responsible Authority's Vegetation Management Officer.
8. Prior to the commencement of the development hereby permitted, a Tree Protection Fence defined by a 1.2 metre high temporary fence constructed using steel or timber posts fixed in the ground or to a concrete pad, with the fence's side panels to be constructed of cyclone mesh wire or similar strong metal mesh or netting, must be erected in a radius around the *Corymbia ficifolia* (Red Flowering Gum), pursuant to Condition 6. The above requirements in condition 6 of this permit must be observed within this area.
9. All tree pruning work must be in accordance with the Australian Standards AS4373 (2007) "Pruning of Amenity Trees" and be undertaken by a qualified and experienced Arborist, to the satisfaction of the Responsible Authority.

**Condition 10 required by Public Transport Victoria**

10. The permit holder must take all reasonable steps to ensure that disruption to the bus operation along Mentone Parade is kept to a minimum during the construction of the development. Foreseen disruptions to bus operations and mitigation measures must be communicated to Public Transport Victoria fourteen (14) days prior. Any alterations including temporary works or damage during construction must be rectified to the satisfaction of Public Transport Victoria and at the cost of the permit holder.
11. Prior to the commencement of any buildings and works on the land (including demolition), a Construction Management Plan (CMP), to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority. The CMP must be prepared in accordance with the City of Kingston Construction Management Policy, July 2015, Construction Management Guidelines, 1 November 2015 (and any superseding versions and/or documents). The CMP must specify and deal with, but is not limited to, the following elements:



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- (a) Public Safety, Amenity and Site Security
  - (b) Traffic Management
  - (c) Stakeholder Management
  - (d) Operating Hours, Noise and Vibration Controls
  - (e) Air Quality and Dust Management
  - (f) Stormwater and Sediment Control
  - (g) Waste and Materials Re-use
  - (h) When approved, the plan will be endorsed and will then form part of the permit and shall thereafter be complied with during the undertaking of all works.
- 12. Unless with the prior written consent of the Responsible Authority, the multi-use courts, multi-sport pitch and wellness centre may be used by a maximum of seventy (70) external users not enrolled at Mentone Girls Grammar School at any one time, this usage is in addition to the external user limits specified in conditions 13 and 15 and within the following hours:**
- a) School Terms:**  
**Monday – Friday 3:30pm to 9:00pm**  
**Saturdays 8:00am to 5:00pm**  
**Sunday 10:00am to 2:00pm**
  - b) School Breaks:**  
**Monday to Friday 8:00am to 9:00pm**  
**Saturday 8:00am to 5:00pm**  
**Sundays 10:00am to 2:00pm**
- External users of the wellness centre for the purpose of yoga or gym classes are limited to the parent/guardian of swim students and must not attend the facility independent from the swim student's scheduled session.**
- 13. Subject to condition 15 of this planning permit, unless with the prior written consent of the Responsible Authority, the aquatic centre may be used at any one time by a maximum of 120 students (weekdays during school terms) and 200 external users (weekends and weekdays during school breaks) not enrolled at Mentone Girls Grammar School for swimming and diving activities such as "learn to swim" classes, swimming squad and diving training and other club swimming sports practice sessions (e.g. life saving, water polo, etc.) at the following hours:**
- School term:**  
**Monday to Friday 6:00am to 8pm**  
**Saturdays 7:00am to 4:00pm**  
**Sundays 9:00am to 4:00pm**
  - School Breaks:**  
**Monday to Friday 8:00am to 6:00pm**  
**Saturdays 7:00am to 4:00pm**  
**Sunday 9:00am to 4:00pm**
- 14. Unless with the prior written consent of the Responsible Authority, the aquatic centre may be used by students not enrolled in Mentone Girls' Grammar School for activities**

**not associated with the delivery of the curriculum or co-curricular programs offered to students of Mentone Girls' Grammar School within the following hours:**

**a) School Terms:**

**Monday to Friday 6:00am to 8:00pm**

**Saturdays 7:00am to 4:00pm**

**Sundays 9:00am to 4:00pm**

**b) School Breaks:**

**Monday to Friday 8:00am to 6:00pm**

**Saturdays 7:00am to 4:00pm**

**Sundays 9:00am to 4:00pm**

- 15. Between the hours of 6:00am and 7:30am, Monday to Friday, the aquatic centre must not be used by students not enrolled at Mentone Girls Grammar School at the same time as any aquatic program is being delivered to Mentone Girls Grammar Students. A maximum of sixty (60) students who are not enrolled in Mentone Girls Grammar School may be present on site at any one time during these hours.**
- 16. During school hours, all external parties are to be bused to the school or otherwise arrive by modes other than private motorised vehicles (i.e. foot, cycle).**
- 17. Notwithstanding the times specified in condition 13 during school terms, 'Learn to Swim' programmes are only to use the facility on Saturdays (between 7:00am and 4:00pm) and after 4:00pm on weekdays.**
- 18. The existing gate to the northern main car park must be programmed to open 15 minutes prior to commencement of programs and to close 30 minutes after programs end.**
- 19. The operator must provide literature to all external parties in relation to the availability of onsite car parking, program hours and the arrival restrictions at condition 16.**
- 20. The aquatic facility must not be made available to the general public for recreational swimming.**
- 21. All indoor and outdoor lighting associated with the aquatic centre, and outdoor lighting associated with the multi-sport pitch and multi-use courts must be designed, fitted with suitable baffles and located to prevent any adverse effect on adjoining land, to the satisfaction of the Responsible Authority.**
- 22. The outdoor lighting to the multi-sport pitch and multi-use courts must only operate between the hours of 7.00am and 9.00pm.**
- 23. The two northernmost multi-use courts adjacent to Naples Road must only be used between the following hours:**
  - (a) Monday to Thursday 7.00am to 9.00pm**
  - (b) Fridays and Saturdays 7.00am to 5.00pm**
  - (c) Sundays No use**
- 24. The maintenance access gate referred to in condition 1(b)(v) of this permit must be programmed to open 15 minutes prior to the commencement of the school day and to close 30 minutes after the school day except when required to provide access for the maintenance of the landscaped area, to the satisfaction of the Responsible Authority.**
- 25. The multi-use pitch and multi-use courts must not be made available to the general public for recreation purposes.**

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26. The vehicle access road off Naples Road must be closed at all times except when required to provide access for service vehicles, to the satisfaction of the Responsible Authority.
27. The amenity of the area must not be detrimentally affected by the use, including through the:
  - (a) Transport of materials, goods or commodities to or from the land;
  - (b) Appearance of any building, works or materials;
  - (c) Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil;
  - (d) Presence of vermin, and
  - (e) Any other way.
28. The loading and unloading of goods to and from vehicles must only be carried out on the land.
29. 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, as per Council's "*Civil Design Requirements for Developer – Part A – Integrated Stormwater Management*" to the satisfaction of the Responsible Authority:
  - (a) Stormwater Management (drainage) Plan(s) must be prepared, with supporting computations, showing the stormwater (drainage) works to the nominated point of discharge. The plan(s) must show all details of the proposed stormwater works including all existing and proposed features that may have an impact on the stormwater (drainage) works, including landscaping details.
  - (b) The stormwater management (drainage) plan must demonstrate water sensitive urban design treatments that achieve Victorian best practice objectives. These may include the use of an infiltration or bio-retention system, rainwater tanks connected for reuse, or other treatments to the satisfaction of the Responsible Authority.
  - (c) The water sensitive urban design treatments as per conditions 20a and 20b above must be implemented on-site, unless an alternative agreement is reached with the Responsible Authority.
30. Prior to submitting detailed Stormwater Management (Drainage) Plans, a qualified person shall undertake stormwater investigation work, and liaise with Council's Development Engineer to obtain Council's requirements. The stormwater investigation work shall include:
  - (a) The preparation of an electronic CAD drawing showing all existing stormwater pipe alignments as per the signed Memorandum of Understanding between the School and Council signed by the School on 1 November 2013;
  - (b) Arranging a CCTV (to Council's specification and satisfaction) of all existing Council pipes that will be "built over" by any proposed works in order to confirm their condition. This shall include, but not limited to, the existing 300mm diameter pipe that bisects the proposed synthetic sports pitch. All pipes that are deemed by Council to be defective shall be replaced at the Applicant's cost along the alignment determined by Council's Development Engineer, and
  - (c) The preparation of stormwater computations showing any changes to the rate of stormwater being discharged from the school site.
31. 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.

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- (b) The implementation of stormwater (drainage) detention system which restricts stormwater discharge to the maximum allowable flowrate to be determined by Council's Development Engineer, and
  - (c) All stormwater (drainage) works must be maintained to the satisfaction of the Responsible authority.
- 32. Property boundary and footpath levels must not be altered without the prior written consent of the Responsible Authority.
- 33. All reinstatements and vehicle crossings are to be constructed to the satisfaction of the relevant authority.
- 34. The replacement of all footpaths, including offsets, must be constructed to the satisfaction of the Responsible Authority.
- 35. All redundant vehicle crossings must be removed (including redundant portions of vehicle crossings) to the satisfaction of the Responsible Authority.
- 36. 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:
  - (a) Constructed to the satisfaction of the Responsible Authority;
  - (b) Properly formed to such levels that they can be used in accordance with the plans;
  - (c) Surfaced with an all-weather sealcoat to the satisfaction of the Responsible Authority;
  - (d) Drained to the satisfaction of the Responsible Authority;
  - (e) 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, and
  - (f) In accordance with any Council adopted guidelines for the construction of car parks.
  - (g) Parking areas and access lanes must be kept available for these purposes at all times and maintained to the satisfaction of the Responsible Authority.
- 37. 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.
- 38. The use 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, to the satisfaction of the Responsible Authority.
- 39. 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.
- 40. 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 development is not started within two (2) years from the date of permit issue.
  - (b) The development is not completed within four (4) years from the date of permit issue.
  - (c) The use is discontinued for a period of two (2) years.

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

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

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- (iii) within twelve (12) months after the permit expiry date, where the development allowed by the permit has lawfully started before the permit expires.
41. Within twelve (12) months of the commencement of the amended permit, the permit holder must engage a suitably qualified person to assess the compliance of the use (as amended) with **Condition 38** of this Permit, to the satisfaction of the Responsible Authority.

**THIS PERMIT WAS ISSUED AT THE DIRECTION OF VCAT AS FOLLOWS:**

**Date of Order**

18 October 2016                      Planning Permit KP-336/2015 was issued in accordance with the order of the Victorian Civil and Administrative Tribunal, reference: P1281/2016.

<b>Date of Correction</b>	<b>Brief Description of the Correction</b>
23 June 2017	Reinstate condition 21.

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

<b>Amendment</b>	<b>Date of Amendment</b>	<b>Description of Amendment</b>	<b>Name of responsible authority that approved the amendment</b>
A	16 June 2017	<ul style="list-style-type: none"><li>Amended plans to show a number of minor changes</li><li>Conditions 21 and 22 amended to provide for in lieu storm water contribution and condition 23 deleted with the rest of the conditions re-numbered.</li></ul>	Kingston City Council
B	22 January 2020	<ul style="list-style-type: none"><li>Condition 12 amended to exclude reference to the aquatic centre.</li><li>Insert new conditions from Condition 13 to Condition 21 relating to use of the aquatic centre by external parties and re-number the remaining conditions accordingly.</li><li>Amend Condition 22 to include reference to indoor lighting associated with the aquatic centre.</li><li>Include Condition 40 relating to a review of compliance with acoustic conditions.</li></ul>	Kingston City Council

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C	TBC	<ul style="list-style-type: none"><li>• Conditions 12, 13, 14, 15, 17 19, 22, 24 amended to extend limitations of access to external users.</li><li>• Insert new condition 25.</li><li>• Conditions renumbered accordingly.</li><li>• Condition 41 updated to reference condition 38.</li></ul>	Kingston City Council
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**THIS PERMIT HAS BEEN CORRECTED PURSUANT TO SECTION 71 OF THE PLANNING AND ENVIRONMENT ACT 1987 AS FOLLOWS:**

<b>Date of Correction</b>	<b>Brief Description of the Correction</b>
01-Jun 2020	<p>Correct administrative mistakes to Permit conditions relating to Conditions 12-22 to reflect the Minutes of the Planning Committee Meeting and Notice of Decision dated 11 December 2019 issued 19 December 2019 respectively.</p> <p>Update Amendment table to refer to correct condition numbers.</p>
05-Jun 2020	<p>Condition 30 on the recently corrected Planning Permit KP-2015/336/B removed and form part of the parent condition no.29 as (a), (b) and (c) and the remaining conditions renumbered accordingly.</p> <p>Condition referenced under condition 40 updated to condition 37 as a result of the renumbering.</p> <p>Update Amendment table to refer to correct condition numbers.</p>

**Appendices**

Appendix 1 - KP-2015/336/C - Mentone Girls Grammar School - Documents for the consideration of Planning Committee (Ref 22/320997)  

Author/s: Kirsty Slater, Principal Statutory Planner  
Reviewed and Approved By: Nikolas Muhllechner, Team Leader Statutory Planning  
Jaclyn Murdoch, Manager City Development

## **4.2**

### **KP-2015/336/C - MENTONE GIRLS GRAMMAR SCHOOL**

- 1 KP-2015/336/C - Mentone Girls Grammar School - Documents  
for the consideration of Planning Committee ..... 53**

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21 June 2022

Principal Planner – Statutory Planning  
City of Kingston  
via email: [info@kingston.vic.gov.au](mailto:info@kingston.vic.gov.au)  
[kirsty.slater@kingston.vic.gov.au](mailto:kirsty.slater@kingston.vic.gov.au)

Dear Kirsty

**Response to Section 54 Request for Further Information**  
**Application No. KP-2015/336/B – Mentone Girls Grammar School, 11, 17 and 21 Mentone Parade and No. 36 and 40 Naples Road Mentone**

Tract continues to act on behalf of Mentone Girls Grammar School (MGGS) in this matter.

We are pleased to respond to Council's Request for Further Information (RFI) letter dated 27 May 2022 relating to Application No. KP-2015/336/B in Attachment 1 (overleaf).

The following documents also form part of this response:

- Updated 'Application to Amend a Planning Permit VIA Section 72' form.
- Current certificates of title for land relating to this application.
- Updated S72 planning submissions prepared by Tract (both PDF and track changes versions, for ease of assessment), dated 16 June 2022.
- Updated Traffic Engineering Assessment (TEA) prepared by Traffix Group, dated 17 June 2022.
- Weekly timetable schedule (current and proposed) prepared by MGGS.

We trust the information provided is sufficient to enable Council's detailed assessment of the application.

Should the materials and information provided with this letter not satisfy Council's request for further information, or in the event that additional information is required in support of this application please accept this letter as a formal request for an extension of time of two months to the current expiry date of 27 June 2022.

Should you require any further information please contact me or Ben Daly ([bdaly@tract.net.au](mailto:bdaly@tract.net.au)) or call us at 03 9429 6133.

Yours sincerely

**Erin Specht**

Town Planner  
Tract  
[especht@tract.net.au](mailto:especht@tract.net.au)

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Attachment 1 – Response to Section 54 Request for Further Information

## Response to Section 54 Request for Further Information KP-2015/336/B – MGGS

The tables below provide a response to requests for information and preliminary assessment comments in Council's RFI letter dated 27 May 2022.

*Table 1. Response to Request for Further Information.*

Item	Council Comment	Response
1	<p>Updated 'Application to Amend a Planning Permit VIA Section 72' form:</p> <ul style="list-style-type: none"> <li>to refer to the full site address and formal land description applicable to the subject site. If this cannot be provided on the application form, please include a separate sheet. Please note that the subject site was formally described as Lot 1 on TP 234514Y, Lot 1 on TP 082358E, Lot 1 on PS 084907, Lot 2 on PS 087016, Lot 1 and Lot 3 on PS 014650 and Lots 1, 2 &amp; 3 on TP 428874L in their consideration of the most recent amendment pursuant to S71 of the Planning and Environment Act 1987 to correct a clerical mistake pertaining to Condition 29 of the Planning Permit.</li> <li>to omit reference to the deletion of Condition 12 and instead list it as a condition, the wording of which is sought to be amended. It is noted that Section 5.2 and Appendix A of the Town Planning Submission prepared by Tract advises Condition 12 of the permit is to be replaced, suggestive of it being substituted by an alternative condition. Appendix A provides alternative wording of the condition.</li> </ul>	<p>Please refer to the updated 'Application to Amend a Planning Permit via Section 72' form included alongside this submission.</p> <p>We note the full site address for MGGS includes the following lots (which include those listed in the RFI letter as well as a few additional lots):</p> <ul style="list-style-type: none"> <li>Lot 1 on PS 084907</li> <li>Lot 1 on TP 082358E</li> <li>Lot 1 on TP 616785M.</li> <li>Lot 1 on TP 418704U.</li> <li>Lot 2 on PS 087016.</li> <li>Lots 1,2 and 3 on TP 428874L.</li> <li>Lot 1 &amp; Lots 3-5 on PS 014650.</li> <li>Lot 1 on TP 234514Y.</li> </ul>
2	<p>All relevant certificates of title that are attached to the land. As above, the following lots were listed in previous submissions - Lot 1 on TP 234514Y, Lot 1 on TP 082358E, Lot 1 on PS 084907, Lot 2 on PS 087016, Lot 1 and Lot 3 on PS 014650 and Lots</p>	<p>Please refer to the attached certificates of title which relate to the subject land relating to this application, noting the land includes lots listed in the RFI letter as well as a few additional lots.</p>

Response to Section 54 Request for Further Information Application No. KP-2015/336/B – Mentone Girls Grammar School, 11, 17 and 21 Mentone Parade and No. 36 and 40 Naples Road Mentone

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1, 2 & 3 on TP 428874L. Further, Planning Reports  
 Online nominates 11 land parcels for the Site.

- |   |   |   |
|---|---|---|
| 3 | <p>Updated town planning report that:</p> <ul style="list-style-type: none"> <li>• refers to the full site address,</li> <li>• At Section 5.2, confirms/ corrects the hours of operation sought on Saturdays during school breaks required by Condition 14 of the Permit.</li> <li>• At Section 5, confirms if it is intended to control access through the pedestrian (maintenance) access gate from Naples Road and to what extent i.e. access is limited to hours of operation of the aquatic centre and sports courts and thereafter the gate remains locked during non-operational hours or access is controlled similar to the existing to the northern main car park as per the requirements of Condition 18 of the Permit.</li> </ul> <p>Should access to the pedestrian (maintenance) gate sought to be controlled in similar terms to existing gate to the main car park, please confirm if the wording of Condition 18 is to be amended to include this control.</p> <p>Confirms the extent of operations proposed for yoga and gym classes for parents of patrons.</p> <p>It is noted from the Traffic Report that such classes will be offered at times parallel with the swim classes or events. Please advise if additional staff will be employed to operate the classes proposed and the hours of operation.</p> | <p>Please refer to the updated planning submissions included alongside this response. In particular we note the following:</p> <ul style="list-style-type: none"> <li>• Section 5.2 corrects the hours of operation sought on Saturdays during school breaks (6am – 4pm)</li> <li>• Section 5 is updated with details of the pedestrian access gate use. This gate will not be used by any external users, but rather only by students of the school, and will be managed by school staff to be unlocked only during peak movement periods at the start and end of each school day.</li> </ul> <p>We do not consider any amendment to Condition 18 necessary to enable the use and responsible management of this pedestrian gate.</p> <p>Details of the proposed yoga and gym classes are included at Section 5. These classes are targeted to parents of children attending swim classes and are anticipated to require one additional staff member.</p> <p>Please refer to the attached timetable from MGGS for a summary of current and proposed classes, noting that hours of operation for proposed classes are indicative.</p> |
| 4 | <p>Commentary to be provided as to whether a 'leisure and recreation' use has or is to be established on Site as result of increased patron access to non-students. This is raised as the officer assessment of amendment 2015/336/B noted the amended planning permit trigger as being pursuant to Clause 32.08-2 – use of land for leisure and recreation. Opinion required as to whether the leisure and recreation use is an ancillary component of the wider education facility use or has tipped the scales in terms of it now being considered a separate use.</p>   | <p>Please refer to the response to Item 1 of Council's Preliminary Assessment (Table 2, below) which addresses this point.</p>  |

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|---|---|---|
| 5 | <p>The assessment given in the Officer Report relating to the previous amendment notes no car parking rate applies to the 'leisure and recreation' use and is to be provided to the satisfaction of the Responsible Authority. Consistency is required in the method of assessment of car parking rates relative to the land use instituted. Updated Town Planning report and Traffic Engineering Assessment ('TEA') required accordingly. It is noted that the assessment is unlikely to change.</p> | <p>Please refer to the updated planning report (Section 6.4) and updated TEA for an assessment of the proposed use against relevant car parking rates. We note the following points:</p> <ul style="list-style-type: none"> <li>• Please refer to the response to Item 1 of Council's Preliminary Assessment in Table 2 below for a discussion of the land use designation for the proposal.</li> <li>• Assessment against a 'leisure and recreation' car parking rate is not considered appropriate for this proposal, given the amended Permit allows for use of the land as an education centre (not as a leisure and recreation centre).</li> <li>• We have reviewed the delegate report in this regard and note that the only reference to leisure and recreation is in the car parking assessment section and that this is largely unsubstantiated if not erroneous.</li> <li>• We confirm the car parking rate assessment applied in the TEA is consistent with the land use approved under the Permit.</li> </ul> |
| 6 | <p>Provide a timetable of classes currently operating at the facility including both the Aquatic Centre and outdoors sports facilities including a timetable of classes anticipated should hours and patron numbers be extended as proposed.</p>  | <p>Please refer to the attached timetable from MGGS for a summary of current and proposed classes, noting that hours of operation for all proposed classes are indicative.</p>  |
| 7 | <p>The TEA refers to a total of 82 car parking spaces associated with the Aquatic Centre. The delegate report and indeed the plans endorsed relative to the planning permit reference a provision of 86 car parking spaces. Confirmation to be provided as to the correct number of spaces provided on site and TEA to be updated as appropriate.</p>   | <p>Please refer to the updated TEA which confirms the provision of 86 car parking spaces.</p>   |
| 8 | <p>The TEA advises that the Aquatic Centre carpark could accommodate 'some' additional use of the multi-purpose sports courts/ fields and the southern sporting field car park would also support 'some' external use out of school times. But will on-site car parking support the patron numbers now proposed</p>   | <p>Please refer to the updated TEA for a response to this point. We note the following:</p> <ul style="list-style-type: none"> <li>• The TEA confirms that 31 'unused' spaces are anticipated across the MGGS car park presuming the maximum requirement of the aquatic centre is utilised.</li> </ul>  |

based on the car parking rates adopted in the assessment and is 'some' additional use the same as that proposed.

- The TEA confirms these 31 spaces can support up to 100 people at the rate of 0.3 spaces per person.
- The School anticipates a peak of 50-70 people using the multi-purpose areas or sporting field which can be accommodated by the 31 spaces.

Table 2. Response to Preliminary Assessment Concerns

Item	Council Comment	Response
1	<p><b>Use</b></p> <p>The officer report for amendment KP-201/336/B considered a recreation and leisure use had been instituted as a result of the use of facilities by outside patrons. The currently proposal seeks to significantly increase the use of the Aquatic Centre and outdoor sports facilities by external users and to extend the hours of operation. The application should be amended to include a recreation and leisure use or alternatively be supported by information to demonstrate that an increase in patron numbers and the intensity of use of the facility by those external users does not move beyond an ancillary operation to the principal education centre use.</p>	<p>Tract has reviewed the officer report and amended permit KP-2015/336/B (the 'Permit') and we disagree with the notion that a leisure and recreation use has been established on the site.</p> <p>'Leisure and recreation' land uses are considered 'Section 2 – permit required' in this location and would therefore require permission under the Permit, which would then need to be applied for (which was not the case) and be reflected in the permit preamble (which is not the case).</p> <p>The permit preamble for this Permit allows the following (emphasis added):</p> <p><i>"Develop the land for the construction of buildings and works associated with an existing <u>education centre</u> and to use and develop land at No's 36, 38 and 40 Naples Road Mentone for an <u>education centre</u>"</i></p> <p>While we acknowledge that the officer report has adopted 'leisure and recreation' for the purposes of its car parking assessment for the external use of the school facilities, the officer report does not assess a 'leisure and recreation' land use nor does the amended permit preamble allow one. The use of the term in the report is unsubstantiated and appears to have been adopted purely for</p>

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comparative purposes in undertaking a car parking assessment.

In this regard we respectfully submit that any reference to a leisure and recreation land use in the officer report does not justify an amendment to the application.

We further note that several conditions within the amended permit restrict external use of the school facilities, including external use restrictions at conditions 12-15, 17, and 20 of the permit. These conditions ensure that the increase in external use does not move beyond an ancillary land use to the principal operation of the land as an education centre, and further ensures that the operation of the school is not impacted.

## 2 Existing Car Parking

There is inconsistency between traffic reports and endorsed plans. Clarity required as to actual site conditions. Should non-compliance with the endorsed plans be demonstrated an amendment may be required to the planning permit to address this.

The TEA has been updated to correct the inconsistencies with the endorsed plans. Both documents now identify 86 car parking spaces.

## 3 Amenity

There is concern that the increase in patron numbers and hours of operation and thus the intensity of the use of the facilities has the potential to have a detrimental impact on the amenity of neighbouring residential properties. Further, that it may have amenity effects as a result of the increased traffic to be generated.

Please refer to the updated TEA for a discussion of anticipated traffic impacts as a result of the proposed amendment (page 11, 'Traffic Impacts'). We note the following points:

- The peak periods for the proposed use of the aquatic centre and sporting fields are unlikely to occur at the same time as peak school pick-up/drop-off periods.
- Whilst the increase in patron numbers and hours may generate additional traffic, the TEA anticipates that traffic volumes along Naples Road or Mentone Parade during aquatic centre peaks would be less than those experienced during school peaks.
- The TEA confirms the existing road network can accommodate the anticipated traffic loads.

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In terms of other amenity impacts to residential properties, we note that Condition 26 of the Permit currently serves to protect the amenity of the area. Additionally, several other conditions in the Permit control the use of the land in a manner that limits amenity impacts on neighbouring land, including:

- lighting (conditions 21 and 22),
- noise (condition 37)
- unwanted vehicle access and loading/unloading (conditions 18, 25 and 27)

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## Attachment 1 – Updated Planning Submission

Revision 01: RFI Response

Publish date: 16 June 2022

# **Planning Submission for Section 72 Amendment Mentone Girls' Grammar School – External use of facilities and minor amendments**

## **1 Overview**

It is proposed to amend planning permit KP-2015/336/B (the 'Permit') to provide for the limited use of the School's multipurpose courts and playing fields and increased use of the Aquatic Centre by external users together with other minor amendments.

Namely, the following changes are proposed:

- Provide for the limited external use of all sports facilities at MGGS.
- Extend the hours during which external users can utilise the Aquatic Centre.
- Increase the 60-student capacity limit on external users after 7:30am.
- Increase the 40-student capacity limit before 7:30am.
- Extend the hours during which outdoor lighting may be used.
- Allow the gateway adjacent to Naples Road to be used for general access.

To facilitate these changes the following permit conditions are proposed to be altered:

- Amend the wording of conditions 1b, 13, 14, 15, 17, and 22.
- Replace condition 12 with a new condition.
- Delete condition 24.
- Renumber conditions accordingly and make other minor editing suggestions.

## **2 Background**

### **The Permit**

The Permit was originally issued 18 October 2016 and allows for the following:

*"Develop the land for the construction of buildings and works associated with an existing education centre, and to use and develop land at No's 36, 38 and 40 Naples Road Mentone for an education centre."*

The Permit and has been amended twice as follows:

- 16 June 2017 (KP-2015/336/A) to incorporate minor changes to the endorsed plans and to provide for in lieu stormwater contributions.

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- 22 January 2020 (KP-2015/336/B) to enable the restricted use of the Aquatic Centre by external parties.

### Context

Since the Permit was amended in 2020 to provide for the external use of the aquatic centre, the Don Tatnell Leisure Centre has been closed by the City of Kingston as a result of serious structural issues. Following the closure of this local public asset, the community has had fewer options for swimming in the local area and sought alternative opportunities within the neighbourhood.

During this time MGGS has successfully operated its Aquatic Centre with positive feedback and appreciation from local community groups that have benefitted from access to the Centre. Those 'external parties' include a number of organisations such as local schools, lifesaving clubs, and sports clubs noting that letters of support for the 2020 amendment included submissions from the following entities:

- Mentone Life Saving Club
- Monash University Waterpolo Club
- Aspendale Gardens Primary School
- Parkdale Primary School
- St Bede's College

While the School considers it a social and community responsibility to share its resources for community benefit, over the past year it has faced challenges in its ability to effectively accommodate the needs and scheduling requirements of external parties due to the operational limitations of the Permit.

In response to the operational successes and learnings of the past year, MGGS wishes to increase the capacity of the Aquatic Centre to be used by patrons who are not enrolled at the School including limited wellness and yoga programs targeted to parents of swim students.

The School also seeks to reinstate the historic external use of its grass playing fields and hard courts to enable these to be shared with local schools or community groups such as hockey, soccer, and tennis clubs.

### Policy changes

Since the second amendment to the permit, the following changes have been implemented to the Kingston Planning Scheme which support the integration of education facilities with their surrounding community:

- **Clause 19.02-2S (Education facilities)** was introduced into State policy in late 2020. The policy seeks *'to assist the integration of education and early childhood facilities with local and regional communities'* and includes a strategy to *'Facilitate the establishment and expansion of primary and secondary education facilities to meet the existing and future education needs of communities.'*
- **Clause 53.19 (Non-government Schools)** was changed in late 2020 to further facilitate the operation and upgrades to existing non-government schools.



### 3 Site and surrounds

The Mentone Girls' Grammar School (MGGS) is located at 11, 17 and 21 Mentone Parade and No. 36 and 40 Naples Road Mentone (the 'Site').

The Site is an irregular shape with total area of 2.9ha, primary eastern frontage along Mentone Parade, and minor northern frontage along Naples Road. The Site is bordered on the remaining two sides with low density residential lots, the majority of which contain single dwellings. Beach Road and Mentone Beach are located further south of the Site beyond a single row of dwellings.

The School hosts several recreational facilities on site, including three outdoor multipurpose courts, several large outdoor playing fields, an indoor aquatic centre containing a wellness/fitness centre and two pools (a 4-lane 15m Technique pool and an 8-lane 25m pool that is 2m deep with a 3.8m deep dive bowl).

The School is proximate to several educational facilities, including St Bede's College, Mentone Grammar School, Kilbreda College, Parkdale, Parktone, Stella Maris and Beaumaris Primary Schools, and Mentone Girls' and Parkdale Secondary Colleges.

### 4 Current operation

No external access is currently provided to the outdoor multipurpose courts or playing fields (consistent with Condition 12 of the Permit).

The Aquatic Centre currently operates the following external programs:

- **Learn to Swim:** Operates on 30-minute lesson times on Saturdays, resulting in approximately 20 children in the Technique pool at any one time, and from 4:30pm weekdays. This program is open to the public.
- **External school programs:** Other schools utilise the facilities during weekdays for their swimming programmes (with students arriving by transport modes which accord with Condition 16).
- **Swim Squad and specialised training:** Operates on approximately 45-minute sessions during weekends and outside school hours during the week. These programs are run by other schools and include water polo, diving, and swim squad training. In particular the Mentone Greek School uses the Aquatic Centre on Friday evenings and Saturday mornings.

### 5 Proposal

#### 5.1 Overview

As set out above, the proposed amendment seeks to make the following changes to the Permit.

- Provide for the limited external use of all sports facilities at MGGS with maximum patronage informed by the enclosed Car Parking Assessment.
- Extend the hours during which external users can utilise the Aquatic Centre.
- Increase the 60-student capacity limit on external users after 7:30am.
- Increase the 40-student capacity limit before 7:30am.
- Extend the hours during which outdoor lighting may be used.
- Allow the gateway adjacent to Naples Road to be used for general pedestrian access.

Appendix A of this submission sets out recommended changes to the current permit conditions as summarised at Section 5.2 below.

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Reasons for the proposed amendments are provided at Section 5.3 below.

## 5.2 Summary of amendments

The following table provides a summary of the proposed amendments to the Permit:

Condition	Summary of proposed amendment
-----------	-------------------------------

1b

Deletes the word ‘maintenance’ before ‘access gate’ to align the with proposed deletion of condition 24 to facilitate the general use of the access gate adjacent to Naples Road.

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Replaces this condition (which currently prohibits the external use of the School’s sporting facilities) with a new condition which enables the limited external use of the School’s multi-use courts, multi-purpose spaces, and wellness centre.

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(i) Extend hours to the following:

School Terms:

Monday to Friday: 5am – 8pm

Saturdays: 6am – 4pm

Sundays: 9am – 4pm

School Breaks:

Monday to Friday: 8am – 6pm

Saturdays: 6am – 4pm

(ii) Increase external patron limits in accordance with the following Traffic Group summary:

Table 2: Proposed Aquatic Education Centre External Patron Limits by Day/Time

Day	Time	School Terms	School Holidays
Weekday	Before School (5am-8am)	120	240
	School Periods (8am-4pm)	No Limit for Non-Car Users	240
	After School (4pm-7:30pm)	120	240
Saturday	6am-4pm	240	240
Sunday	9am-4pm	240	240

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Extend hours to the following:

School Terms:

Monday to Friday: 5am – 8pm

Saturdays: 6am – 4pm

Sundays 9am – 4pm

School Breaks:

Monday to Friday: 8am – 6pm

Saturdays: 6am – 4pm

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Extended starting hours from 6am to 5am and increased capacity from 40 students to 60 patrons.

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17	Extend Learn to Swim hours from after 4:30pm on weekdays to after 4:00pm.
22	Extend allowable hours of outdoor lighting from 8:00am to 7:00am
24	Delete this condition to facilitate the general use of the access gate adjacent to Naples Road.

### 5.3 Reason for Amendments

**Regarding use of playing field and multipurpose courts:** Prior to the development of the fields and courts, the School had a grass playing field and hard courts that were available for external use. There is currently no external use allowed for the School's playing fields which means the MGGS is unable to offer access to the hockey field, tennis courts, or multipurpose courts to other schools and community groups. The greatest demand for the playing fields and courts is during weekend periods.

**Regarding use of the Wellness Centre:** The School would like to offer wellness and yoga programs for parents of swim students who are waiting for their children on the Site during swim lessons. There is currently no external use allowed for the Wellness Centre which means the MGGS is unable to offer these facilities for parents. It is expected these classes would have no more than 20 patrons within a yoga class and 12 patrons within the gymnasium. One additional staff member would be required to run these classes.

**Regarding capacity limits:** The 60-patron capacity limit on external users after 7:30am is adequate for normal use of the Aquatic Centre but precludes other schools being able to use the facility for their swim carnival, which is a significant event for the community. Removing the capacity limit would allow the centre to occasionally host larger events.

Under the current capacity limit of 40 students before 7:30am the Aquatic Centre does not fully utilise all 8 lanes, as six to eight swimmers can operate simultaneously per lane. A capacity of 60 will provide for full utility. Additionally, other schools (namely Kilbreda, Shelford and OLA) have squads greater than 40 and have expressed a desire to use the pool for training purpose before 7.30am.

**Regarding weekday hours:** Swimming by its nature requires early morning starts to allow swimmers the time in the pool that is required to perform at a high level. Community user including swim clubs (Cheltenham) and other schools (Kilbreda, St Bede's) all require commencement prior to 6am.

Under the current 7.30pm finish the centre is also unable to accommodate the time required for Water Polo games.

**Regarding Saturday hours:** Under the current Saturday hours, MGGS is unable to accommodate Cheltenham Swim Club or Aqua Cycles program. Aqua Cycle cannot use the Centre after 7.30am due to conflicts with Learn to Swim requirements. Water polo and lane hire also cannot be accommodated in the afternoon. Extending the Saturday hours would allow both of these community groups access to the facility.

Under the current hours, the centre's Learn to Swim program cannot accept external students until after 4.30pm and many families have been requesting a 4:00pm commencement. Extensions into the evening would accommodate external swim squads and are not intended to expand the operation of the Learn to Swim program.

**Regarding Sunday hours:** There is currently no external use allowed on Sunday. Synchronised Swimming Victoria, Water Polo Victoria, and Richmond Water Polo Club have expressed interest in using the facility for training and matches on Sundays. Allowing Sunday hours for external users would enable more community organisations to benefit from access to the centre. Learn to Swim operations are not proposed to operate on Sundays.

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**Regarding pedestrian access:** This amendment is not directly related to the proposed use of sporting facilities but rather seeks to reinstate the School's historic pedestrian access to Naples Road to increase campus permeability and ease congestion during peak hours.

The pedestrian access gate is not to be used by external parties, this is only to be used by students to enter school and leave school at the beginning and end of each day. The gate will be unlocked in the morning (about 7am) and locked by 9.00am by school staff. It would then be unlocked at approximately 3.15pm and locked again by 5.00pm.

**Regarding outdoor lighting:** During winter, the School has practice sessions on the multipurpose courts before school, at which time it is dark. Extending the hours for outdoor lighting use in the morning will improve safety and amenity for students and patrons during morning practices.

## 6 Summary of Planning Controls

### 6.1 Overview

The Site is subject to the following relevant planning controls of the *Kingston Planning Scheme*:

- **Zone:** General Residential Zone – Schedule 2 and Schedule 3
- **Overlays:** Design and Development Overlay – Schedule 1
- **Particular Provisions:** Car Parking; Non-government schools

### 6.2 Clause 32.08 General Residential Zone

The Site is within the General Residential Zone (GRZ) – Schedule 2 (GRZ2): *'General Residential Areas A'* and Schedule 3 (GRZ3): *'General Residential Areas B'*.

The purpose of the GRZ includes the following:

*To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.*

The proposed amendment does not alter the land use or development allowed under the Permit.

The decision guidelines set out at Clause 32.08-13 are considered in the Planning Assessment below.

### 6.3 Clause 43.02 Design and Development Overlay

The entire Site is affected by the Design and Development Overlay – Schedule 1 (DDO1) *'Urban Coastal Height Control Area'*.

The proposed amendment does not propose any alterations to the built form of the existing structures on the Site. Therefore, the provisions of Clause 43.02 are of no consequence to this application.

### 6.4 Clause 52.06 Car Parking

Clause 52.06 applies to a proposal to increase an existing use by the measure specified in Column C of Table 1.

As set out in excerpt of Table 1 below, the Column C measure for a Secondary School is related to the maximum number of employees on the site at any time:

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Table 1: Car parking requirement

Use	Rate Column A	Rate Column B	Car Parking Measure Column C
Secondary school	12	12	To each employee that is part of the maximum number of employees on the site at any time

As the proposed permit amendment does not seek to increase the maximum number of employees associated with the Secondary School on the site at any time (noting that the one additional employee associated with the Wellness Centre would not be on site during peak employee attendance) the provisions a planning permit is not required under 52.06-3.

Notwithstanding, pursuant to the GRZ, the provision of car parking forms a decision guideline for a non-residential use and has therefore been considered in the Planning Assessment below and the Car Parking Assessment prepared by Traffix Group included alongside this submission.

The operation of the MGGS sports facilities can be considered use for an Education Centre other than listed elsewhere in Table 1, which generates the following car parking rate (noting this is the same rate as a Place of Assembly, which similarly reflects the proposed use of the sports facilities under this proposed amendment):

Use	Rate Column A	Rate Column B	Car Parking Measure Column C
Education centre other than listed in this table	0.4	0.3	To each student that is part of the maximum number of students on the site at any time

The proposed increase to the external use of the sports facilities generates a maximum student/patron attendance of 240 people at the aquatic centre and an anticipated 50-70 people at the sporting fields and multi-purpose courts. This generates a car parking requirement of 72 car parking spaces at the aquatic centre and 21 car parking spaces for other uses, respectively (totalling 91 car parking spaces).

MGGS provides for 86 on-site car parking spaces at the aquatic centre parking lot that will be available before and after school and on weekends for external users. An additional 17 car parking spaces are available in the southern sporting field car park. Therefore, an adequate number of car parking spaces is provided (103) and a planning permit is not required under 52.06-3.

## 6.5 Clause 53.19 Non-Government Schools

As Clause 53.19 does not apply to the amendment of permits issued prior to its gazettal, the provisions of Clause 53.19 are of no consequence to this application.

## 7 Planning Assessment

### 7.1 Overview

Having regard to the relevant planning policies and provisions for this proposal, the following questions have been determined as the key matters for consideration with each addressed in turn below:

- Is the proposal consistent with the provisions of the General Residential Zone?
- Are the proposed parking arrangements appropriate?

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## 7.2 Is the proposal consistent with the provisions of the General Residential Zone?

The following table responds in turn (right) to the 'general' decision guidelines of the GRZ (left):

Decision Guideline	Response
<i>The Municipal Planning Strategy and the Planning Policy Framework.</i>	The proposal draws significant policy support from <b>Clause 19.02-2S (Education facilities)</b> which seeks ' <i>to assist the integration of education and early childhood facilities with local and regional communities</i> ' and includes a strategy to ' <i>Facilitate the establishment and expansion of primary and secondary education facilities to meet the existing and future education needs of communities.</i> '
<i>The purpose of this zone.</i>	The proposed amendment is entirely consistent with the relevant purpose of the GRZ as it would support both an education and community use to serves local community needs in an appropriate location (namely within established facilities within an established Education centre).
<i>The objectives set out in a schedule to this zone.</i>	Neither the GRZ2 nor the GRZ specify any objectives.
<i>Any other decision guidelines specified in a schedule to this zone.</i>	Refer table below.

The following table responds in turn (right) to the 'non-residential use' decision guidelines of the GRZ (left):

Decision Guideline	Response
<i>Whether the use or development is compatible with residential use.</i>	No development is proposed.  The land use is established and consistent with the purpose of the GRZ and is therefore entirely compatible with the surrounding residential use.  The proposed operation of the MGGS will not detrimentally affect the amenity of the surrounding residential neighbourhood, as it continues the existing land use as a school and results in relatively minor increases in the intensity of external visitors to the Site which will generally be absorbed by available on-site car parking.  The proposed increase in the allowable hours for external light use at the multipurpose courts and playing fields is minor and remains within reasonable waking hours.  In this regard the proposed amendment remains compliant with condition 26 of the Permit (i.e. general amenity), is consistent with the purpose of

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the zone, and is consistent with expectations for non-residential uses in residential areas.

<b><i>Whether the use generally serves local community needs.</i></b>	As set out above, the proposed expansion of external access to the MGGS addresses a gap in local community services and responds to local demand for recreational opportunities in the area.
<b><i>The scale and intensity of the use and development.</i></b>	<p>The scale of the development is fixed for the purposes of this purpose amendment.</p> <p>The scale of the use is proposed to increase commensurate to the scale of the development (namely several lanes of the pool are not currently functional due to patron limitations) and to the scale of available car parking supply (as established in the enclosed Car Parking Assessment).</p> <p>The scale and intensity of the proposal is hence appropriate having regard to spatial extent of the facility, the broader Education centre, and the needs of the community.</p>
<b><i>The design, height, setback and appearance of the proposed buildings and works.</i></b> <b><i>The proposed landscaping.</i></b>	<p>The proposed amendment solely affects the use of the land and does not result in any alterations to the physical presentation or built form. In this regard the proposed amendment is of no consequence to decision guidelines related to built form and landscaping.</p>
<b><i>The provision of car and bicycle parking and associated accessways.</i></b>	<p>Refer discussion at Section 7.3 below.</p> <p>In summary, a Car Parking Assessment ('CPA') has been prepared by Traffix Group. The CPA confirms that the car parking demand associated with the proposed increased utilisation of the Aquatic Centre would be met by the School's on-site car parking.</p> <p>The CPA goes on to conclude that there would be in the order of 27 car parking spaces remaining 'unused' at the School which would be available to accommodate the car parking demand of up to 90 students and or patrons using the School's multi-purpose areas and sporting fields.</p> <p>On this basis it is concluded that the proposed car parking arrangements are appropriate.</p>
<b><i>Any proposed loading and refuse collection facilities.</i></b>	The School's existing loading and refuse arrangement remain appropriate.
<b><i>The safety, efficiency and amenity effects of traffic to be generated by the proposal.</i></b>	<p>No physical changes to crossovers are proposed as part of the amendment and hence traffic safety and efficiency is not proposed to be impacted. Likewise, the proposed utilisation of the pedestrian gate to Naples Road will ease congestion and improve safety for pedestrians.</p> <p>Amenity is not expected to be impacted given the proposed changes are generally scheduled to occur during 'off peak' periods. During school hours, the School will continue to rely on Condition 16 which requires that external users access the site by an alternative transport mode to</p>

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private motorised vehicles during school hours, thereby reducing traffic impacts to the neighbourhood.

### 7.3 Are the proposed parking arrangements appropriate?

As the proposed permit amendment does not seek to increase the maximum number of employees on the site at any time a planning permit is not required under 52.06-3.

Notwithstanding, pursuant to the GRZ, the provision of car parking forms a decision guideline for a non-residential use and is therefore considered below as informed by the enclosed Car Parking Assessment ('CPA') prepared by Traffix Group.

The CPA first establishes the existing conditions of the Site including the provision of 99 on-site car parking spaces across two car parks before presenting the findings on car parking surveys of the surrounding area.

For the purposes of establishing a reasonable car parking demand for the proposed amendment, the CPA chooses to adopt the Clause 52.06 car parking rate for an 'Education centre (other than listed)' and extrapolates this rate from 0.3 parking *per student* to 0.3 parking spaces *per patron* consistent with the car parking rate for a Place of assembly.

The CPA establishes the following car parking demand for the proposed use of Aquatic Centre:

**Table 3: Parking Requirements Summarised by Day/Time**

Day	Time	School Terms	School Holidays
Weekday	Before School (5am-8am)	36	72
	School Periods (8am-4pm)	No Demand (no car drivers)	72
	After School (4pm-7:30pm)	36	72
Saturday	6am-4pm	72	72
Sunday	9am-4pm	72	72

The CPA confirms that the parking requirements during each of these periods would be met by the School's on-site car parking.

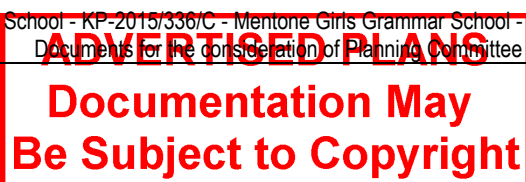
The CPA then works back from the on-site car parking supply (103 spaces across the aquatic centre car park (86 spaces) and the southern sporting field car park (17 spaces)) and the maximum car parking requirement for the Aquatic Centre (72 spaces) to establish that there would be in the order of 31 car parking spaces remaining 'unused' at the School which would be available to accommodate the car parking demand of up to 100 students and or patrons using the School's multi-purpose areas and sporting fields. MGGS anticipates that these areas would experience maximum patronage of approximately 50-70 people.

On this basis it is concluded that the proposed car parking arrangements are appropriate.

## 8 Conclusion

Responding to the loss of a valued community recreation asset while also making existing facilities available to the community in a manner which reflects the historic use of the Site, the proposed amendment addresses a gap in community facilities and provides a net community benefit which is supported by State planning





policy and has been conceived in a manner which ensures that amenity impacts are appropriately considered and managed.

It is the conclusion of this submission that the proposed amendments will result in the reasonable and appropriate use of the School's facilities consistent with the MGGS's obligation to support community organisations and schools in accessing much needed health and recreational facilities.

On this basis it is requested that Council resolves to support and approve this permit amendment application by adopting the changes proposed in Appendix A.

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## Appendix A

## Recommended Changes to Permit Conditions

Condition	Current Wording	Recommended Amendment ( <del>strikethrough</del> to remove and <u>underline</u> to add)	Recommended Alternative Structure
1b	(v) Details of the maintenance access gate to the landscaped area adjacent to Naples Road, generally as shown on the landscape plan by John Patrick Pty Ltd, drawing no. L-VM01 dated August 2016;	(v) Details of the <del>maintenance</del> access gate to the landscaped area adjacent to Naples Road, generally as shown on the landscape plan by John Patrick Pty Ltd, drawing no. L-VM01 dated August 2016;	No further change.
12	Unless with the prior written consent of the Responsible Authority, the sports facilities (excluding the aquatic centre) hereby approved must only be used by Mentone Girls' Grammar School for the delivery of its curriculum and for co-curricular programs offered to students enrolled at the school.	Unless with the prior written consent of the Responsible Authority, <del>the multi-use courts, multi-purpose space, and Wellness Centre hereby approved</del> must only be used <u>by a maximum of 90 patrons not enrolled at</u> Mentone Girls' Grammar School <u>at any one time, for the delivery of its curriculum and for co-curricular programs offered to students enrolled at the school. This patronage is in addition to the patron limits specified in conditions 1.3 and 1.5.</u>	No further change.
13	Subject to Condition 1.5 of this Permit, unless with the prior written consent of the Responsible Authority, the aquatic centre may be used at any one time by a maximum of sixty (60) students who are not enrolled in	Subject to Condition 1.5 of this Permit, unless with the prior written consent of the Responsible Authority, the aquatic centre may be used at any one time by a maximum of <del>sixty (60) students</del> <u>120 patrons</u>	<b>13.</b> Unless with the prior written consent of the Responsible Authority and subject to Condition 1.5, the aquatic centre may only be used at any one time

Mentone Girls' Grammar School for swimming and diving activities such as "learn to swim" classes, swimming squad and diving training and other club swimming sports practice sessions (eg life saving, water polo etc) at the following hours:

- School Terms: Monday to Friday 6am – 7:30pm and Saturdays 7:30am – 1:30pm; and
- School Breaks: Monday to Friday 8am – 6pm and Saturdays 7:30am – 1:30pm.

(weekdays during school terms) and 240 patrons (weekends and weekdays during school breaks) who are not enrolled in Mentone Girls' Grammar School for swimming and diving activities such as "learn to swim" classes, swimming squad and diving training and other club swimming sports practice sessions (eg life saving, water polo etc) at the following hours:

- School Terms:  
Monday to Friday ~~6am – 7:30pm~~ 5am – 8pm; and  
Saturdays ~~7:30am – 1:30pm~~ 6am – 4pm;  
Sundays 9am – 4pm; and
- School Breaks:  
Monday to Friday 8am – 6pm and  
Saturdays ~~7:30am – 1:30pm~~ 6am – 4pm.

by the following maximum number of patrons who are not enrolled at Mentone Girls' Grammar School:

- Monday – Friday (School Terms)
  - 5am – 8am, 120 patrons
  - 8am – 4pm, no limit for non-car user patrons (and in accordance with Condition 16)
  - 4pm – 8pm, 120 patrons
- Monday – Friday (School Breaks)
  - 8am – 6pm, 240 patrons
- Saturday
  - 6am – 4pm, 240 patrons
- Sunday
  - 9am – 4pm, 240 patrons

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Unless with the prior written consent of the Responsible Authority, the aquatic centre may be used by students not enrolled in Mentone Girls' Grammar School for activities not associated with the delivery of the curriculum or co-curricular programs offered to students of Mentone Girls' Grammar School within the following hours:

a) School Terms: Monday to Friday 6am – 7:30pm and Saturdays 7:30am – 1:30pm

b) School Breaks: Monday to Friday 8am – 6pm and Saturdays 7:30am – 1:30pm

Unless with the prior written consent of the Responsible Authority, the aquatic centre may be used by patrons ~~students~~ not enrolled in Mentone Girls' Grammar School for activities not associated with the delivery of the curriculum or co-curricular programs offered to students of Mentone Girls' Grammar School within the following hours:

a) School Terms:  
Monday to Friday ~~6am – 7:30pm~~ 5am – 8pm; and  
Saturdays ~~7:30am – 1:30pm~~ 6am – 4pm;  
Sundays 9am – 4pm; and

b) School Breaks:  
Monday to Friday 8am – 6pm and  
Saturdays ~~7:30am – 1:30pm~~ 6am – 4pm

14.

Unless with the prior written consent of the Responsible Authority, the aquatic centre may be used for patrons not enrolled in Mentone Girls' Grammar School during the following hours:

For all programs aside from 'Learn to Swim' (or similar) programs:

a) School Terms:

- Monday to Friday
  - 5am – 8pm;
  - Saturdays
    - 6am – 4pm;
  - Sundays
    - 9am – 4pm; and

- b) *School Breaks:*
- Monday to Friday
    - 8am – 6pm;
  - Saturdays
    - 6am – 4pm.
  - Sundays
    - 9am – 4pm.

For ‘Learn to Swim’ (or similar) programs:

- a) *School Terms:*
- Monday to Friday
    - 4pm – 8pm;
  - Saturdays
    - 6am – 4pm; and
- b) *School Breaks:*
- Monday to Friday
    - 8am – 6pm;
  - Saturdays
    - 6am – 4pm.

15	Between the hours of 6.00am – 7:30am, Monday to Friday, the aquatic centre must not be used by students who are not enrolled in Mentone Girls’ Grammar School at the same time as any aquatic programme is being delivered to Mentone Girls’ Grammar School students. A maximum of 40 students who are not enrolled in Mentone Girls’ Grammar School are to be present on site during these hours.	Between the hours of <del>6.00am – 7:30am</del> <u>5.00am – 7:30am</u> , Monday to Friday, the aquatic centre must not be used by <del>patrons students</del> who are not enrolled in Mentone Girls’ Grammar School at the same time as any aquatic programme is being delivered to Mentone Girls’ Grammar School students. A maximum of <del>4060 patrons students</del> who are not enrolled in Mentone Girls’ Grammar School <del>may are</del> <u>to</u> be present on site during these hours.	No further change.
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17	Notwithstanding the times specified in Condition 13 during school terms, 'Learn to Swim' programs are only to use the facility on Saturdays (between 7:30am – 1:30pm) and after 4:30pm on weekdays.	Notwithstanding the times specified in Condition 13 during school terms, 'Learn to Swim' programs are only to use the facility <del>on during approved Saturday hours Saturdays (between 7:30am – 1:30pm)</del> and after <del>4:30pm</del> 4:00pm on weekdays.	Delete and renumber accordingly (noting proposed incorporation into Condition 14).
19	The operator must provide literature to all external parties in relation to the availability of onsite car parking, program hours and the requirement that no students who are not enrolled in Mentone Girls' Grammar School may arrive at the facility by private motorised vehicles during school hours.	The operator must provide literature to all external parties in relation to the availability of onsite car parking, program hours and the <u>access restrictions outlined in Condition 16.</u> <del>requirement that no students who are not enrolled in Mentone Girls' Grammar School may arrive at the facility by private motorised vehicles during school hours.</del>	No further change.
22	The outdoor lighting to the multi-sport pitch and multi-use courts must only operate between the hours of 8.00am and 9.00pm.	The outdoor lighting to the multi-sport pitch and multi-use courts must only operate between the hours of <del>8.00am</del> 7:00am and 9.00pm.	No further change.
23	The two northernmost multi-use courts adjacent to Naples Road must only be used between the following hours: a. Monday to Thursday 7.00am to 9.00pm b. Fridays and Saturdays 7.00am to 5.00pm c. Sundays No use	No change (included for reference only)	No change (included for reference only)
24	The maintenance access gate referred to in condition 1(b)(v) of this permit must be closed at all times except when required to provide access for the maintenance of the landscaped area, to the satisfaction of the Responsible Authority.	Delete condition 24.	No further change.

## Weekly Schedule Report MGGC Sports Facility

[illegible]

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	A	B	C	D	E	F	G	H	I	J	K	L	M	N
1		Technique Pool - lane 1	Technique Pool - lane 2	Technique Pool - lane 3	Technique Pool - lane 4	Lanes 1 - 4, 25m pool	Lane 5, 25m pool	Lane 6, 25m pool	Lane 7, 25m pool	Lane 8, 25m pool	CURRENT TOTAL	FITNESS GYM	YOGA STUDIO	POTENTIAL TOTAL
2	5:00 AM						CHELTENHAM SWIM CLUB				0			20
3	5:30 AM													
4	6:00 AM						20				0			20
5														
6	3:45 PM									Technique Squad				
7	3:50 PM									15				
8	3:55 PM													
9	4:00 PM	Foundation 1	5 Stroke Dev't	3 Stroke Intro	4 Stroke Intro		SQUAD				34			44
	4:05 PM	4	5	5	5		10							
10														
11	4:10 PM													
12	4:15 PM													
13	4:20 PM													
14	4:25 PM													
15	4:30 PM	Beginners	Foundation 2	4 Stroke Intro	3 Stroke Intro	Learn to Dive	Fitness Squad	Fitness Squad			52	FITNESS GYM	YOGA	75
	4:35 PM	4	4	5	5	9	10					8	15	
17	4:40 PM													
18	4:45 PM									6 Stroke Development				
19	4:50 PM									10				
20	4:55 PM													
21	5:00 PM	Foundation 2	4 Stroke Intro	3 Stroke Intro	Beginners						47			70
22	5:05 PM	4	5	5	4									
23	5:10 PM													
24	5:15 PM									7 - Pre-squad				
25	5:20 PM									8				
26	5:25 PM													
27	5:30 PM	Foundation 1	4 Stroke Intro	5 Stroke Dev't	3 Stroke Intro	Devpt-Squad Diving	Senior Squad	Senior Squad			45	FITNESS GYM	YOGA	68
	5:35 PM	4	5	5	5	8	10					8	15	
28	5:40 PM													
29	5:45 PM													
30	5:50 PM													
31	5:55 PM													
32	5:55 PM													
33	6:00 PM	Foundation 2	Foundation 2	3 Stroke Introduction	Foundation 1					5 Stroke Development	41			64
34	6:05 PM	4	4	5	4					6				
35	6:10 PM													
36	6:15 PM													
37	6:20 PM													
38	6:25 PM													
39	6:30 PM						CHELTENHAM SWIM CLUB	CHELTENHAM SWIM CLUB	CHELTENHAM SWIM CLUB	CHELTENHAM SWIM CLUB	20	FITNESS GYM	YOGA	43
	6:35 PM						20					8	15	
40														
41	6:40 PM													
42	6:45 PM													
43	6:50 PM													
44	6:55 PM													
45	7:00 PM										20			43
46	7:05 PM													
47	7:10 PM													
48	7:15 PM													
49	7:20 PM													
50	7:25 PM													
51	7:30 PM						CHELTENHAM SWIM CLUB				0			20
	7:35 PM						20							
52														
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54	7:45 PM													
55	7:50 PM													
56	8:00 PM													
57														
58														
Schedule LEGEND Monday Tuesday Wednesday Thursday Friday Saturday Sunday														

3 of 8

	A	B	C	D	E	F	G	H	I	J	K	L	M	N
	Technique Pool - lane	Technique Pool - lane	Technique Pool - lane	Technique Pool - lane	Lanes 1-4, 25m pool	Lane 5, 25m pool	Lane 6, 25m pool	Lane 7, 25m pool	Lane 8, 25m pool	CURRENT TOTAL	FITNESS GYM	YOGA STUDIO	POTENTIAL TOTAL	
1	5:00 AM					20				0			20	
2	5:30 AM									0	FITNESS GYM	YOGA	43	
3	6:00 AM									8	15			
4	6:05 AM													
5	6:10 AM	AQUACYCLE												
6	6:15 AM	10												
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13	6:50 AM	AQUACYCLE												
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168	7:45 PM													
169	7:50 PM													
170	7:55 PM													
171	8:00 PM													
172	8:05 PM													



## Traffix Group

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Our Reference: G31393L-01E

17 June 2022

Mentone Girls' Grammar School  
11 Mentone Parade  
Mentone VIC 3194

Attention: Brian Trumble

Dear Brian,

**36, 38 and 40 Naples Road, Mentone  
Mentone Girl's Grammar Aquatic (Education) Centre  
Proposed Planning Permit Amendment  
Car Parking Assessment**

Further to your instructions, please find following car parking assessment to accompany the application to amend planning permit (KP-2015/336/B) at 36, 38 and 40 Naples Road, Mentone.

### **Background & Existing Conditions**

Mentone Girls Grammar is located in Mentone, in the block between Mentone Parade, Beach Road and Naples Road. The private girls' school campus accommodates teaching from Kindergarten to Year 12.

The school includes an Aquatic Centre, located near the north-eastern corner of the intersection of Naples Road and Mentone Parade.

The Aquatic Centre is collocated with a number of multi-purpose sports courts and a large sporting oval.

Parking is provided within a dedicated on-site car park accommodating a total of 86 on-site parking spaces (inclusive of 1 DDA space) with access provided via a double-width crossover with Mentone Parade on the site's eastern boundary. Four of the 86 spaces are located to the north-west of the building, whilst the remaining spaces are located within the larger at-grade parking area at the front of the site.

The sporting oval has a small parking area to the south which provides for 17 car spaces, accessed from a laneway which extends to/from Beach Street. A third School car park is located to the south-east of the site, accessed from Mentone Parade.

Planning Permit (KP-2015/336/B), issued by the City of Kingston in 2020, relates to use and development of the site as an education centre including a number of conditions which specifically restrict or limit the use of the school's sports facilities and aquatic centre for external purposes.

A locality plan and aerial photograph are provided at Figure 1 and Figure 2.

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Figure 1: Locality Plan



Figure 2: Aerial Photograph



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Existing Road Network

**Naples Road** is a local road aligned in an east-west direction. In the vicinity of the site, Naples Road has a carriageway width of approximately 8.6 metres, which provides for two-way traffic and kerbside parking on both sides.

Kerbside parking along the site frontage to Naples Road is generally unrestricted on the north and south sides.

**Mentone Parade** is a local road aligned in a north-south direction. In the vicinity of the site, Mentone Parade has a carriageway width of approximately 10 metres, which provides for simultaneous two-way traffic and kerbside parking on both the east and west side.

Two (2) bus zones operate along the site frontage and short-term kerbside restrictions generally apply during school pick-up times (3pm-4pm, Monday-Friday).

Vehicle access to the shared on-site car park (Car Park A) is afforded via Mentone Parade.

Sustainable Modes of Transport

The site has excellent access to sustainable transport modes and is well located with regard to retail and everyday services, thus promoting walking.

The site also has excellent access to public transport with Bus Route 903 along the site frontage to Mentone Parade.

Table 1: Public Transport Services

Mode	Service	Route	Distance to Node
Bus	Route 903	Altona - Mordialloc (SMARTBUS Service)	Site Frontage
	Route 708	Hampton Station to Carrum Station via Highett & Southland & Chelsea Heights	~750m
	Route 811	Dandenong - Brighton via Heatherton Road & Springvale	~750m
	Route 812	Dandenong - Brighton via Parkmore Shopping Centre	~750m
	Route 825	Moorabbin - Southland via Black Rock & Mentone	~750m
Train	City to Frankston (Mentone Railway Station)		~700m

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Figure 3: PTV Public Transport Map

### Existing Parking Conditions

To establish the existing demand for car parking in the area, Traffix Group commissioned surveys of the on-street parking within approximately 300 metres walking distance of the site and the on-site shared car park with vehicle access afforded via Mentone Parade. The following dates and times were surveyed:

- 19<sup>th</sup> March 2022 (Saturday) at approximately 10:15am (in-person survey),
- 24<sup>th</sup> March 2022 (Thursday) between 6am-8am and 3:30pm-6:30pm at hourly intervals (in-person survey),
- 31<sup>st</sup> October 2021 (Sunday) at 4:02pm (Nearmap survey),

On-street parking within the survey area includes the following:

- Predominately unrestricted kerbside parking spaces along both sides of Naples Road,
- Unrestricted kerbside parking spaces along both sides of Kilara Road,
- Unrestricted kerbside parking spaces along both sides of Coryule Avenue,
- Unrestricted kerbside parking spaces along both sides of Harkin Avenue,
- Unrestricted kerbside parking spaces along both sides of Eblana Avenue, and
- A mixture of short-term and long-term kerbside parking spaces along both sides of Mentone Parade.

Detailed results of the parking surveys are attached at Appendix A.

A summary of the on-street and on-site car parking surveys are detailed at Figure 5 and Figure 6.



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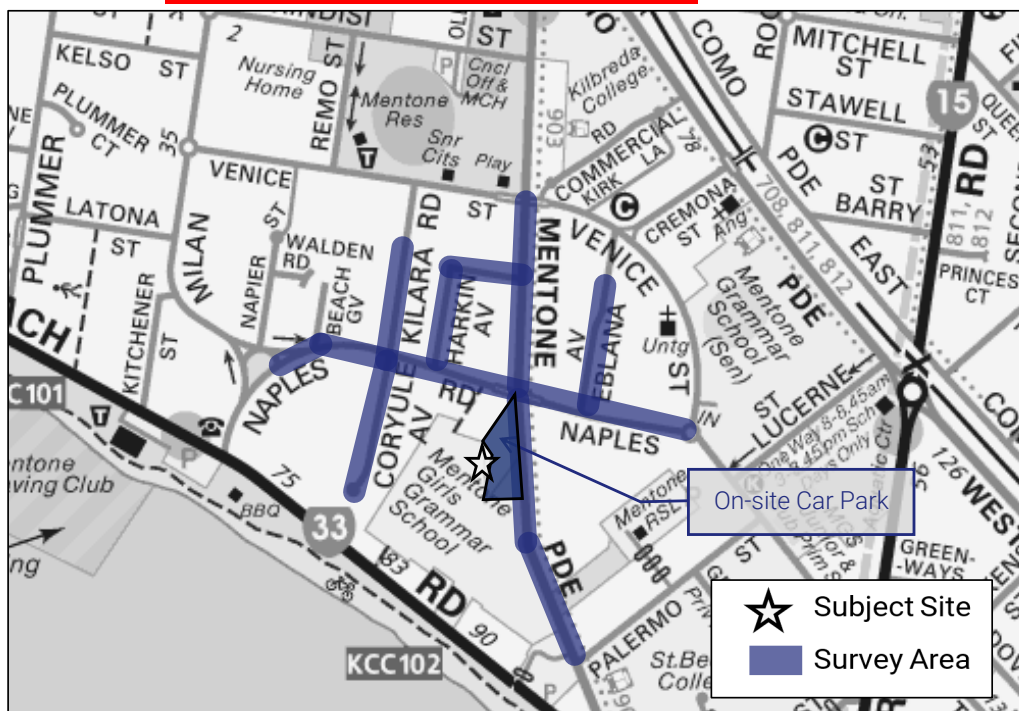


Figure 4: Car Parking Survey Area

#### On Street Parking

On-street parking occupancy in the area was found to be lightly utilised across the survey periods. The peak occupancy was recorded on Thursday 24<sup>th</sup> of March 2022 at 3:30pm, when a maximum occupancy of 32 out of 174 on-street spaces were occupied (142 vacant parking spaces) within the survey area.

The survey on the morning of Saturday 19<sup>th</sup> of March 2022 recorded a parking occupancy of 78 spaces out of 231 of on-street spaces (153 vacant parking spaces) within the survey area.

The results of the car parking survey clearly indicate the availability of on-street car parking within the nearby area on both weekdays and weekends.



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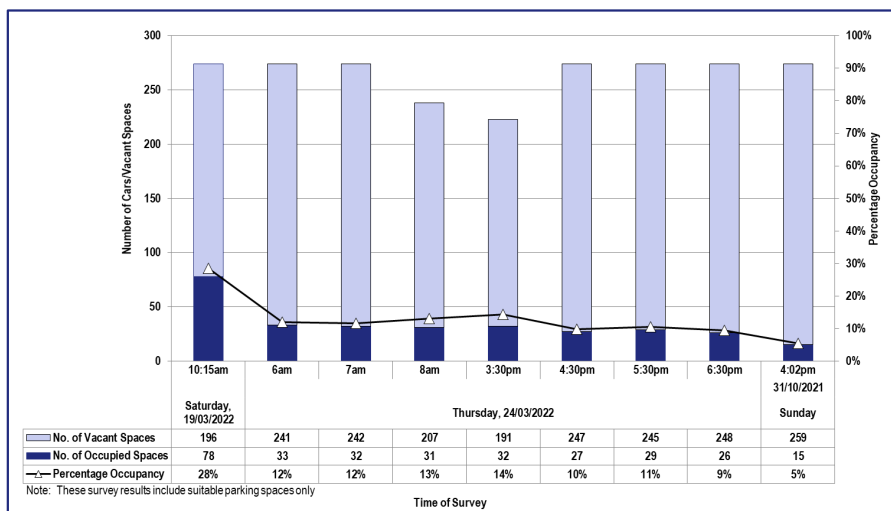


Figure 5: On-Street Car Parking Survey Results

### On-Site Parking

On-site parking occupancy in the area was found to be well used from our surveys. We undertook a primary survey of the parking at the front of the site (82 spaces) presuming that the 4 spaces at the rear of the building were occupied or allocated for staff/services.

Namely, at the 'start of the school day' (at 8am), there were 23 spaces recorded available on-site and at the 'end of the school day' (at 3:30pm), there was 11 vacant spaces. Moving the evening, parking became more available (presumably as staff left the car park). We understand that some of the demands on-site include external students already utilising the aquatic centre (and its car parking).

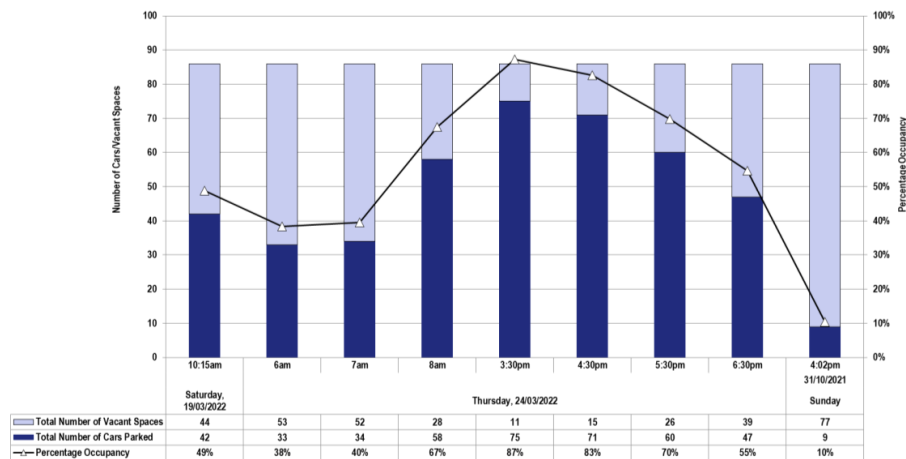


Figure 6: On-Site Car Parking Survey Results



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### **Existing and Proposed Aquatic Centre**

Permit KP-2015/336/B dictates the operation of the aquatic centre, specifically as an education centre (associated with Mentone Girls Grammar).

It includes a number of specific conditions that relate to external use during weekdays and on weekends. The wording of the permit is, in parts, not overly clear. On our understanding, the following is a summary of the intended restrictions of the pool operations as follows:

- The use of the aquatic centre is for "swimming and diving activities such as "learn to swim" classes, swimming squad and diving training and other club swimming sports practice sessions (eg life saving, water polo etc)" (Condition 13) and is "not to be made available to the general public for recreational swimming" (Condition 20).
- There are no restrictions on MGG student numbers within the aquatic centre (set by the permit).
- In relation to external use, during school terms:
  - a maximum of 40 external swim patrons can be on-site between 6am-7:30am, Monday to Friday (Condition 15); and
  - Between 7:30am-7:30pm, Monday to Friday and 7:30am-1:30pm on Saturdays, there is to be no more than 60 external swim patrons on-site (Condition 13).
- During School Breaks, a maximum of 60 external swim patrons can be on-site between 8am-6pm Monday to Friday and 7:30am-1:30pm on Saturdays (Condition 13).
- External swim patrons cannot use the aquatic centre at the same time as Mentone Girls Grammar students between the hours of 6:00am-7:30am, Monday to Friday (condition 15).
- During school hours, all students who are not enrolled at Mentone Girls Grammar must arrive to the site by means other than a car (Condition 16).
- The on-site car park must be made available for external users (Condition 18).

The school proposes to amend the permit and improve its clarity. It also proposes to extend some of the external use provisions within the permit.

Following discussions with the school, the following provides a summary in relation to existing and proposed future applications:

- Of a morning and evening the school operates some MGG squads but seeks to also allow for additional external use, to a maximum of 120 patrons. It is intended that the hours also be extended to allow external patrons to start at 5am.
- During daytime periods, the current 'external' patron cap limits the ability for other schools to have swim carnivals held at the school. The desire is to remove the patron limit during these times for school swim carnivals or events, relying on all students and participants to be transported to the site via bus (as is currently permitted).



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- Of a weekend, the intention is that the aquatic centre be opened on a Saturday and Sunday and allow up to 240 swim students, between the following hours:
  - Saturday 6am-4pm
  - Sunday 9am-4pm

The above has been summarised in Table 2.

Table 2: Proposed Aquatic Education Centre External Patron Limits by Day/Time

Day	Time	School Terms	School Holidays
Weekday	Before School (5am-8am)	120	240
	School Periods (8am-4pm)	No Limit for Non-Car Users	240
	After School (4pm-7:30pm)	120	240
Saturday	6am-4pm	240	240
Sunday	9am-4pm	240	240

To accommodate the above patron limits, the intention is that on-site car park would continue to be made available for external users between:

- 5am-8am of a weekday school morning
- 3:30pm-7:30pm of a weekday school afternoon
- All day on weekdays during school holidays

Use of Sporting Fields/Multipurpose Areas

Condition 12 currently requires that the sports facilities (excluding the aquatic centre) only be used by students enrolled at the school.

While use of the aquatic centre forms the focus of this assessment, the school has questioned from a car parking perspective whether its other sporting facilities and multipurpose areas could be utilised by external parties.

Namely, the School's grass playing field and hard courts were historically available for external use and the school seeks to reinstate this condition to enable its facilities to be shared with local schools or community groups such as hockey, soccer, and tennis clubs.

Additionally, the School would like to offer wellness and yoga programs, targeted to parents of swim students. It is likely that there would not be more than 20 patrons within a yoga class and 12 patrons within the gymnasium.

The school proposes to be led by car parking availability in terms of the fair and equitable use of these facilities.



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## Car Parking Assessment

### Statutory Car Parking Requirements

The car parking requirements for the proposed development are outlined under Clause 52.06 of the Kingston Planning Scheme.

It is noted that since the original application, Clause 52.06 has been amended as part of Amendment VC148 to change the way the car parking rates are applied. Clause 52.06-5 now states that:

*"Column B rates apply to a site if any part of the land is identified as being within the Principal Public Transport Network Area as shown on the Principal Public Transport Network Area Maps"*

An excerpt of the Planning Maps, showing the extent of the Principal Public Transport Network (PPTN) Area (hatched in blue) is provided at Figure 7.

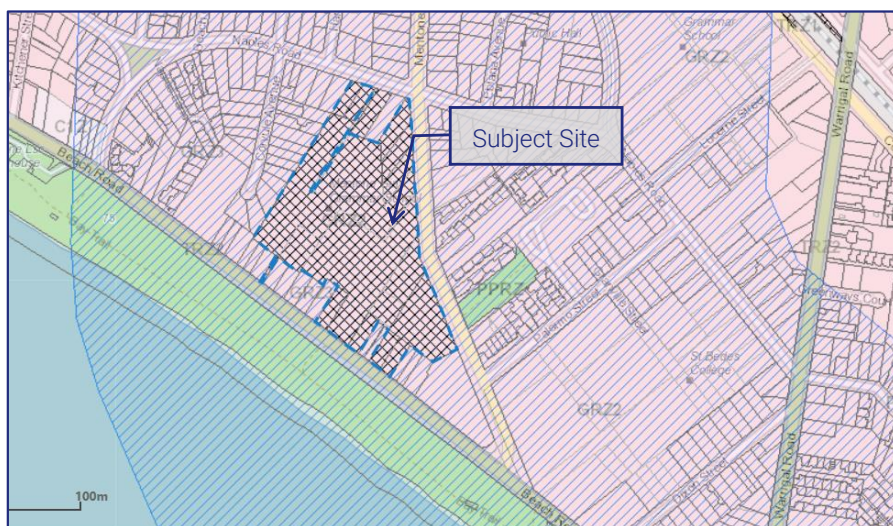


Figure 7: PPTN Area Map

The subject site falls within the PPTN area map and therefore Column B rates apply to the proposal.

The permit relates to the site's use as an Education Centre but is associated with the larger Secondary School use.

The car parking requirements for Secondary School use is based on employees (1.2 spaces to each employee that is part of the maximum number of employees on the site at any time).

We are advised that there is no intention to increase the School staffing numbers above the current maximum, and therefore if assessed under the Secondary School use, there is no permit trigger or requirement to provide additional parking.



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However, if the aquatic centre is considered a separate Education Centre use, the applicable rate under Clause 52.06 (Column B) is 0.3 spaces per student (for Education Centre other than listed in the table).

Whilst there is no specific allowance in Clause 52.06 for variations in student numbers during certain periods, we have provided an assessment for each of the relevant periods based on the patron numbers at Table 2.

At 120 patrons, the parking requirement would be for 36 car parking spaces.

At 240 patrons, the parking requirement would be 72 car parking spaces.

We have summarised the parking requirement during each of the relevant periods in Table 3.

Table 3: Parking Requirements Summarised by Day/Time

Day	Time	School Terms	School Holidays
Weekday	Before School (5am-8am)	36	72
	School Periods (8am-4pm)	No Demand (no car drivers)	72
	After School (4pm-7:30pm)	36	72
Saturday	6am-4pm	72	72
Sunday	9am-4pm	72	72

The on-site staff car park provides for 86 spaces and will be made available before and after school and on weekends for external users.

To this end, the parking requirements during each of these periods would be met by the on-site car parking. Even if there were some overlap between staff parking in the morning and afternoon periods (as some staff arrive early or depart late), limiting patronage during these times will allow for management of these demands.

During weekday school periods, provided that all external students use travel means other than a car (as is currently required by the permit) there will be no demand on on-street parking.

If there were some demands generated by the proposal onto on-street parking associated with some external use, the parking surveys undertaken (and summarised in the preceding sections) demonstrate that there is significant parking availability within the area to accommodate any marginal demands without significant impact to surrounding uses.

Potential for Use of Sporting Fields/Multipurpose Areas

Based on the preceding, outside of typical school hours, the main on-site aquatic centre car park, which provides 86 spaces, could accommodate some additional use of the multi-purpose courts and/or sporting field.

The availability of the southern sporting field car park (with 17 spaces) would also support some external use outside of school times.



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Presuming the maximum requirement for the aquatic centre is utilised (72 spaces), this would result in in the order of 31 car parking spaces being 'unused' across the aquatic centre and sporting field car park.

The Education Centre rate of 0.3 spaces per student is similar to the Place of Assembly rate of 0.3 spaces per patron, and in our view, a reasonable approximation for potential parking demands associated with these uses.

Working backward, there is the opportunity for these 31 spaces to support up to 100 students/patrons using the multi-purpose areas or sporting field.

We are advised from the School that they would not expect the playing fields to ever attract more than 50-70 people during peak hours, including participants, spectators and officials.

### **Traffic Impacts**

From a traffic perspective, it is acknowledged that the increase in patron numbers, hours and days will result in some increases in traffic along the site boundaries.

However, whilst the patron limits are to apply across the morning, afternoon or daytime period, it is unlikely that the maximum patron limits will be achieved on-site in the early morning or late evening.

In the most part, the site operates as a school which generates a substantial level of pick-up and drop-off parent activity and staff movements.

The peak periods for the aquatic centre use are unlikely to occur at the same time as these school peak pick-up/drop-off periods.

Therefore, whilst the increase in patron numbers and hours might generate additional traffic, it is likely that the traffic volumes along Naples Road or Mentone Parade during the aquatic centre peak would be less than those experienced during the school peaks.

On this basis, we are comfortable that from a traffic capacity perspective, the level of traffic generated by the proposal can be accommodated by the existing road network during all of the peak periods.

### **Conclusions**

Having undertaken a car parking assessment of the existing aquatic (education) centre, we are of the view that:

- a) An amendment to the permit wording would be appropriate to more clearly set out the restrictions to students/patrons at the aquatic centre.
- b) There is no permit trigger in relation to the Secondary School use as there is no intention to increase staff numbers as part of the application over and above that already approved.
- c) However, if assessed as an 'Education Centre, Other than Listed in the table', the parking requirements associated with the extension of the hours and student numbers are summarised as being for 36 spaces of a morning and afternoon (on a school day) and 72 spaces of a weekend and during school holidays.



G31393L-01E

011

36, 38 and 40 Naples Road,  
Mentone

**Traffix Group**

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- d) The parking requirements during each of these periods would be met by the on-site car parking.
- e) The school does not appear to be currently significantly impacting on parking in the area, and therefore if there were some moderate reliance's on on-street parking, this would be acceptable.
- f) Based on the proposed aquatic centre student numbers, there is also on-site parking available that could allow external use of the sporting fields and multipurpose courts (to an extent).
- g) The peak traffic generation associated with the increase in patron numbers and hours is unlikely to coincide with the school peak hours, and therefore on the basis that the school is likely to generate higher peak volumes to the network, the extent of additional traffic generated by the proposal is expected to be acceptable.

Please contact myself at Traffix Group if you require any further information.

Yours faithfully,

TRAFFIX GROUP PTY LTD



CARLO MORELLO

Director



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# Appendix A

## Parking Surveys

Supervised By: Harish Robertson  
Surveyed By: Frank Feller

Survey Dates &amp; Times: See below

Location	Restriction	Capacity Min - Max	In Person Surveys										Nearmap Surveys			
			Saturday, 19/03/2022	Thursday, 24/03/2022								Sunday 31/10/2021	Sunday 8/11/2020	Sunday 7/10/2018	Saturday 25/11/2017	
			10-15am	6am	7am	8am	3:30pm	4:30pm	5:30pm	6:30pm	4:02pm	12:49pm	2:58pm	11am		
ON-STREET CARPARKING																
ROAD NAME: Naples Road																
Side of Road: North																
Milan Street and Naples Road (NEB) - Kilara Road (FWB)	No Stopping	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Unrestricted	5	3	4	3	3	3	3	3	3	1	3	1	3		
Kilara Road (NEB) - Hakin Avenue (FWB)	Unrestricted	3	0	2	3	4	2	2	2	1	0	2	2	1		
Hakin Avenue (NEB) - Mentone Parade (FWB)	Unrestricted	8	2	2	3	1	5	4	1	2	3	7	5	1		
Mentone Parade (NEB) - Eblana Avenue (FWB)	Unrestricted	5	2	1	1	1	2	2	2	2	2	2	3	1		
Eblana Avenue (NEB) - Venice Street (WB) (Roundabout)	Unrestricted	7	5	6	7	8	6	6	6	6	5	8	6	5		
	No Stopping	-	-	-	-	-	-	-	-	-	-	-	-	-		
Side of Road: South																
Venice Street (WB) (Roundabout) - Opposite Eblana Avenue (NEB)	No Stopping	-	-	-	-	-	-	-	-	-	-	-	-	-		
	No Stopping	-	-	-	-	-	-	-	-	-	-	-	-	-		
	Permit Zone, 8:30am-9:30am and 2:30pm-4pm, School Days' and '2P, 9:30am-2:30pm, School Days'	11	3	2	2	2	2	2	3	1	1	4	10	0		
Opposite Eblana Avenue (NEB) - Mentone Parade (NEB)	Permit Zone, 8:30am-9:30am and 2:30pm-4pm, School Days' and '2P, 9:30am-2:30pm, School Days'	4	0		1	0	0	0	0	0	0	1	2	0		
	Unrestricted	5	0	1	1	1	1	1	0	0	0	2	1	2		
Mentone Parade (FWB) - Opposite Hakin Avenue (NEB)	Unrestricted	6	2	2	2	2	5	3	4	3	1	6	4	0		
Hakin Avenue (FWB) - Coryule Avenue (NEB)	Unrestricted	4	3	3	3	3	3	1	2	2	1	3	3	2		
Coryule Avenue (FWB) - 16 Naples Road (FWB)	Unrestricted	11	9	9	6	6	3	3	6	6	1	3	2	5		
ROAD NAME: Naples Road	Capacity	54 - 69	69	69	69	69	54	69	69	69	69	69	69	69		
	Total Number of Cars Parked		29	33	32	31	32	27	29	26	15	41	39	20		
	Total Number of Vacant Spaces		40	36	37	38	22	42	40	43	54	28	30	49		
	Percentage Occupancy		42%	48%	46%	45%	59%	39%	42%	38%	22%	59%	57%	29%		
ROAD NAME: Kilara Road																
Side of Road: East																
Naples Road - 12 Kilara Road (FSB)	Unrestricted	12	4	5	4	4	4	4	4	5	2	6	2	2		
Side of Road: West																
5b Kilara Road (FNB) - Naples Road	Unrestricted	8	2	4	4	4	4	4	2	2	1	1	2	2		
ROAD NAME: Kilara Road	Capacity	20 - 20	20	20	20	20	20	20	20	20	20	20	20	20		
	Total Number of Cars Parked		6	9	8	8	8	8	6	7	3	7	4	4		
	Total Number of Vacant Spaces		14	11	12	12	12	12	14	13	17	13	16	16		
	Percentage Occupancy		30%	45%	40%	40%	40%	40%	30%	35%	15%	35%	20%	20%		
ROAD NAME: Coryule Avenue																
Side of Road: East																
Naples Road - 3 Coryule Avenue (FNB)	Unrestricted	6	1	2	2	2	2	2	2	3	0	1	1	0		
3 Coryule Avenue (FNB) - Dead End (17 Coryule Avenue crossover (NEB))	Unrestricted	7	0	1	1	1	2	1	1	1	3	2	0	0		
Side of Road: West																
Dead End (17 Coryule Avenue crossover (FWB)) - 3 Coryule Avenue (FNB)	Unrestricted	11	4	4	4	4	2	2	2	3	2	1	0	2		
3 Coryule Avenue (FNB) - Naples Road	Unrestricted	7	0	1	0	0	1	1	0	0	0	0	0	0		
ROAD NAME: Coryule Avenue	Capacity	31 - 31	31	31	31	31	31	31	31	31	31	31	31	31		
	Total Number of Cars Parked		5	8	7	7	7	6	5	7	5	4	1	2		
	Total Number of Vacant Spaces		26	23	24	24	24	25	26	24	26	27	30	29		
	Percentage Occupancy		16%	26%	23%	23%	23%	19%	16%	23%	16%	13%	3%	6%		
ROAD NAME: Hakin Avenue																
Side of Road: East and South																
Naples Road - Bend in Hakin Avenue (north-western corner of 4 Hakin Avenue)	Unrestricted	10	3	4	2	2	2	2	3	3	2	0	2	3		
Bend in Hakin Avenue (north-western corner of 4 Hakin Avenue) - Mentone Parade	Unrestricted	8	0	0	0	0	1	2	3	2	0	0	0	0		
Side of Road: West and North																
Mentone Parade - Bend in Hakin Avenue (5 Hakin Avenue #SB of crossover)	Unrestricted	9	3	2	2	2	2	0	0	0	0	2	6	0		
Bend in Hakin Avenue (5 Hakin Avenue #SB of crossover) - Naples Road	Unrestricted	14	2	3	2	2	0	0	2	1	1	3	2	0		
ROAD NAME: Hakin Avenue	Capacity	41 - 41	41	41	41	41	41	41	41	41	41	41	41	41		
	Total Number of Cars Parked		8	9	6	6	5	4	8	6	3	5	10	3		
	Total Number of Vacant Spaces		33	32	35	35	36	37	33	35	38	36	31	38		
	Percentage Occupancy		20%	22%	15%	15%	12%	10%	20%	15%	7%	12%	24%	7%		

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Supervised By: Harish Robertson  
Surveyed By: Frank Feller

Survey Dates &amp; Times: See below

Location	Restriction	Capacity Min - Max	In Person Surveys								Nearmap Surveys				
			Saturday, 19/03/2022	Thursday, 24/03/2022								Sunday 31/10/2021	Sunday 8/11/2020	Sunday 7/10/2018	Saturday 25/11/2017
			10:15am	6am	7am	8am	3:30pm	4:30pm	5:30pm	6:30pm	4:02pm	12:49pm	2:58pm	11am	
ROAD NAME: Mentone Parade															
Side of Road: East															
Palmero Street (#NB) - Naples Road (#SB)	No Stopping, 8am-9am and 3pm-4pm, School Days	9	3	3	4	2	5	5	3	2	7	6	8	1	
	Unrestricted	3	3	3	3	0	2	2	3	3	1	0	3	0	
	No Stopping	-	-	-	-	-	-	-	-	-	-	-	-	-	
	No Stopping	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Unrestricted	1	1	1	1	2	2	2	1	1	1	1	0	1	
	P, 5 Minutes, 8pm-9pm and 3pm-4pm, School Days	3	3	3	3	3	3	3	1	3	1	0	3	1	
	Unrestricted	5	4	4	4	4	5	5	1	1	3	4	3	1	
	2P, 9am-5pm, Monday-Friday	4	2	1	1	0	2	2	1	1	1	1	2	1	
	Unrestricted	1	0	1	0	0	1	1	1	1	0	0	1	0	
	Bus Zone	-	-	-	-	-	-	-	-	-	-	-	-	-	
Naples Road (#NB) - 52 Mentone Parade (#NB)	Unrestricted	8	0	2	2	4	2	2	1	1	0	5	2	1	
52 Mentone Parade (#NB) - Venice Street	Unrestricted	13	4	4	4	5	6	6	4	1	3	3	4	4	
	Bus Zone	-	-	-	-	-	-	-	-	-	-	-	-	-	
Side of Road: West															
Venice Street - Harkin Avenue (#NB)	Unrestricted	3	1	0	0	0	0	0	0	0	1	0	0	0	
	Bus Zone	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Unrestricted	2	0	0	2	2	2	2	0	0	0	1	0	0	
Harkin Avenue (#SB) - Naples Road (#NB)	Unrestricted	10	3	5	5	4	4	5	3	4	0	3	4	3	
Naples Road (#SB) - Opposite Palmero Street (#NB)	Unrestricted	2	0	0	0	0	1	0	1	0	0	0	0	0	
	Bus Zone	-	-	-	-	-	-	-	-	-	-	-	-	1	
	P, 5 Minutes, 8pm-9pm and 3pm-4pm, School Days	9	0	0	0	5	0	6	9	3	1	0	1	0	
	Bus Zone, 8am-4pm, School Days	6	0	0	0	0	0	5	2	0	1	3	0	0	
	No Stopping	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Bus Zone, 8am-4pm, School Days	5	2	0	0	0	0	0	2	0	0	1	1	0	
	No Stopping, 8am-9am and 3pm-4pm, School Days	4	0	0	1	0	2	3	0	1	0	0	0	0	
	P, 5 Minutes, 8pm-9pm and 3pm-4pm, School Days	6	1	0	0	0	0	0	0	0	0	2	3	1	
	Bus Zone	-	-	-	-	-	-	-	-	-	-	-	-	-	
	ROAD NAME: Mentone Parade	Capacity	58 - 94	94	94	94	58	58	94	94	94	94	94	94	94
Total Number of Cars Parked			27	27	30	31	37	49	33	22	20	30	35	15	
Total Number of Vacant Spaces			67	67	64	27	21	45	61	72	74	64	59	79	
Percentage Occupancy			29%	29%	32%	53%	64%	52%	35%	23%	21%	32%			
ROAD NAME: Eblana Avenue															
Side of Road: East															
Naples Road - 10 Eblana Avenue (#NB)	Unrestricted	7	0	0	0	0	0	0	0	0	0	0	3	1	
	No Stopping	-	-	-	-	-	-	-	-	-	-	-	-	-	
	No Stopping	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Unrestricted	3	1	0	2	2	0	2	2	2	3	2	3	3	
Side of Road: West															
3 Eblana Avenue (#SB) - Naples Road	Unrestricted	9	2	3	3	3	2	3	3	3	1	3	5	3	
ROAD NAME: Eblana Avenue	Capacity	19 - 19	19	19	19	19	19	19	19	19	19	19	19	19	
	Total Number of Cars Parked		3	3	5	5	2	5	5	5	4	5	11	7	
	Total Number of Vacant Spaces		16	16	14	14	17	14	14	14	15	14	8	12	
	Percentage Occupancy		16%	16%	26%	26%	11%	26%	26%	26%	21%	26%	58%	37%	
SUMMARY -> ON-STREET CARPARKING															
Spaces Available		223 - 274	274	274	274	238	223	274	274	274	274	274	274	274	
Total Number of Cars Parked			78	33	32	31	32	27	39	36	15	41	39	20	
Total Number of Vacant Spaces			196	241	242	207	191	247	245	248	259	233	235	254	
Percentage Occupancy			28%	12%	12%	13%	14%	10%	11%	9%	5%	15%	14%	7%	
ONSITE CAR PARKS															

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NB/SD - Northern/Southern Property Boundary  
EB/WB - Eastern/Western Property Boundary  
Mid pt - Mid point  
ROW - Right of Way

Prepared by Traffic Group Pty Ltd

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Supervised By: Harish Robertson  
Surveyed By: Frank Feller

Survey Dates &amp; Times: See below

Location	Restriction	Capacity Min - Max	In Person Surveys										Nearmap Surveys			
			Saturday, 19/03/2022	Thursday, 24/03/2022								Sunday 31/10/2021	Sunday 8/11/2020	Sunday 7/10/2018	Saturday 29/11/2017	
			10:15am	6am	7am	8am	3:30pm	4:30pm	5:30pm	6:30pm	4:02pm	12:49pm	2:58pm	11am		
Mentone Grammar School Carpark (Gate A) - Mentone Parade (Opposite 42 Mentone Parade)																
Gate A Car Park																
Gate A Car Park at Mentone Grammar School	Private	81	38	28	30	54	71	67	56	43	5	75	60	16		
	DDA Space	1	0	1	0	0	0	0	0	0	0	0	0	0		
	Rear Parking	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4
Mentone Grammar School Carpark (Gate A) - Mentone Parade	Capacity	86 - 86	86	86	86	86	86	86	86	86	86	86	86	86	86	86
	Total Number of Cars Parked		42	33	34	58	75	71	60	47	9	79	64	20		
	Total Number of Vacant Spaces		44	53	52	28	11	15	26	39	77	7	22	66		
	Percentage Occupancy		49%	38%	40%	67%	87%	83%	70%	55%	10%	92%	74%	23%		
SUMMARY => ON-SITE CARPARKING																
Spaces Available		86 - 86	86	86	86	86	86	86	86	86	86	86	86	86	86	86
Total Number of Cars Parked			42	33	34	58	75	71	60	47	9	79	64	20		
Total Number of Vacant Spaces			44	53	52	28	11	15	26	39	77	7	22	66		
Percentage Occupancy			49%	38%	40%	67%	87%	83%	70%	55%	10%	92%	74%	23%		
SUMMARY => TOTAL																
Spaces Available		309 - 360	360	360	360	324	309	360	360	360	360	360	360	360	360	360
Total Number of Cars Parked			120	66	66	89	107	98	89	73	24	120	103	40		
Total Number of Vacant Spaces			240	294	294	235	202	262	271	287	336	240	257	320		
Percentage Occupancy			33%	18%	18%	27%	35%	27%	25%	26%	7%	33%	29%	11%		
Note: Public parking includes spaces that are available to the general public and excludes 'No Stopping' areas, 'Loading Zones' and 'No Parking' areas during the relevant enforcement periods																
LEGEND:			Public Parking		Not available to the general public		No Stopping Other No Parking									

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	B	C	D	E	F	G	H	I	J	K	L	M	N	O	
1		Technique Pool - lane 1	Technique Pool - lane 2	Technique Pool - lane 3	Technique Pool - lane 4	Lane 1, 25m pool	Lane 4, 25m pool	Lane 5, 25m pool	Lane 6, 25m pool	Lane 7, 25m pool	Lane 8, 25m pool	CURRENT TOTAL	FITNESS GYM	YOGA STUDIO	POTENTIAL TOTAL
2	5:00 AM					CHELTENHAM SWIM CLUB					0		20		
3	5:30 AM														
4	6:00 AM					20					0		20		
5															
6	3:55 PM														
7	4:00 PM	Foundation 1	4 Stroke Intro	Foundation 2	Beginners	Lap swimming	SQUAD				17		34		
8	4:05 PM	4	5	4	4	5	12								
9	4:10 PM														
10	4:15 PM														
11	4:20 PM														
12	4:25 PM														
13	4:30 PM														
14	4:35 PM	Beginners	Foundation 2	Foundation 2	Foundation 1	Lap swimming	Senior Squad	Senior Squad	6 Stroke Dev't	43	FITNESS GYM	YOGA	66		
15	4:40 PM	4	4	4	4	5	12		10		8	15			
16	4:45 PM														
17	4:50 PM														
18	4:55 PM														
19	5:00 PM														
20	5:05 PM														
21	5:10 PM	5	5	5	5		10						70		
22	5:15 PM														
23	5:20 PM														
24	5:25 PM														
25	5:30 PM														
26	5:35 PM														
27	5:40 PM	Foundation 1	4 Stroke Intro	5 Stroke Dev't	Beginners	Lap Swimming	Intro Squad	Intro Squad	7 - Pre-squad	45	FITNESS GYM	YOGA	68		
28	5:45 PM	4	5	5	4	5	12		10		8	15			
29	5:50 PM														
30	5:55 PM														
31	6:00 PM														
32	6:05 PM														
33	6:10 PM														
34	6:15 PM	AQUACYCLE	4	5	5	4				45			68		
35	6:20 PM	10													
36	6:25 PM														
37	6:30 PM														
38	6:35 PM														
39	6:40 PM														
40	6:45 PM	10													
41	6:50 PM														
42	6:55 PM														
43	7:00 PM														
44	7:05 PM														
45	7:10 PM	10													
46	7:15 PM														
47	7:20 PM														
48	7:25 PM														
49	7:30 PM														
50	7:35 PM	AQUACYCLE												10	
51	7:40 PM	10													
52	7:45 PM														
53	7:50 PM														
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	A	B	C	D	E	F	G	H	I	J	K	L	M	N
1	5:00 AM	Technique Pool - lane	Technique Pool - lane	Technique Pool - lane	Technique Pool - lane	Lanes 1-4, 25m pool	Lane 5, 25m pool	Lane 6, 25m pool	Lane 7, 25m pool	Lane 8, 25m pool	CURRENT TOTAL	FITNESS GYM	YOGA STUDIO	POTENTIAL TOTAL
2	5:30 AM	CHELTENHAM SWIM CLUB												20
3	6:00 AM						20				0	FITNESS GYM	YOGA	43
4	6:05 AM											8	15	
5	6:10 AM	AQUACYCLE 10												
6	6:15 AM													
7	6:20 AM													
8	6:25 AM													
9	6:30 AM													
10	6:35 AM					90 min Senior Diving 8	Lap Swimming 5				23			46
11	6:40 AM													
12	6:45 AM													
13	6:50 AM	AQUACYCLE 10												
14	6:55 AM													
15	7:00 AM										23	FITNESS GYM 8	YOGA 15	46
16	7:05 AM													
17	7:10 AM													
18	7:15 AM													
19	7:20 AM													
20	7:25 AM													
21	7:30 AM										13			26
22	7:35 AM													
23	7:40 AM													
24	7:45 AM													
25	7:50 AM													
26	7:55 AM													
27	3:30 PM								Squad 12	Squad				
28	3:35 PM													
29	3:40 PM													
30	3:45 PM													
31	3:50 PM													
32	3:55 PM													
33	4:00 PM	3 Stroke Intro 5	3 Stroke Intro 5		Foundation 1 4		6 Stroke Development 10	6 Stroke Development			36			36
34	4:05 PM													
35	4:10 PM													
36	4:15 PM													
37	4:20 PM													
38	4:25 PM													
39	4:30 PM	Foundation 1 4	Foundation 2 4	4 Stroke Intro 5	Foundation 2 4	Diving Development 8	Lap Swimming 5	Fitness Squad 12	Fitness Squad		42			42
40	4:35 PM													
41	4:40 PM													
42	4:45 PM													
43	4:50 PM													
44	4:55 PM													
45	5:00 PM	Beginners 4	3 Stroke Intro 5	4 Stroke Intro 5	Foundation 1 4						43			43
46	5:05 PM													
47	5:10 PM													
48	5:15 PM													
49	5:20 PM													
50	5:25 PM													
51	5:30 PM	Foundation 2 4	Foundation 2 4	5 Stroke Dev't 5	3 Stroke Intro 5	Squad Diving 8					31	FITNESS GYM 8	YOGA 15	54
52	5:35 PM													
53	5:40 PM													
54	5:45 PM													
55	5:50 PM													
56	5:55 PM													
57	6:00 PM	AQUACYCLE 10 (earliest start)	Foundation 1 4	3 Stroke Intro 5	Beginners 4		CHELTENHAM SWIM CLUB 20	CHELTENHAM SWIM CLUB	CHELTENHAM SWIM CLUB	CHELTENHAM SWIM CLUB	41			74
58	6:05 PM													
59	6:10 PM	AQUACYCLE 10												
60	6:15 PM													
61	6:20 PM													
62	6:25 PM													
63	6:30 PM										38	FITNESS GYM 8	YOGA 15	61
64	6:35 PM													
65	6:40 PM													
66	6:45 PM													
67	6:50 PM	AQUACYCLE 10	AQUACYCLE 10											
68	6:55 PM													
69	7:00 PM										38			61
70	7:05 PM													
71	7:10 PM													
72	7:15 PM													
73	7:20 PM													
74	7:25 PM													
75	7:30 PM	AQUACYCLE									0			10
76	7:35 PM													
77	7:40 PM													
78	7:45 PM													
79	7:50 PM													
80	8:00 PM													
81														
82														
83														

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	A	B	C	D	E	F	G	H	I	J	K	L	M	N
1		Technique Pool - lane 1	Technique Pool - lane 2	Technique Pool - lane 3	Technique Pool - lane 4	Lane 1-4, 25m pool	Lane 5, 25m pool	Lane 6, 25m pool	Lane 7, 25m pool	Lane 8, 25m pool	CURRENT TOTAL	FITNESS GYM	YOGA STUDIO	POTENTIAL TOTAL
2	5:00 AM						CHELTENHAM SWIM CLUB				0			20
3	5:30 AM													
4	6:00 AM						20				0			20
5														
6	4:00 PM										0	FITNESS GYM		8
7	4:05 PM											8		
8	4:10 PM													
9	4:15 PM													
10	4:20 PM													
11	4:25 PM													
12	4:30 PM										0			8
13	4:35 PM													
14	4:40 PM													
15	4:45 PM													
16	4:50 PM													
17	4:55 PM													
18	5:00 PM						CHELTENHAM SWIM CLUB	CHELTENHAM SWIM CLUB	CHELTENHAM SWIM CLUB	CHELTENHAM SWIM CLUB	25	FITNESS GYM		33
19	5:05 PM											8		
20	5:10 PM						25							
21	5:15 PM													
22	5:20 PM													
23	5:25 PM													
24	5:30 PM										25			33
25	5:35 PM													
26	5:40 PM													
27	5:45 PM													
28	5:50 PM													
29	5:55 PM													
30	6:00 PM										25			25
31	6:05 PM													
32	6:10 PM													
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<div> <div>&lt;</div> <div>&gt;</div> <div>Schedule LEGEND</div> <div>Monday</div> <div>Tuesday</div> <div>Wednesday</div> <div>Thursday</div> <div>Friday</div> <div>Saturday</div> <div>Sunday</div> <div>⌂</div> </div> <div> <div>:</div> <div>1</div> </div>														

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	A	B	C	D	E	F	G	H	I	J	K	L	M	N
1		Technique Pool - lane 1	Technique Pool - lane 2	Technique Pool - lane 3	Technique Pool - lane 4	Lane 1-4, 25m pool	Lane 5, 25m pool	Lane 6, 25m pool	Lane 7, 25m pool	Lane 8, 25m pool	CURRENT TOTAL	FITNESS GYM	YOGA STUDIO	POTENTIAL TOTAL
2	6:30AM						CHELT SWIM CLUB, EARLIER START				0			20
3	7:45 AM						20							
4	7:50 AM													
5	7:55 AM													
6	8:00 AM						Senior Squad	Senior Squad	CHELTENHAM SWIM CLUB	CHELTENHAM SWIM CLUB	20			20
7	8:05 AM						10		10					
8	8:10 AM													
9	8:15 AM													
10	8:20 AM													
11	8:25 AM													
12	8:30 AM	Beginners	3 Stroke Intro	Babies (1-2 year olds)	Private	Learn to Dive					38	8	15	69
13	8:35 AM	4	5	8	1	8								
14	8:40 AM													
15	8:45 AM													
16	8:50 AM													
17	8:55 AM													
18	9:00 AM	Foundation 2	4 Stroke Intro	Babies (1-2 year olds)	Babies (1-2 year olds)						45			76
19	9:05 AM	4	5	8	8									
20	9:10 AM													
21	9:15 AM													
22	9:20 AM													
23	9:25 AM													
24	9:30 AM	Foundation 2	Foundation 1	Babies (1-2 year olds)	Toddler (2-3 year olds)	Diving Development	6 Stroke Development	6 Stroke Development	Lap Swimming		35			43
25	9:35 AM	4	4	8	8	8	6		5					
26	9:40 AM													
27	9:45 AM													
28	9:50 AM													
29	9:55 AM													
30	10:00 AM	Beginners	Beginners	Babies (1-2 year olds)	Pre-school (3-4 year olds)						29			37
31	10:05 AM	4	4	8	8									
32	10:10 AM													
33	10:15 AM													
34	10:20 AM													
35	10:25 AM													
36	10:30 AM	Beginners	Foundation 1	Babies (1-2 year olds)	Beginners	Squad Diving					25			33
37	10:35 AM	4	4	8	4	8								
38	10:40 AM													
39	10:45 AM													
40	10:50 AM													
41	10:55 AM													
42	11:00 AM	Beginners	Foundation 2	Babies (1-2 year olds)	Pre-school (3-4 year olds)						25			33
43	11:05 AM	4	4	8	8									
44	11:10 AM													
45	11:15 AM													
46	11:20 AM													
47	11:25 AM										29			37
48	11:30 AM													
49	11:35 AM													
50	11:40 AM													
51	11:45AM													
52	11:50AM													
53	11:55AM													
54	12:00PM					WATER POLO CLUB TRAINING					0			
55	1:00PM					15					0			15
56	2:00PM					15					0			15
57	3:00PM					15					0			15
58	4:00PM					15					0			15
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	<	Schedule LEGEND	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	⊕				

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	A	B	C	D	E	F	G	H		
1		Tech Pool - lane 1-4	25m pool Lanes 1-4	25m pool Lanes 5-8	CURRENT TOTAL	FITNESS GYM	YOGA STUDIO	POTENTIAL TOTAL		
2	9:00 AM		DIVING		0			8		
3	9:05 AM		8							
4	9:25 AM									
5	9:30 AM				0			8		
6	9:35 AM									
7	9:55 AM									
8	10:00 AM		DIVING		0			8		
9	10:05 AM		8							
10	10:25 AM									
11	10:30 AM				0			8		
12	10:35 AM									
13	10:55 AM									
14	11:00 AM		DIVING		0			8		
15	11:05 AM		8							
16	11:25 AM									
17	11:30 AM				0			8		
18	11:35 AM									
19	11:55AM									
20	12:00PM									
21	1:00PM		WATER POLO MATCHES		0			20		
22	2:00PM		20		0			20		
23	3:00PM		20		0			20		
24	4:00PM		20		0			20		
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		Schedule LEGEND	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday	+

**Kirsty Slater**Principal Planner | Statutory Planning  
City of Kingston

7 September 2022

via email: [Kirsty.slater@kingston.vic.gov.au](mailto:Kirsty.slater@kingston.vic.gov.au)

Dear Kirsty

**Response to Objections****Planning Application No. KP-2015/336/C – Mentone Girls Grammar School**

Tract continues to act on behalf of Mentone Girls Grammar School (MGGS) in this matter.

Thank you for your feedback and communication on the application to date. Following on from the community consultation meeting on 18 August 2022 and following consideration of objections submitted on planning application KP-2015/336/C, we are pleased to provide a written response to key issues and relevant grounds of objection raised on this application in Attachment 1 (overleaf).

Upon your request, we have also provided an updated tracked changes excerpt of conditions in the current permit in Appendix A. This updated tracked changes addendum serves to clarify the proposed amendments to the permit conditions to better reflect the intention of our application.

We understand that Council officers will now review this amended permit request. We request that, should officers have any issues with the proposed amendments, that we have the opportunity to discuss and resolve these concerns prior to a Council decision.

Yours sincerely

**Andrew Robertson**Director – Town Planning  
Tract  
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Attachment 1 – Key Issues Response

## Key Issues Response

### Application KP-2015/336/C (Mentone Girls Grammar School)

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#### 1 Summary of Proposed amendments

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Planning Application KP-2015/3336/C seeks to amend conditions within Planning Permit KP-2015/36/B in the following manner:

- To allow limited external use of external sports facilities (i.e. the multi-use courts and multi-sports pitch), to a maximum of 90 users.
- To increase the maximum number of external users allowed in the aquatic centre from 60 users to 120 users (on weekdays during school terms) or 240 (during school breaks and on weekends).
- To increase the early morning limit on external users from 40 users to 60 users.
- To extend the allowable hours for external users of the aquatic centre, including limited use on Sundays (hours detailed in Appendix A).
- To extend outdoor lighting hours on the multi-sports pitch and multi-use courts by one hour earlier in the mornings (from 8am to 7am).
- To allow the access gate along Naples Road to be used for pedestrian access and egress to and from the school grounds by students of Mentone Girls Grammar School on school days.

#### 2 Response to Key Issues

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The following tables provide a response to key issues raised in submissions received to date, and to key issues raised at the community consultation meeting held on 18 August 2022. The relevant grounds of objection to the permit amendment application are summarised as follows:

- Concerns about the changing nature of the land use
- Loss of residential amenity (light spill and noise)
- Car parking and traffic impacts

Each of these key issues are addressed in turn below. Additional questions and concerns raised by residents are also addressed.

Key Issue	Response
<b>Nature of the Land Use</b>	
We understand there are concerns that the nature of the land use is changing from a school to include a commercial leisure and recreation centre.	<p>We maintain the position that the current land use remains that of an 'education centre', and that the proposed amendments to expand the number of external users and the allowable hours of external use do not change the nature of the current use allowed under the permit. Any leisure and recreation activities occurring on the site are incidental and ancillary to the real and substantial use of the land as an 'education centre'.</p> <p>It is important to clarify the nature of the use proposed under this amendment, to respond to suggestions that the proposed amendments would result in uncontrolled, free-for-all use by members of the public to use the sport facilities. The MGGS sports facilities will not be used by the general public for unstructured general recreation. Rather, the intention of this amendment is to allow for continued access for external users who participate in organised programs, as agreed by MGGS.</p> <p>MGGS is aware of all external user groups who access their facilities and manages the volume and duration of access by these groups through direct communication and scheduling agreements to be consistent with the current planning permit.</p> <p>The previous amendment to this permit – where external use was first allowed to occur in the aquatic centre – did not change the land use designation for the MGGS land. The external access to the aquatic centre allowed under the amended permit was included within the use for an 'education centre'.</p> <p>We understand from reading the officer report for the previous amendment that there was an understanding by Council that the aquatic centre would be used by a range of user groups beyond just school students. In section 11.2. (Local Planning Policy Framework) the officer report states that <i>'the external use of the aquatic centre will benefit the surrounding community and schools by allowing various user groups to access state of the art facilities.'</i> In section 11.3. (Zoning Provisions) the report also explicitly lists user groups in addition to other schools where it states: <i>"The proposed external use of the aquatic centre will provide access to the facility for a number of different user groups. These user groups will include other schools, sporting groups (i.e. water polo), life saving clubs and learn to swim programs. The integrated use of school facilities by other groups in the community is supported, as this reduces the demand on other facilities and allows community members access to high quality infrastructure..."</i></p> <p>This amendment does not seek to alter the nature of external use beyond that which was approved in the previous amendment; namely to allow limited external use of the school's facilities to various user groups.</p> <p>Several conditions within the permit (Conditions 13 to 20, inclusive) currently operate to ensure that MGGS school activities are not limited or negatively impacted by external use of the Site.</p> <p>This amendment seeks to adjust the allowable hours and number of external users allowed on the site, not to change the fundamental nature of these conditions. In</p>



particular we note that Condition 20 does not allow general public access for recreational swimming, and this remains unchanged.

Case Law can assist in the determination of whether the external use activities occurring on the MGGS site are ancillary to the primary use as an education centre or a separate use in their own right.

We begin by referencing the position of the Court in *Cascone v City of Whittlesea (1994) 11 AATR 175* that it is wrong to determine the relevant purpose of a use simply by identifying activities, processes or transactions and then fitting them to some one or more uses as defined in the scheme.

In this regard, while we acknowledge the proposed external use of the aquatic centre and sports facilities can be considered use for recreation or sport, these activities do not automatically designate a second and separate purpose to use of the land as a leisure and recreation centre.

Rather, we need to establish *what is the real and substantial purpose of the use of the land in question?* (a question established in *Pacific Seven Pty Ltd v City of Sandringham [1982] VR 157*).

In establishing the real and substantial purpose of the use, we acknowledge that there is no single test to determine ancillary land use but that this is a question of fact and degree, and that the tests to be used in a determination are looked to as those most appropriate in the circumstances of each case (as held by the Court in *Northcote Wholesalers Pty Ltd v City of Northcote and Ors [(1994) 13 AATR 175]*).

In considering the circumstances specific to this proposal, we refer to *Notre Dame College v Greater Shepparton CC [2012] VCAT 463 (19 April 2012)* which considered many of the same themes as this application (including ancillary uses to an education centre and the impacts to residential amenity).

In *Notre Dame College v Greater Shepparton* residents objectors claimed that a separate retail shop use was being established on the school grounds, similar to the claims that a leisure and recreation centre is being established on MGGS grounds. The member for *Notre Dame College v Greater Shepparton* examined the specific nature and purpose of the proposed retail outlet and determined that it was ancillary. The following tests and conclusions from this case can also be applied to our current amendment application:

- The proposed shop was determined to be 'a much more restrictive or specialised form of outlet' than the definitions provided in the planning scheme and comprised a land use that was tailored to respond to the specific needs and operation of the school. Similarly, the external use of the MGGS sporting facilities is far more restricted and controlled than typical leisure and recreation land uses set out in the planning scheme and has been tailored to respond to the needs of MGGS students and the operation of the school.
- The proposed retail shop was only one part of a much broader campus that contained a broad range of facilities, services and buildings. Similarly, the sporting facilities and aquatic centre comprise only one part of the much larger MGGS campus which services nearly 1000 students.
- Part of the shop building was already used for College purposes which were to continue following establishment of the shop. Similarly, the aquatic centre and sporting facilities are already used for MGGS students and the use of these facilities by external users will not reduce or hinder use by MGGS students.

- Conditions were placed on the permit for the operation of the shop to ensure its operation remains ancillary to the use of the land as an education centre. Similarly, the permit for MGGS already includes key conditions that restrict external access and operation of the sporting facilities and ensures that the scale of use does not interfere with the school's curriculum and student services.

On this basis we reaffirm the proposal seeks to increase the hours of operation and the number of patrons using the school facilities and remains ancillary and is not a change of use.

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### Traffic Report

We understand there are concerns regarding the methodology and analysis set out in the traffic report submitted alongside this application.

The traffic report submitted alongside this application was prepared by a suitably qualified traffic engineering firm with extensive experience conducting traffic impact assessments for planning permit applications. We consider the extent of analysis provided in the report is appropriate for addressing traffic and parking considerations for this application. Refer to the response to other issues below for further details relating to traffic and parking amenity impacts.

We understand that Kingston City Council's traffic engineers are currently assessing the submitted traffic report. We are aware that preliminary comment has been provided which reconfirms that there is numerically available parking on site and in the surrounding streets to accommodate the potential overflow. We will continue to engage in conversations with Council to confirm and respond to any traffic issues.

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### Traffic & Parking Impacts

We understand there are concerns that the increase in external use hours and number of external users will result in unreasonable demand for on-street parking and that sufficient parking should be made available on-site.

We can confirm that the proposal meets requirements for on site parking set out in the Planning Scheme.

The school site is located within the Principal Public Transport Network (PPTN) and is therefore subject to reduced car parking rates in the planning scheme.

The relevant car parking rate for an 'Education Centre' is 0.3 spaces per student.

Given the real and substantial nature of the land use remains as an education centre, this is the applicable parking rate for the site.

We note that the traffic report did also consider car parking rates for a Place of Assembly, which applies to land use activities where people congregate together for events (reflective of the nature of the proposed activities). Place of Assembly has the same parking rate as an education centre (0.3 spaces per patron).

The proposed number of external users require the following minimum car parking spaces provided on site under the planning scheme:

- 120 users (aquatic centre) = 36 spaces
- 240 users (aquatic centre) = 72 spaces
- 90 users (sports pitch and courts) = 30 spaces

The proposed maximum number of external users across the entire school site is 210 or 330, depending on the time of year and day of the week. This triggers a minimum statutory requirement of 66 or 99 spaces.

The School has  $86 + 17 = 103$  car parking spaces available on site across two of the school's three car parks, which exceeds the minimum number of car parking spaces required under the planning scheme. The school's third car park also contains additional spaces on site.

Therefore we confirm that an appropriate number of car parking spaces are provided on the site under the planning scheme. The proposed increase in patron numbers does not generate a requirement or have reliance on car parking spaces off site.

We understand residents are concerned that on-street parking is already limited due to activities occurring beyond the school (e.g. Mentone Life Saving Club, Beachgoers, etc.), and that this proposal will exacerbate this issue.	Whilst we note this concern, this matter is separate from this application, as the school does not rely on street parking to satisfy parking requirements under the scheme. Therefore broader parking limitations caused by other land uses in the area should not be a consideration for this application.
We understand that residents have raised concerns that on-street parking arrangements are currently limiting emergency vehicle access to dwellings in the area.	Whilst we note this concern, this matter is not related to the application and is instead a road management consideration for Kingston City Council.
We understand there are concerns that the increase in external use hours and number of external users will result in unreasonable traffic volumes on the streets.	While we acknowledge that the increase in external user numbers will increase the number of vehicle movements on the surrounding streets, traffic impacts can be managed by use agreements between external user groups and MGGS. We note that several conditions already exist on the permit which serve to address traffic impacts and encourage alternative transportation arrangements. These conditions include 16, 18, and 19, and remain unchanged. We also refer to the assessment provided in the traffic report which anticipates that peak usage of the MGGS school and peak usage by external users will occur at different times of day and result, thereby avoiding unreasonable increases to peak traffic loads in the surrounding network.
We understand that residents do not consider the secondary parking lot suitable given the access arrangements along Beach Rd.	As stated above, external user groups accessing the site will be known by MGGS and will largely consist of individuals who participate in regular organised programs. In this regard users accessing the secondary parking lot will be familiar with access arrangements along Beach Road and will use this parking lot in a safe manner. MGGS can communicate access arrangements and safety considerations to any new external user groups.

### Light and Noise Amenity Impacts from use of External sports pitch and courts

We understand there are concerns about noise and light amenity impacts resulting from the use of the external sports pitch and external courts.

Firstly, we note that the Permit currently contains conditions that serve to protect the amenity of the neighbourhood from noise and lighting impacts, including Condition 21, 26, and 37. These conditions will remain unchanged.

Access for the 90 external users on the external sports facilities can be appropriately managed by MGGS to address noise and light impacts to the surrounding land uses, similar to student use. External users will not have free-for-all access to the external sports facilities but are rather provided controlled access through scheduling arrangements with the school. The nature of these external use operations ensures that excessive or unreasonable noise or light impacts can be controlled and minimised through direct communication between the school and the user groups.

While resident concerns primarily centre on amenity impacts from use of the external sports facilities, the following comments are provided regarding the aquatic facility:

- The increase in user numbers will not increase noise impacts from the aquatic centre, as this is an enclosed indoor environment that prevents user noise from spilling out of the building.
- The increase in hours of operation to the aquatic centre will result in minor increases in lighting hours during periods of darkness (extensions of 0.5 to 1.5hrs before 6am or after 6pm). We note that the aquatic centre is equipped with screens that can be lowered to limit light spill from the building during these periods. Noise impacts from aquatic centre will not be affected by changes in the hours of operation as the operation of plants and machinery for this building will remain unchanged.

### Use of the Access Gate along Naples Road

We understand there are concerns about the impacts of allowing access through the gate along Naples Road.

Firstly, we wish to clarify that the proposal is to allow MGGS student pedestrian access through this gate and not external users, as was suggested in some objections.

This amendment is intended to reinstate previous access arrangements provided to the school prior to the construction of the sporting facilities. It also serves to distribute student access and movement across a broader area of the school grounds.

The use of this gate by students does not change the number of students accessing the school and is intended only for pedestrian use. In this regard providing access for students will not increase traffic volumes on the streets.

Questions	Response
<b>Criteria used to assess the application.</b>	
We understand residents have asked what criteria will be used to assess this application and have suggested that the criteria used to assess and identify the replacement site for the Don Tatnell leisure centre should also be used for the assessment of this application.	<p>The criteria used to assess this application are the relevant provisions of the Kingston Planning Scheme. As the proposed amendments to the conditions of this permit do not trigger any new primary permit approvals, we consider alignment with the Municipal planning strategy, the planning policy framework, and the purpose of the zone to be the most relevant considerations for this application.</p> <p>As stated above, the real and substantial use of the MGGS land is for an education centre. Therefore any criteria used to assess the suitability of a site for a leisure centre are not relevant to this application.</p>
<b>Applicable noise standards</b>	
We understand residents have asked which noise standards apply to external use of the site.	Condition 37 of the Permit specifies Australian standards for noise levels that apply to this site.

## Appendix A Proposed Amendments to Planning Permit KP-2015/336/B

This Appendix provides a tracked changes version of select conditions within Planning Permit KP-2015/336/B to outline the proposed amendments to permit conditions.

Additional permit conditions which are not proposed to be amended are also included for the purpose of providing context and information on how the permit currently controls the nature of the land use, traffic and parking, and amenity impacts.

Text that is proposed to change has been coloured red for ease of reference, with underlined text to indicate additions and ~~strikethrough~~ text to indicate removals.

12. Unless with the prior written consent of the Responsible Authority, the sports facilities (excluding the aquatic centre) hereby approved must only be used by Mentone Girls' Grammar School for the delivery of its curriculum and for co-curricular programs offered to students enrolled at the school and for a maximum of ninety (90) external users not enrolled in Mentone Girls' Grammar School.
13. Subject to Condition 15 of this Permit, unless with the prior written consent of the Responsible Authority, the aquatic centre may be used at any one time by ~~a maximum of sixty (60) students external users~~ who are not enrolled in Mentone Girls' Grammar School for swimming and diving activities such as "learn to swim" classes, swimming squad and diving training and other club swimming sports practice sessions (eg life saving, water polo etc) ~~at the following hours, in accordance with the following hours and maximum number of users:~~

~~School Terms: Monday to Friday 6am – 7:30pm and Saturdays 7:30am – 1:30pm; and~~

~~School Breaks: Monday to Friday 8am – 6pm and Saturdays 7:30am – 1:30pm.~~

		<u>Monday to Friday</u>	<u>Saturday</u>	<u>Sunday</u>
<u>School</u>	<u>Maximum # users</u>	<u>120</u>	<u>240</u>	<u>240</u>
<u>Terms</u>	<u>Allowable hours</u>	<u>5.00am – 8:00pm</u>	<u>6.00am – 4.00pm</u>	<u>9.00am – 4:00pm</u>
<u>School</u>	<u>Maximum # users</u>	<u>240</u>	<u>240</u>	<u>240</u>
<u>Breaks</u>	<u>Allowable hours</u>	<u>8:00am – 6:00pm</u>	<u>6:00am – 4:00pm</u>	<u>9:00am – 4:00pm</u>

14. Unless with the prior written consent of the Responsible Authority, the aquatic centre may be used by ~~students~~ external users not enrolled in Mentone Girls' Grammar School for activities not associated with the delivery of the curriculum or co-curricular programs offered to students of Mentone Girls' Grammar School within the following hours:

~~a) School Terms: Monday to Friday 6am – 7:30pm and Saturdays 7:30am – 1:30pm~~

~~b) School Breaks: Monday to Friday 8am – 6pm and Saturdays 7:30am – 1:30pm~~

	<u>Monday to Friday</u>	<u>Saturday</u>	<u>Sunday</u>
<u>School Terms</u>	<u>5:00am – 8:00pm</u>	<u>6:00am – 4:00pm</u>	<u>9:00am – 4:00pm</u>
<u>School Breaks</u>	<u>8:00am – 6:00pm</u>	<u>6:00am – 4:00pm</u>	<u>9:00am – 4:00pm</u>

15. Between the hours of ~~6:00am – 7:30am~~ 5:00am – 7:30am, Monday to Friday, the aquatic centre must not be used by ~~students~~ external users who are not enrolled in Mentone Girls' Grammar School at the same time as any aquatic programme is being delivered to Mentone Girls' Grammar School students. A maximum of ~~40 students~~ 60 external users who are not enrolled in Mentone Girls' Grammar School are to be present on site during these hours.

16. During school hours, all students who are not enrolled in Mentone Girls' Grammar School are to be bused to the school or otherwise arrive by modes other than private motorised vehicles (i.e. foot, cycle,).

17. Notwithstanding the times specified in Condition 13 during school terms, 'Learn to Swim' programs are only to use the facility during the following hours: on Saturdays (between 7:30am – 1:30pm) and after 4:30pm on weekdays.

	<u>Monday to Friday</u>	<u>Saturday</u>	<u>Sunday</u>
<u>School Terms</u>	<u>4:00pm – 8:00pm</u>	<u>6:00am – 4:00pm</u>	<u>None</u>

18. The existing gate to the northern main car park must be programmed to open 15 minutes prior to commencement of programs and to close 30 minutes after programs end.

19. The operator must provide literature to all external parties in relation to the availability of onsite car parking, program hours and the requirement that no students who are not enrolled in Mentone Girls' Grammar School may arrive at the facility by private motorised vehicles during school hours.

20. The aquatic facility must not be made available to the general public for recreational swimming.

21. All indoor and outdoor lighting associated with the aquatic centre, and outdoor lighting associated with the multi-sport pitch and multi-use courts must be designed, fitted with suitable baffles and located to prevent any adverse effect on adjoining land, to the satisfaction of the Responsible Authority and must be completed prior to the commencement of the additional activities and hours outlined in condition 13, 14 and 15.
22. The outdoor lighting to the multi-sport pitch and multi-use courts must only operate between the hours of ~~8.00am and 9.00pm~~ 7.00am and 9.00pm.
23. The two northernmost multi-use courts adjacent to Naples Road must only be used between the following hours:
- a. Monday to Thursday 7.00am to 9.00pm
  - b. Fridays and Saturdays 7.00am to 5.00pm
  - c. Sundays No use
24. The maintenance access gate referred to in condition 1 (b)(v) of this permit must be closed at all times except when required to provide access for the maintenance of the landscaped area or to provide access to and from the school grounds Monday to Friday for students enrolled at Mentone Girls Grammar School, to the satisfaction of the Responsible Authority.
- ...
26. The amenity of the area must not be detrimentally affected by the use, including through the:
- a. Transport of materials, goods or commodities to or from the land;
  - b. Appearance of any building, works or materials;
  - c. Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil;
  - d. Presence of vermin, and
  - e. Any other way.
27. The loading and unloading of goods to and from vehicles must only be carried out on the land.
- ...
37. The use 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, to the satisfaction of the Responsible Authority.



## Planning Committee Meeting

14 December 2022

**Agenda Item No: 4.3**

### **KP-2021/832 - RAILWAY RESERVE, BALCOMBE ROAD, MENTONE (LOTS 1 AND 2 ON TP597980P)**

**Contact Officer: Laurence Lim, Statutory Planner**

#### **Purpose of Report**

This report is for Council to consider planning permit application No. KP-2021/832 - Railway Reserve, Balcombe Road, Mentone (Lots 1 and 2 on TP597980P).

#### **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 Council determine to support the proposal and issue a Notice of Decision to grant a Planning Permit to use the land for a food and drink premises, for the sale and consumption of liquor (General Licence), for a live music entertainment venue and including a waiver of the car parking requirements at Railway Reserve, Balcombe Road, Mentone (Lots 1 and 2 on TP597980P), subject to the conditions contained within this report.

**City of Kingston  
Planning Committee Meeting**

**Agenda**

**14 December 2022**

**EXECUTIVE SUMMARY**

<b>Address</b>	Railway Reserve, Balcombe Road, MENTONE VIC 3194
<b>Legal Description</b>	Lots 1 and 2 on TP597980P
<b>Applicant</b>	City of Kingston
<b>Planning Officer</b>	Laurence Lim

**PLANNING REQUIREMENTS**

<b>Planning Scheme</b>	Kingston
<b>Zoning</b>	Clause 36.04 – Transport Zone (Schedule 1)
<b>Overlays</b>	Clause 42.01 – Environmental Significance Overlay (Schedule 3) Clause 43.01 – Heritage Overlay (Schedule 106), also on the Victorian Heritage Register ref H2099
<b>Particular Provisions</b>	Clause 44.05 – Special Building Overlay Clause 52.06 - Car Parking Clause 52.27 – Licensed Premises Clause 52.34 – Bicycle Facilities Clause 52.31 – Local Government Projects
<b>Permit Trigger/s</b>	Clause 53.06 – Live Music Entertainment Venues Clause 36.04-1 – To use the land for a food and drink premises in the Transport Zone. Clause 52.06 -5 – Waiver of the car parking requirements. Clause 52.27 – The sale and consumption of liquor (General License).

**APPLICATION / PROCESS**

<b>Proposal</b>	To use the land for a food and drink premises, for the sale and consumption of liquor (General Licence), for a live music entertainment venue and including a waiver of the car parking requirements.			
<b>Reference No.</b>	KP-2021/832	<b>RFI Received</b>	21 December 2021	
<b>App. Received</b>	24 November 2021	<b>App. Amended</b>	S57A: 31 May 2022 S57A: 2 November 2022	
<b>Site Inspection</b>	2 June 2022	<b>Advertising Completed</b>		
<b>S.52 Advertising</b>	Commenced: 1 February 2022 10 November 2022 (re-advertising)		17 February 2022 28 November 2022 (re-advertising)	
<b>S.55 Referrals</b>	None			
<b>Internal Referrals</b>	Vegetation Management Officer, Traffic Engineer, External Acoustic Engineer, Heritage Advisor, Strategic Planning, Business, Social Planning, Public Space Officer, Place and Design Officer, Property Services, Waste Management.			
<b>Objection(s)</b>	Seven (7) (TRIM checked on (25-Nov-2022)			
<b>Lot Size</b>	N/A	<b>Mandatory Building Height Requirement</b>	NA	
<b>Mandatory Garden Area Requirement</b>				
<b>Vegetation</b>	<b>Trees &gt; 8m</b>	No	<b>No. of Trees to be removed (110cm circumference)</b>	Nil

**LEGISLATIVE**

Covenant/Other Restriction	No	Complies: NA		
Aboriginal Cultural Sensitivity Area	Yes	CHMP	Exempt	
Considered Plans	Prepared by CohenLeigh Architects, Drawing No. 210501, Sheets SK01 to SK10, submitted on 21-Dec-2021.			

'Planning Stage Acoustic Report', prepared by Resonate, Rev A, dated 16 Aug 2022, submitted on 02-Nov-2022.

## 1.0 SITE HISTORY

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

## 2.0 SUBJECT LAND

2.1. The photographs below illustrate the subject site.



Figure 1 - Site photo from Como Parade West (2 June 2022).



View towards the Northern building



Rear of the northern building



View of the southern building



View towards the site from the car park



Mentone Gardens



View towards the site

Figure 2 - Applicant's photos.

**Allotment  
Placement  
and Size**

The subject site is the railway reserve, formally known as Lot 1 and 2 on TP597980P.

For the purposes of this report, the 'planning unit' is defined as the smaller area of land this permit application relates to. In this case, it is the two (2) former Mentone train station buildings and the immediate surroundings.

The planning unit is located on the east side of Como Parade West, Mentone and south side of Balcombe Road.



**Figure 3 - Plan of Subdivision (the blue cross is approximate location of planning unit.**

**Built Form**

The planning unit is occupied by two (2) buildings associated with the former Mentone train station, which is currently unused. The two buildings will be referenced as 'south bound building' and 'north bound building' as per the image below and for the purposes of this report.





Site aerial - subject site indicated in red



The Former Mentone Railway Station and significant trees

The buildings are affected by the Heritage Overlay (Schedule 106) and listed on the Victorian Heritage Register. The buildings are single storey, timber structures with 'Gisborne Style' cantilevered platforms.

The existing floor plans of the buildings are shown below:

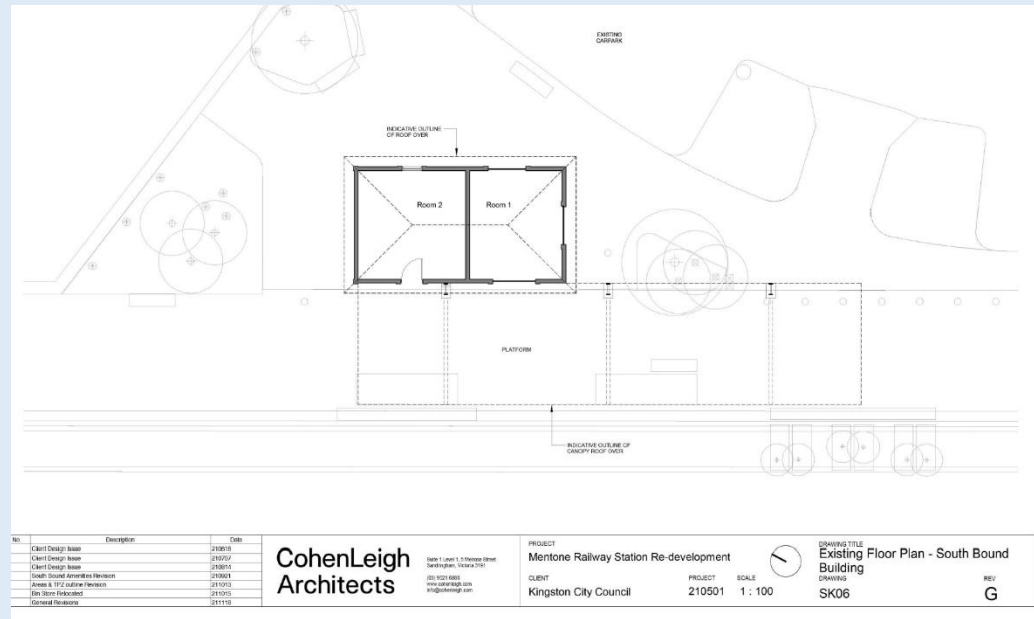


Figure 4 - South bound building.

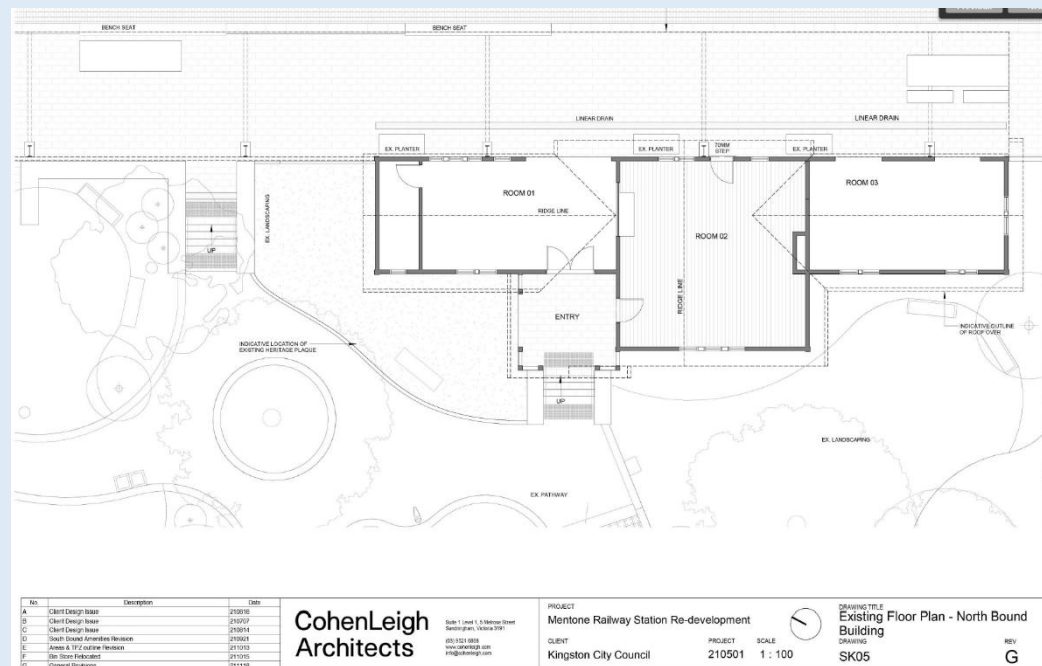


Figure 5 - North bound building.

**Topography**  
**Vegetation**

The land is generally flat.

The Mentone train station is surrounded by manicured gardens which were formed in 1910 and include several significant trees, including the significant Norfolk Island Pine and two (2) Canary Island Palms, as well as Peppercorn Trees. The Norfolk Island Pine and two (2) Canary Island Palms, which are adjacent the southern station building, are recognised on Council's Significant Tree Register and protected by the Environmental Significance Overlay (Schedule 3).

The gardens are affected by the Heritage Overlay Schedule 106 and listed on the Victorian Heritage Register.

**Easement(s)**

None.



**Footpath  
assets /  
access**

A footpath on Como Parade West provides multiple pedestrian access points to the planning unit. The planning unit can also be accessed by foot from the north via Balcombe Road and east via footpaths that run adjacent to the existing public car parking area.



Figure 6 - NearMap aerial imagery April 2022 showing pedestrian access points.

### 3.0 SURROUNDING LAND

3.1. The following map illustrates the planning unit in its surrounding context.



Figure 7 - Intramaps aerial imagery January 2021.





Figure 8 - NearMap aerial imagery April 2022.



Figure 9 – NearMap aerial imagery November 2021, 3D view of planning unit and surrounding area.

North	To the north is Balcombe Road. Further north are multiple mixed use multi-storey buildings which are within the Activity Centre Zone (Schedule 2).
East	Directly to the east of the planning unit is a large car parking area associated with the existing Mentone train station. Further east is land within the Activity



Centre Zone (Schedule 2) and used for a petrol station and some residential dwellings.



**South**

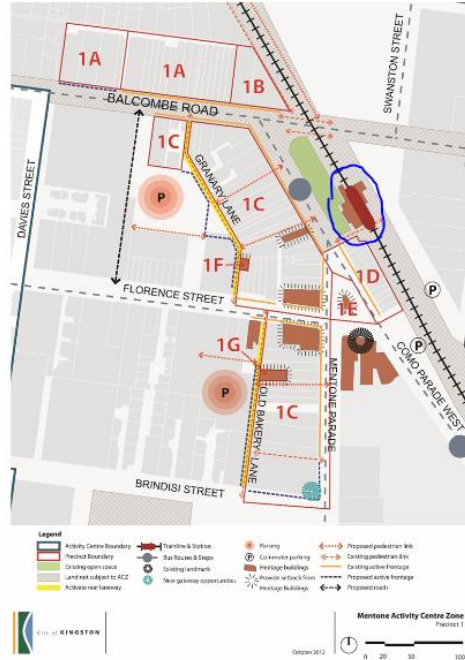
Directly to the south are generally single and double storey commercial buildings, with shops/food and drink premises occupying the ground level, within the Activity Centre Zone (Schedule 2).



These shops are located within Precinct 1 (Retail Core) of the Activity Centre Zone. Below is a screenshot from Schedule 2 to Clause 37.08 Activity Centre Zone. The approximate location of the planning unit is circled in blue.

## Precinct 1 – Retail Core

### Precinct Map



Further south east is the new Mentone train station.

### West

Directly to the west is Como Parade West. Further west are generally single and double storey commercial buildings, with shops/food and drink premises occupying the ground level, within the Activity Centre Zone (Schedule 2).



These shops are also located within Precinct 1 (Retail Core) of the Activity Centre Zone.

#### **4.0 PROPOSAL**

##### **Description**

##### **Change of Use**

To use the land for a bar premises in the Transport Zone 1. The table of uses identifies 'any other use' being as of right provided the condition of 'the use must be for a transport purpose and carried out by or on behalf of a relevant transport manager' is met. In this instance this is not met, therefore, the use of land for a bar is a Section 2 use and requires a permit.

The proposed use was amended under Section 57A to be a food and drink premises instead of bar.

It is noted that bar is nested under a food and drink premises. The amendment allows the permit holder to operate other uses nested under a food and drink premises, such as café, restaurant, bar or take away food premises.

##### **Car Parking Waiver**

To waive the car parking requirements pursuant to Clause 52.06 (Car Parking).

##### **Liquor License**

To use the land for the sale and consumption of liquor (General License). A General License allows for the sale and consumption of liquor both on and off the premises. This allows people to purchase closed liquor and consume it off the premises.

##### **Live Music Entertainment Venue**

To use the land for a live music entertainment venue.

It is proposed to play live music from inside the north bound building and also the surrounding outdoor area.

##### **Buildings and Works**

The buildings and works within the Transport Zone 1 are triggered in relation to the use being Section 2 under Clause 36.04-3. However, by virtue of Clause 62.02-2, many of the buildings and works are exempt as they relate to the internal rearrangement of a building or works provided the gross floor area of the building or the size of the works, is not increased.

Pursuant to the Heritage Overlay (Schedule 106), it is relevant to note that the site is on the Victorian Heritage Register, therefore pursuant to Clause 43.01-3, no permit is required under the Heritage Overlay to develop a heritage place which is included in the Victorian Heritage Register.

Of the buildings and works proposed to occur within the area impacted by the Environmental Significance Overlay (Schedule 3), most are internal and exempt as described above. However, the associated buildings and works are within this area and within the tree protection zone of the protected trees under Schedule 3 of the Environmental Significance Overlay.

There is also reference in the applicant's submission as to the proposed buildings and works benefitting from exemptions from permit requirements under Clause 62.02-1 as they meet the following exemption:

- Buildings or works with an estimated cost of \$1,000,000 or less carried out by or on behalf of a municipality.



In the applicant's submission, it confirms that the estimated cost of development is less than \$1,000,000 and the proposed application is on behalf of the City of Kingston.

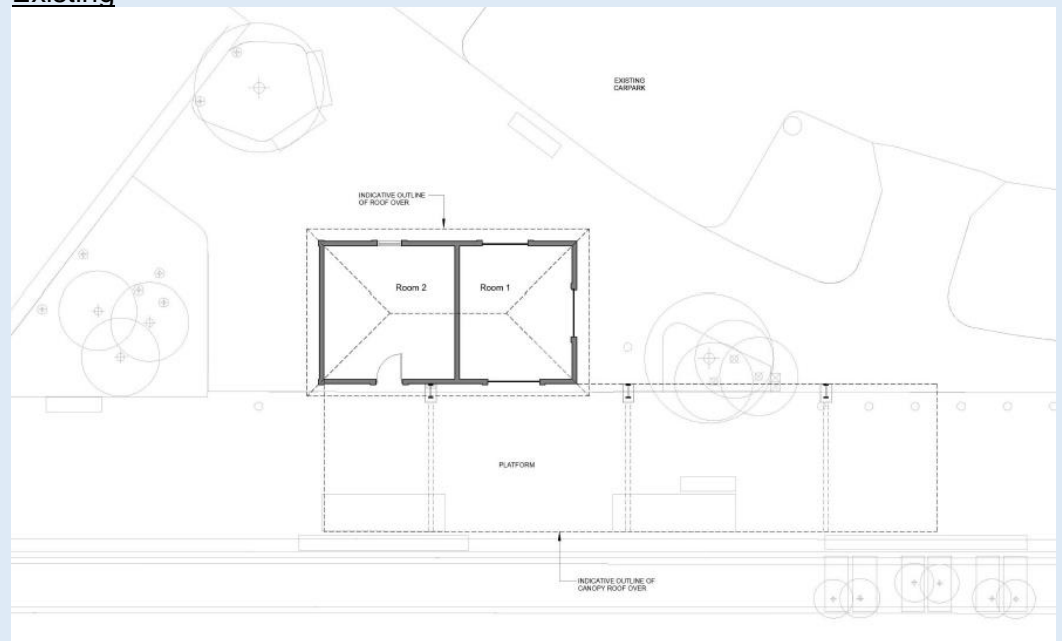
However, it is noted that Clause 52.31 (Local Government Projects) is a relevant consideration, whereby any requirement in a zone or a schedule to a zone to obtain a permit to construct a building or construct or carry out works does not apply to the development of land carried out by or on behalf of a municipal council, provided the cost of the development is estimated to be under \$10 million. Any external works proposed triggered by the Transport Zone 1, are then exempt by virtue of this clause. These works are detailed later in the report, however, in summary they relate to the decking, bicycle loops and a waste storage area.

While the buildings and works are exempt from planning permission, the application must be assessed the decision guidelines of Clause 65.01 (Approval of an Application or Plan).

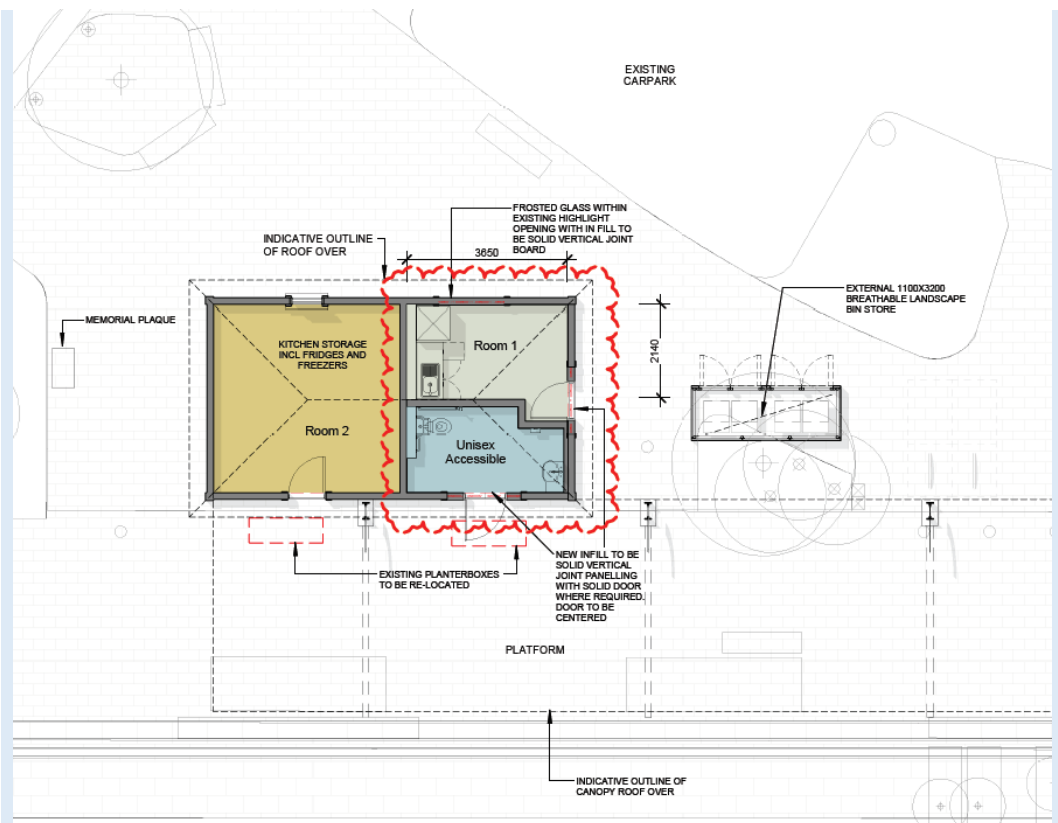
A summary of the buildings and works is described below on plans by comparing the existing buildings with the proposed. See below:

South bound building:

Existing



Proposed

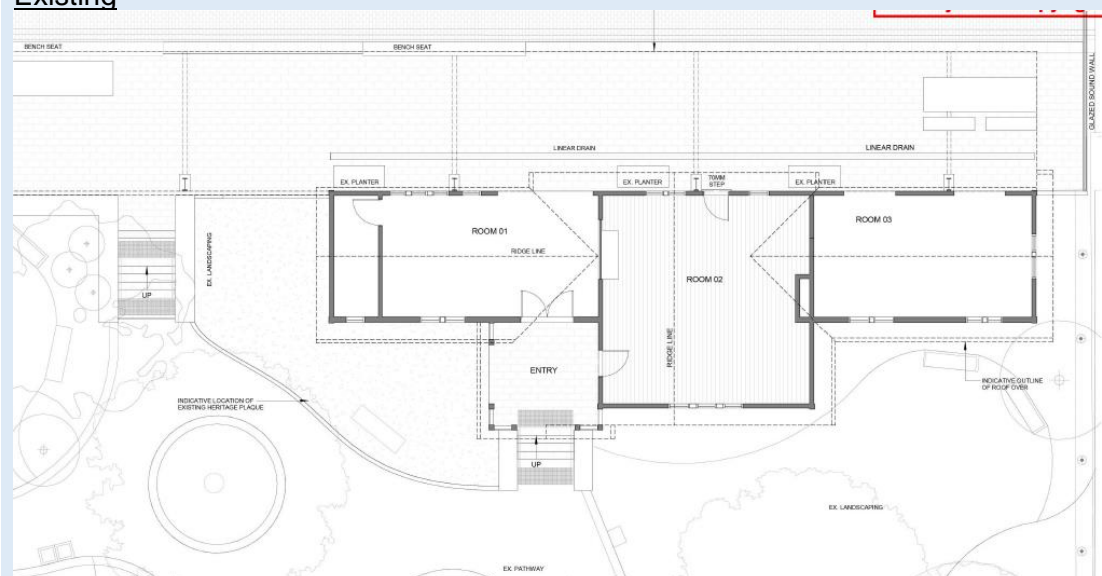


**Area Summary - South Bound Building**

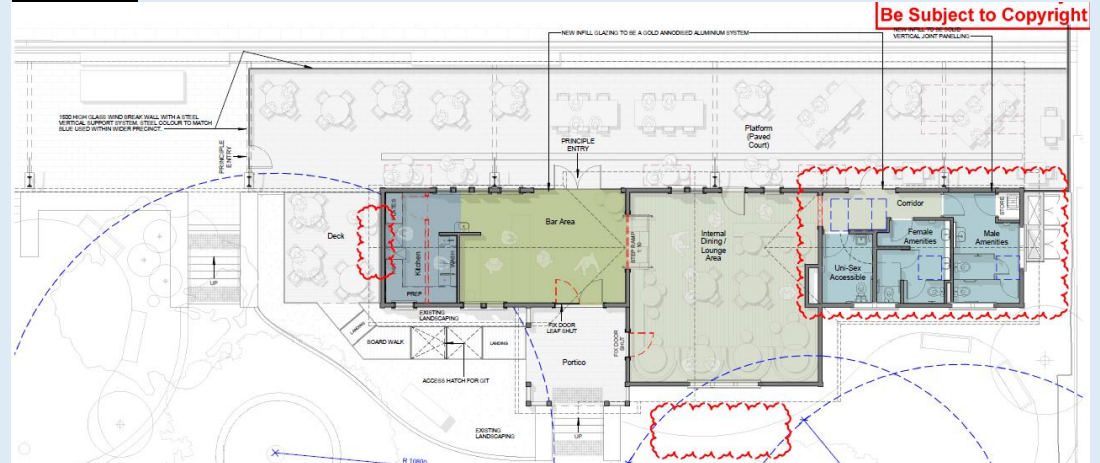
Room 1	8 m <sup>2</sup>
Room 2	18 m <sup>2</sup>
Unisex Accessible	7 m <sup>2</sup>

- Internal fitout for kitchen storage and unisex bathroom.
- External bin storage.
- Minor external changes to windows and doors.

**North bound building:**  
**Existing**



Proposed



Area Summary - North Bound Building

<b>External Area</b>	
Deck	16 m <sup>2</sup>
Platform (Paved Court)	147 m <sup>2</sup>
Portico	15 m <sup>2</sup>
<b>Internal Area</b>	
Bar Area	28 m <sup>2</sup>
Corridor	6 m <sup>2</sup>
Female Amenities	8 m <sup>2</sup>
Internal Dining / Lounge Area	53 m <sup>2</sup>
Kitchen	12 m <sup>2</sup>
Male Amenities	10 m <sup>2</sup>
Uni-Sex Accessible	5 m <sup>2</sup>

- Internal fitout for a kitchen, bar area, dining/lounge, bathroom facilities.
- External timber decking to the west of the north bound building.
- Minor external changes to windows and doors.

**Operating Hours**

The bar was initially proposed to operate:

- Monday to Sunday (7 days) 5.00pm to 12.00am (midnight).

The application was amended under Section 57A to change the proposed operating hours for the food and drink premises to be:

- Monday to Sunday (7 days) **5.00am** to 12.00am (midnight).

The bar was also proposed to operate with an on-premises liquor license which will apply to all indoor and outdoor areas from:

- Monday to Sunday 5.00pm to 12.00am (midnight).

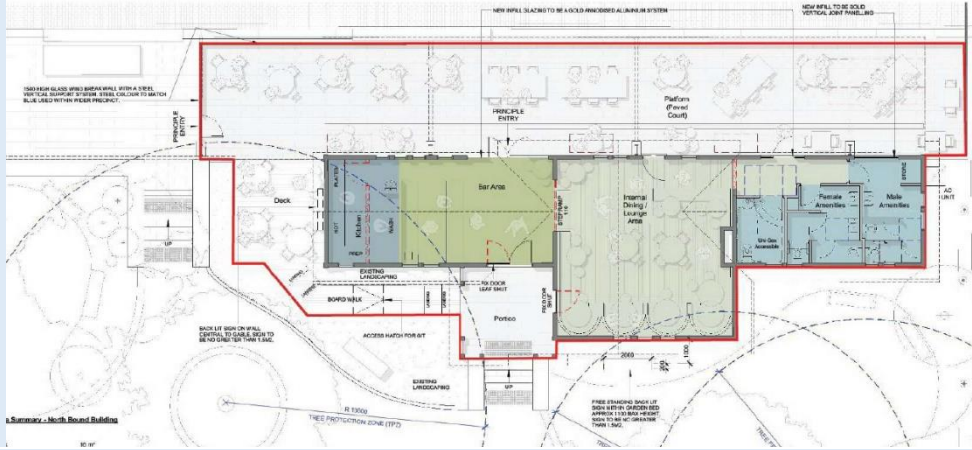
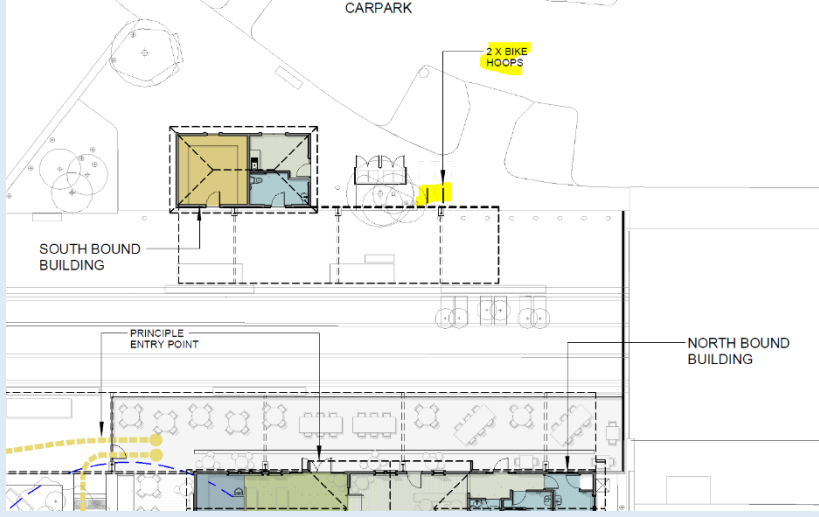
The amendment under Section 57A changed the proposed times for the operation of the on-premises liquor license, which will apply to all indoor and outdoor areas, to be:

- Monday to Sunday **10.00am** to 12.00am (midnight).

**Patrons (Internal Layout / Seating)**

The plans indicate that the proposed food and drink premises will have seating for approximately thirty-one (31) people indoors within the north bound building and ninety (90) people in the outdoor areas.

The maximum number of patrons at any one time during the operating hours and the licensed hours is two hundred (200) patrons.

<b>Red Line Area</b>	<p>The proposed red line plan is shown below, and illustrates that the sale and consumption of liquor is to be within the red line area (i.e. the north bound building and surrounding outdoor area).</p> 
<b>Staff / Employees</b>	<p>The proposed use is expected to employ twelve (12) staff. This is the estimated maximum number of staff at any one time.</p>
<b>Car Parking</b>	<p>Nil</p>
<b>Vegetation Removal/Retention</b>	<p>The proposal will not have any significant impact on existing vegetation (including those protected under the ESO3) according to Council's vegetation management officer.</p>
<b>Bicycle Spaces</b>	<p>The proposal includes two (2) bicycle parking spaces (hoops) next to the proposed bin storage and the south bound building.</p>  <p>Whilst not shown on the plans, there are also four (4) existing bicycle parking spaces (hoops) on the north side of the south bound building.</p>
<b>Signage</b>	<p>The original submission proposed:</p> <ul style="list-style-type: none"> <li>• One (1) freestanding backlit sign within the garden bed no greater than 1.5sqm.</li> <li>• One (1) backlit sign on the wall no greater than 1.5sqm.</li> </ul> <p>However, the proposal has been amended under Section 57A to remove business identification signage.</p>

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

5.1. This application has been amended twice under Section 57A of the Act. The first Section 57A amendment was requested after the original advertising period to respond to objector concerns with:

- Noise amenity due to proposed use of the land for a live music entertainment venue.

- 5.2. The amendment incorporated the following changes:
- The provision of an acoustic report.
- 5.3. The acoustic report was forwarded to the relevant objector.
- 5.4. The second Section 57A amendment was requested by the applicant voluntarily and incorporated the following changes (also explained in the table above in Section 4 of this report):
- Amend the proposed use from a bar to a food and drink premises to provide flexibility for the future of the venue, allowing it to operate under other uses nested under food and drink premises, such as restaurant.
  - Amend the proposed operating hours to be 5:00am to 12:00am Monday to Sunday.
  - Amend the proposed hours for sale and consumption of liquor to be 10:00am to 12:00am Monday to Sunday.
  - Amend the plans to show:
    - the removal of signage.
    - minor internal reconfiguration of both the north bound and south bound building (relocation of internal doors and toilet/laundry facilities).
- 5.5. There appears to be inconsistencies with the drawings and the annotations on the plans. The amended plans show:
- The removal of windows on the north bound building however the annotation states the windows are to be retained.
  - New air-conditioning units not annotated as such.
  - No information about where planter boxes are being relocated.
- 5.6. The applicant has confirmed the intention of the amendments and the corrections will form part of condition 1 requirements on the planning permit for amended plans before endorsement. Specifically, the applicant confirmed that the windows on the north bound building are to be retained. The air-conditioning units and relocated planter boxes can be conditioned as part of condition 1 for amended plans before endorsement.
- 5.7. The amended proposal was re-referred to Council's traffic engineer and acoustic consultant.

## **6.0 PLANNING PERMIT TRIGGERS**

- 6.1. Pursuant to Clause 36.04-1 (Transport Zone) of the Kingston Planning Scheme, there are a number of uses in Section 1, including 'any other use'. However, this requires a condition to be met which states that the use must be for a transport purpose and carried out by or on behalf of a relevant transport manager.
- 6.2. Given this is not able to be met, a planning permit is required to use the land for a food and drink premises in the Transport Zone 1. A food and drink premises is defined at Clause 73.03 as follows:
- Land used to prepare and sell food and drink for immediate consumption on, or off, the premises.
- 6.3. While it is noted that there is no statutory referral or notice obligation to the owner of the land (being Vic Track or its predecessor), in making the application, Council as the permit applicant, through its representative confirmed that they had notified them of the application being lodged (as is required under the *Planning and Environment Act 1987*).
- 6.4. Pursuant to Clause 36.04-3, an application by a person other than a relevant transport manager on land in the Transport Zone 1 must be accompanied by the written consent of



the Head, Transport for Victoria indicating that the Head, Transport for Victoria consents generally or conditionally to the application being made. The applicant has provided a letter from the Head, Transport for Victoria dated 24 October 2022, stating their consent generally and unconditionally to the application being made.

- 6.5. Pursuant to the table at Clause 52.06-3 (Car Parking) of the Kingston Planning Scheme, a planning permit is required to waive the car parking requirements for a food and drink premises use.
- 6.6. Pursuant to Clause 52.27 (Licensed Premises), a planning permit is required to use land to sell or consume liquor.
- 6.7. As outlined above, the application benefits from a number of exemptions from planning permission, please see table 4.0 above for a detailed assessment.

## **7.0 ADVERTISING**

- 7.1. Following the commencement of advertising, three (3) objections to the proposal were received. The grounds of objection raised are summarised as follows:
- Car parking concerns.
  - Use of a bar in this location.
  - Amenity (noise) concerns.
  - Location of bicycle parking.
- 7.2. Following the commencement of re-advertising, a further four (4) objections to the proposal were received. The grounds of objection raised are summarised as follows:
- Car parking concerns.
  - Amenity (noise) concerns.
  - Neighbourhood character.
- 7.3. The following objections raised are not planning considerations:
- Use of public land for private purposes.
  - Commercial rating requirement.
  - Arrangements for toilets.
  - COVID controls
- 7.4. A response to each of the concerns are in Section 11 of this report.
- 7.5. A Planning Consultation Meeting was held on 1 December 2022 to discuss the concerns raised in the objections. No objectors attended the meeting and those concerns raised in objections remain outstanding.

## **8.0 REFERRALS**

### **Internal Referrals**

Department / Area	Comments / Rationale / Recommended Conditions
<b>Vegetation Management Officer</b>	No objection raised.
<b>Traffic Engineer</b>	No objection raised, subject to <b>condition 20</b> included on any permit issued relating to commercial loading and unloading to be within the subject site (off road).
<b>Acoustic Consultant</b>	No objection subject to <b>conditions 11-18</b> included on any permit issued relating to noise amenity. Please refer to Sections 9.52 to 9.56 for further discussion.
<b>Heritage Advisor</b>	No objection raised.

**City of Kingston  
Planning Committee Meeting**

**Agenda**

**14 December 2022**

<b>Strategic Planning</b>	No objection raised.
<b>Business Officer</b>	No objection raised.
<b>Social Planning</b>	No response provided.
<b>Public Space Officer</b>	No objection raised.
<b>Place and Design Officer</b>	No objection raised.
<b>Property Services</b>	No objection raised.
<b>Waste Management</b>	No objection raised.

**9.0 PLANNING CONSIDERATIONS**

**Planning Policy Framework**

- 9.1. The application has been assessed against the Planning Policy Framework and it is considered that the proposed use and development is consistent with relevant policies contained within this section of the Kingston Planning Scheme.
- 9.2. The proposal allows for the commercial use of the land and licensed premises in an area designated for commercial development. It supports **Clause 11** (Settlement), **Clause 15** (Built Environment and Heritage), and **Clause 17** (Economic Development), which are closely aligned with the objectives and policy outcomes sought by the Metropolitan Strategy – ‘Plan Melbourne 2017 - 2050: Metropolitan Planning Strategy’ (Department of Land, Environment, Water and Planning)
- 9.3. This is achieved through concentrating major retail, commercial and administrative use and development in activity centres with a focus on high-quality development, and enhancing liveability, diversity and safety of the public realm. **Clause 17.02-1S** (Business) encourages development that meets the community’s need for retail, entertainment, office and other commercial services. Strategies include planning for an adequate supply of commercial land in appropriate locations and provide a net community benefit in relation to their viability, accessibility and efficient use of infrastructure.
- 9.4. **Clause 17.02-1L** (Retail and commercial land use – Kingston) applies to land as identified on the Retail and Commercial Land Use Framework Plan and sets out strategies to facilitate office development in larger activity centres which do not conflict with active retail streets. It discourages subdivision of larger restricted retail and trade supplies facilities into smaller modules to maintain common ownership and enhance redevelopment potential.
- 9.5. **Clause 11** (Settlement) aims to anticipate and respond to the needs of future communities through the provision of zoned and serviced land for housing, employment, recreation and open space, commercial and community facilities and infrastructure. **Clause 11.03-1R** (Activity Centres – Metropolitan Melbourne) aims to support the development and growth of metropolitan activity centres by ensuring that, amongst other things, they provide high levels of amenity.
- 9.6. **Clause 11.03-1L** (Activity Centres – Kingston), the specific policy for Kingston, supports mixed use developments within activity centres, amongst other things. The proposal maintains the financial viability of a proposed food and drinks and premises within an existing local strip shopping centre (Mentone), to complement the existing business offer and enhance the attractiveness of this commercial centre without resulting in detrimental off-site amenity impacts to the surrounding area.
- 9.7. **Clause 13.05** (Noise Abatement) seeks to assist the control of noise effects on sensitive land uses ensuring that community amenity is not reduced by noise emission(s). These are further advanced at a local level in **Clause 13.05-1L** (Noise Abatement- Kingston) which seeks to

encourage the inclusion of acoustic attenuation measures for new housing to mitigate adverse amenity impacts of non-residential uses.

- 9.8. Given the site's location, within an established commercial area and within reasonable operating hours, it is not considered that any additional noise impacts will result from the proposal to sell and consume liquor from this premises and also from the proposal to use land for a live music entertainment venue, subject to conditions.
- 9.9. **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. Furthermore, it aims that all new land use and development 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.
- 9.10. Planning should promote development that is environmentally sustainable and minimises detrimental impacts on the built and natural environment. This clause further outlines that planning should facilitate development that is adapted and resilient to climate related hazards and supports the transition to net zero greenhouse gas emissions amongst other points.
- 9.11. **Clause 15.01-1S** (Urban Design) aims to create urban environments that are safe, healthy, functional and enjoyable and that contribute to a sense of place and cultural identity. The objectives of **Clause 15.01-2S** (Building design) seek to achieve building design outcomes that contribute positively to the local context and enhance the public realm. The strategies of **Clause 15.01-2S** encourage land use and development that is energy and resource efficient through improved building design, urban consolidation and promotion of sustainable transport.
- 9.12. Clause **15.03-2S** (Aboriginal Cultural Heritage) seeks to ensure the protection and conservation of places of Aboriginal cultural heritage significance.
- 9.13. Importantly, the subject land **is** identified in an area of Aboriginal cultural heritage sensitivity.
- 9.14. However, the permit applicant has sufficiently demonstrated, with the submission of cultural heritage due diligence advice, that significant ground disturbance has already occurred on balance to a material part of the land. Therefore, it has been established that the proposed activity is **exempt** from requiring a cultural heritage management plan.
- 9.15. Clause **17.02-1S** (Business) seeks to encourage developments which meet communities' needs for retail, entertainment, office and other commercial services and provides net community benefit in relation to accessibility, efficient infrastructure use and the aggregation and sustainability of commercial facilities.
- 9.16. **Clause 17.02-1L** (Retail and Commercial Land Use – Kingston) applies to land as identified on the Retail and Commercial Land Use Framework Plan and sets out strategies to encourage restricted retail development to be located within a designated activity centre if located outside the existing restricted retail precincts.
- 9.17. The proposal will provide for the sale and consumption of liquor for a proposed food and drink premises, consistent with the objectives of this clause, providing accessible premises for the needs of retail, entertainment and other commercial services; and concentrating similar commercial uses within a designated business area.

#### **Zoning Provisions**

- 9.18. The subject site falls within the Transport Zone 1.

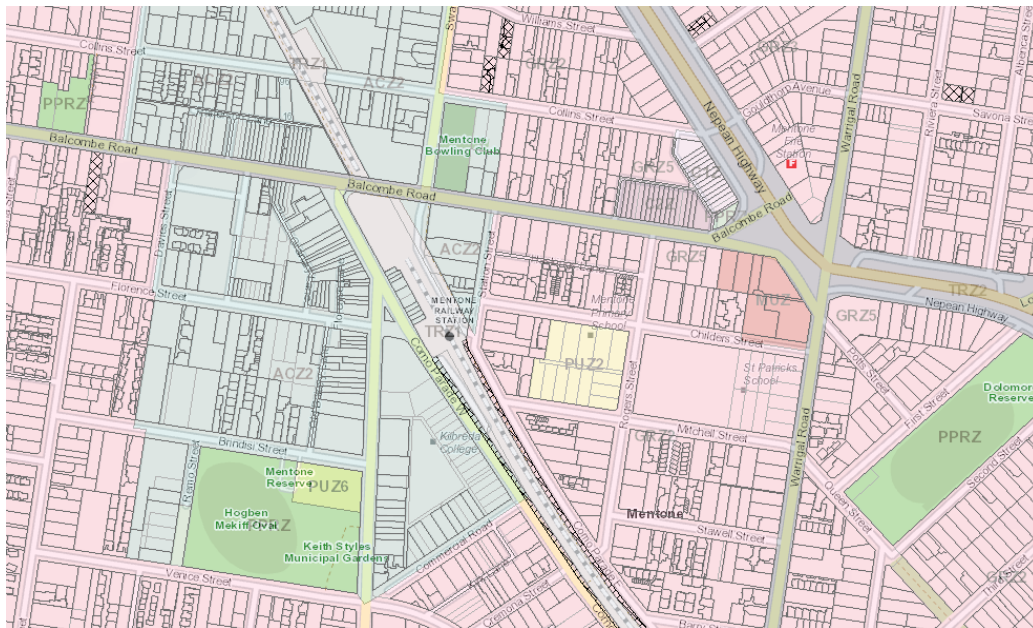


Figure 10 - VicPlan cadastral map.



Figure 11 - VicPlan cadastral map closeup

9.19. The purpose of the Transport Zone is:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To provide for an integrated and sustainable transport system.
- To identify transport land use and land required for transport services and facilities.
- To provide for the use and development of land that complements, or is consistent with, the transport system or public land reservation.
- To ensure the efficient and safe use of transport infrastructure and land comprising the transport system.



9.20. The decision guidelines at Clause 36.04-5 require the consideration of:

- *The Municipal Planning Strategy and the Planning Policy Framework.*
- *The effect of the proposal on the development, operation and safety of the transport system.*
- *Whether the development is appropriately located and designed, including in accordance with any relevant use, design or siting guidelines.*

9.21. The existing buildings of the planning unit no longer function as a train station. Given the Mentone train station has relocated further south east, the proposed use for a food and drink premises will not impact on any existing development, operations or safety of the transport system.

9.22. The external buildings and works relating to the decking, bicycle hoops and a waste storage area are exempt under Clause 52.31 (Local Government Projects) as previously discussed in Section 4. Notwithstanding, these buildings and works are located appropriately and have no impact to the existing public transport network.

It is noted that the public land manager (VicTrack) has provided written correspondence confirming general and unconditional consent to the application being made.

#### **Overlay Provisions**

9.23. The subject site falls within a Special Building Overlay, Environmental Significance Overlay (Schedule 3) and Heritage Overlay (Schedule 106).



**Figure 12 - VicPlan cadastral map of overlays.**

9.24. While the Special Building Overlay falls within the subject site, this overlay is not within the planning unit.

9.25. Pursuant to Clause 42.01-2 (Environmental Significance Overlay), a permit is required to construct or carry out works, however there are a number of exemptions from which the application benefits.

9.26. Pursuant to Clause 43.01-3 (Heritage Overlay), a permit is required to construct or carry out works. However, there are a number of exemptions from which the application benefits. Similarly, the proposed buildings and works are exempt as they are largely internal or subject to approval through the Victoria Heritage permit process.

- 9.27. There are also a number of exemptions arising from Clause 62.02-1 and Clause 62.02-2 as well as Clause 52.31 (Local Government Projects). This has been outlined in Table 4.0.
- 9.28. Notwithstanding, the application was referred to Council's vegetation management officer and external heritage consultant in relation to the proposed buildings and works within the Environmental Significance Overlay and Heritage Overlay, respectively, and no objections or concerns were received.

**Particular Provisions**

- 9.29. The application has been assessed against the relevant particular provisions and it is considered that the proposed use meets the requirements contained within this section of the Kingston Planning Scheme.
- 9.30. Pursuant to Columns B and C in the table at **Clause 52.06-5**, the proposal requires ten (10) car parking spaces for 317m<sup>2</sup> of floor area associated with the food and drink premises. As no car parking spaces are provided, a planning permit is triggered for a waiver of the car parking requirement pursuant to **Clause 52.06-3**.
- 9.31. The applicant has sought a waiver of the car parking requirements pursuant to this clause. Having regard to the proposed use, the proposed expected staff and patron numbers on-site, the publicly available parking spaces within 300 metres walking distance, and the connectivity to nearby public transport (Mentone train station and a number of bus routes) the waiver is warranted, in this instance.
- 9.32. Council's traffic engineer has reviewed the submitted traffic report and has no objection to the waiver of car parking requirements for both the original application and the amended application under Section 57A with increased operating hours.
- 9.24 **Clause 52.27** (Licensed Premises) outlines that before deciding on an application, the responsible authority must consider, as appropriate:
- *The Municipal Planning Strategy and the Planning Policy Framework.*
  - *The impact of the sale or consumption of liquor permitted by the liquor licence on the amenity of the surrounding area.*
  - *The impact of the hours of operation on the amenity of the surrounding area.*
  - *The impact of the number of patrons on the amenity of the surrounding area.*
  - *The cumulative impact of any existing licensed premises and the proposed licensed premises on the amenity of the surrounding area.*
- 9.25 The following areas for discussion are drawn from **Practice Note 61** (Licensed Premises: Assessing Cumulative Impact) prepared by the Department of Planning and Community Development (now Department of Transport Planning and Local Infrastructure) to assist in the assessment of cumulative impact associated with licenced premises. The practice note states that the following five areas should be considered when assessing cumulative impact:
1. *Planning policy context.*
  2. *Surrounding land use mix and amenity.*
  3. *The mix of licensed premises.*
  4. *Transport and dispersal.*
  5. *Impact mitigation.*

**Planning Policy Context**

- 9.26 A review of the application against the planning policy context is found above in this section (section 9) of the report, with the proposal found to be consistent with relevant policies contained within the Kingston Planning Scheme.

**Surrounding Land Use Mix and Amenity**

- 9.27 In light of the commercial nature of the precinct, alongside its abuttal to a highly trafficked, main arterial road (and proximity to a train line), it is considered that the expectation for amenity in this area would be less than for land zoned for residential purposes.
- 9.28 It is considered that the proposed use of the land for the sale and on/off-premises consumption of liquor is reasonable given the nature of the food and drinks premises within the established Mentone activity centre which contains a range of commercial and retail uses.
- 9.29 Whilst it is acknowledged that the licensing of the venue allows events held at the venue and results in a maximum of 200 patrons at the venue, there are limited sensitive uses within proximity of the venue (e.g. residential) that could be affected. The nearest residential dwelling is approximately 30 metres to the east, across the public car parking area associated with Mentone train station. The dwellings on the other side of the public parking area are located within the Activity Centre Zone (Schedule 2) (Precinct 5 – Railway Precinct).

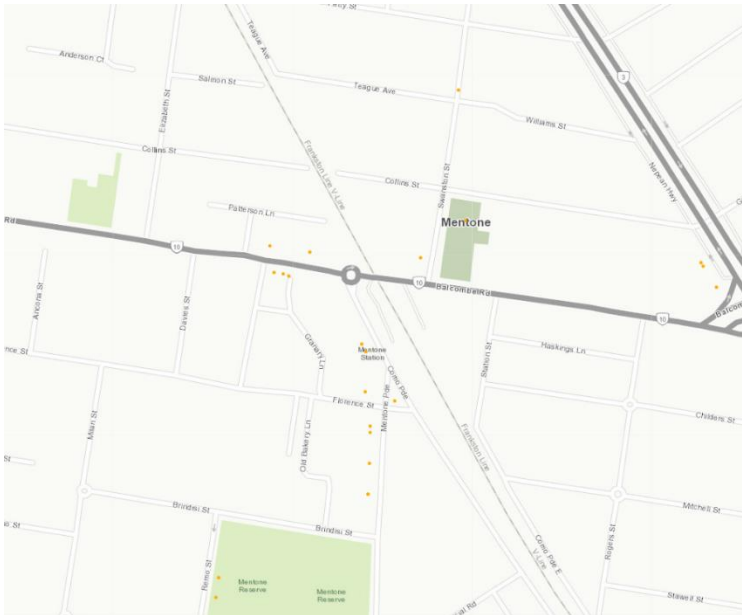


- 9.30 The off-site impact of patrons leaving the site are likely to be limited given the routes of access from the site to parking and transport nodes (Mentone train station and bus stops on Balcombe Road and Como Parade West).

#### **The Mix of Licensed Premises**

- 9.31 In the absence of any benchmarks within the Kingston Planning Scheme to measure cumulative impact, the assessment methodology for cumulative impact in the VCAT decision *Swancom Pty Ltd v Yarra CC* (Red Dot) [2009] VCAT 923 is relied upon as an appropriate methodology for the assessment of this proposal.
- 9.32 The assessment methodology has three (3) key considerations:
- *What is the density of licensed premises in the area?*
  - *What is the mix and type of licensed premises in the area?*
  - *What are the existing amenity levels of the area?*
- 9.33 The permit applicant has proposed that trading hours associated with the serving of liquor within the new food and drinks premises would be 10:00am to 12:00am, seven (7) days a week.

- 9.34 A survey of the licensed premises within the surrounding area within the Activity Centre Zone (Schedule 2) has been undertaken and found that within the immediate area (within a radius of 500 metres) there are twenty-one (21) licensed premises.
- 9.35 The breakdown of the licensed premises are as follows:
- 1 x General License
  - 3 x On-Premises License
  - 9 x Restaurant and Café License
  - 2 x Packaged Liquor License
  - 3 x Limited licenses
  - 1 x Full Club License
  - 2 x BYO Permit
- 9.36 The one (1) General License licensed premises at No. 48 Como Parade West Mentone has operating hours until 12:00am.
- 9.37 The majority of all licensed premises relate to restaurant and cafes. The proposed General License as part of this application would only be the second General License within the vicinity.



**Figure 13 – VGCCC interactive map showing existing liquor license permits (yellow dot) within 500 metres from the planning unit.**

- 9.38 The State Government's Department of Planning and Community Development (DPCD) has prepared *Practice Note No. 61 – Licensed Premises: Assessing Cumulative Impact*. In determining whether a proposal would produce a "cumulative affect" in an area, the Practice Note advises that a cumulative impact refers to both positive and negative impacts that can result in clustering of a particular land use or type of land use.
- 9.39 As a general guide, a "cluster" would occur where there are three (3) or more licensed premises within a 100 metre radius from the subject land (including the proposed premises). In this instance, a total of five (5), approved licensed premises would exist within 100 metres of the subject site if this application is to be approved.





**Figure 14 - VGCCC interactive map, showing licensed premises within 100 metres of the planning unit.**

- 9.40 As such, the proposed use would contribute to an existing “cluster” of licensed premises as defined by the DPCD, in this instance. However, the proposal should not result in any adverse amenity impacts to the surrounding area given that the subject site is located within an established commercial precinct with minimal direct impact to the nearest residential areas approximately 30 metres to the east of the planning unit (across the existing public car parking area).

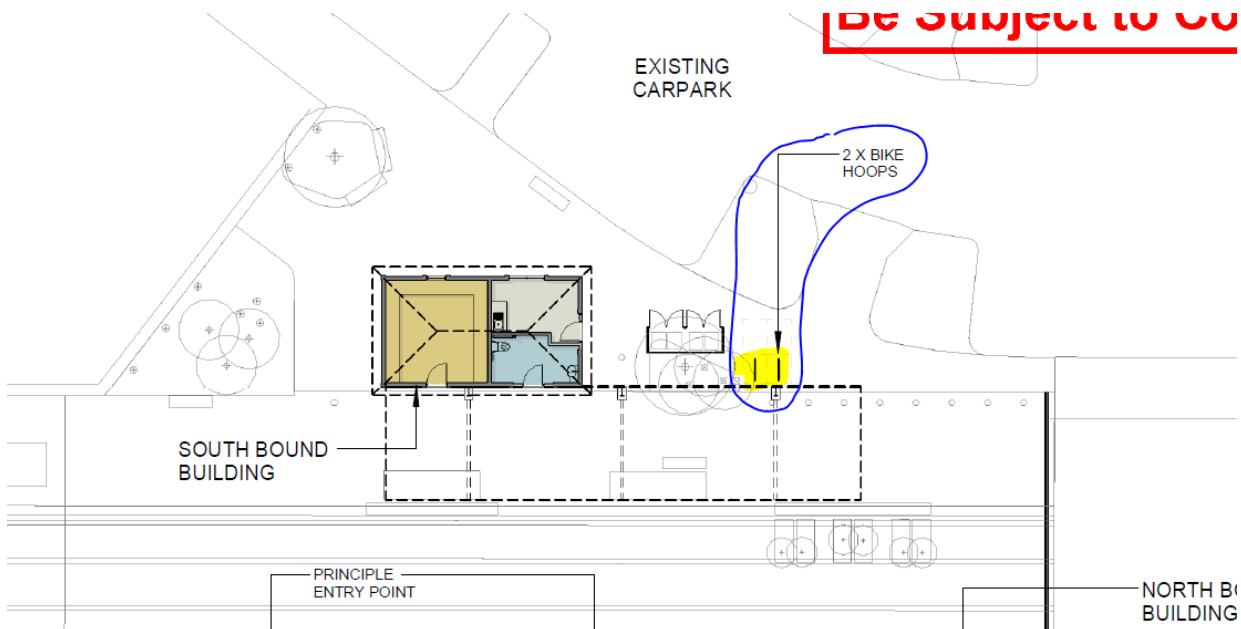
#### **Transport and Dispersal**

- 9.41 The site benefits from good access to public transport and alternative transport modes which require little interaction with any sensitive land uses. The taxi rank for patrons is available opposite the new Mentone Railway Station. The Mentone Railway Station is also accessible via dedicated footpaths to the east of the planning unit. Bus routes are accessed on both Balcombe Road to the north or Como Parade West to the west.
- 9.42 In reviewing the train timetable for the Frankston – City rail line, it appears that there are frequent train services (at least every 20 minutes) until 12am every day.
- 9.43 Accordingly it is considered appropriate the licensing of the venue conclude at 12.00 midnight as per the applicant’s submission, to ensure that patrons are not queuing for transport nor lingering within the area.

#### **Impact Mitigation**

- 9.44 As the venue is large, patrons can be accommodated within the venue during the operation of events on the land. As such, external impacts of the operation of the venue during the hours for which the sale and consumption can occur can be effectively managed with limited outdoor areas to generate noise activity, particularly in relation to sensitive sites.
- 9.45 Further the management of the venue are to promote the responsible service of alcohol and the potential negative effects of alcohol consumption. As discussed below, appropriate security and fully trained staff are to be provided and clear policy and procedures are provided to staff and enforced by management.
- 9.46 A security register is also required to be maintained and RSA officers may also present at the venue (as nominated within the procedures provided). The procedural document also outlines how security officers are to manage ejected patrons and approaching intoxicated persons.

- 9.47 With regard to other safety / enforcement initiatives, it is acknowledged that protective services officers (PSOs) may be present at the Mentone train station. PSOs focus on addressing incidents of anti-social behaviour, alcohol / drug related offences and other offences to improve the safety of train travel. The presence of protective service officers (transit division) should further assist in the management of patrons when attending and leaving events held within the proposed premises.
- 9.48 In light of the policy context, accessibility, surrounding land use, mix of licenses and mitigation measures available, it is considered appropriate to support the licensing of the planning unit for 200 patrons between the hours of 10.00am and 12.00am (midnight).
- 9.49 The relative isolated nature of the site should limit the cumulative impacts of licenced venues with immediate access to transport ensuring that patrons can leave the venue quickly and without traversing through sensitive land use areas.
- 9.50 It is considered that the licensing of the venue should assist in the use of the former Mentone train station as a hub for social interaction, and allow the venue to continue to host a wide variety of events that should boost the vitality of Mentone and its role as a major activity centre.
- 9.51 **Clause 52.34** (Bicycle Facilities): The provisions specified in Table 1 to Clause 52.34-5, requires that for approximately 300sqm of leasable floor area associated with a retail premises, one (1) bicycle space is required for employees and 0 bicycle spaces are required for visitors. No showers or change rooms are required as less than five (5) bicycle spaces are required, as specified in Table 2 and Table 3 of Clause 52.34-5. The proposal meets this requirement as two (2) bicycle spaces are provided on site.



- 9.52 **Clause 53.06 – Live Music Entertainment Venue:**
- 9.53 Pursuant to Clause 53.06-2, “live music entertainment venue” means “a food and drink premises, nightclub, function centre or residential hotel that includes live music entertainment.”.
- 9.54 The proposal includes a live music entertainment venue and must meet the requirements of this clause.

9.55 The purpose of Clause 53.06 is:

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

9.56 The decision guidelines in Clause 53.06-5 are:

- *The extent to which the siting, layout, design and construction minimise the potential for noise impacts.*
- *Whether existing or proposed noise sensitive residential uses will be satisfactorily protected from unreasonable live music and entertainment noise.*
- *Whether the proposal adversely affects any existing uses.*
- *The social and economic significance of an existing live music entertainment venue.*
- *The impact of the proposal on the functioning of live music venues.*

9.57 An acoustic report prepared by an acoustic professional was provided by the permit applicant. The report provides a detailed noise emissions assessment (live music indoors/outdoors and patron noise) and sets out the recommended noise management protocols, as well as noise mitigation measures to control music noise and ensure compliance with Environment Protection Authority music noise limits at the noise sensitive areas (such as the residential dwellings to the east).

9.58 The key noise management protocols and mitigation measures include:

- No music (live or pre-recorded) outdoors during the night period (defined as 10:00pm to 7:00am).
- Live music must be indoors with doors and windows closed during the night period.
- Live and pre-recorded music only at background music levels (e.g.  $L_{Aeq}$  73dB(A) at 1 metre).
- A maximum of twenty (20) patrons in the outdoor area during the night period.

9.59 Council's acoustic consultant agrees with the management protocols and mitigation measures. These will be included as conditions on any permit issued (**conditions 13-18**). Council's acoustic consultant also recommend a condition (**condition 18**) on any permit issued for a noise management plan and corrections to inconsistencies found in the submitted acoustic report before the acoustic report can be endorsed (refer to **conditions 12a-d**).

**General Provisions**

- 9.60 Before deciding on an application or approval of a plan, the decision guidelines within Clause 65 require the Responsible Authority to consider, as appropriate:
- *The matters set out in Section 60 of the Act.*
  - *Any significant effects the environment, including the contamination of land, may have on the use or development.*
  - *The Municipal Planning Strategy and the Planning Policy Framework.*
  - *The purpose of the zone, overlay or other provision.*
  - *Any matter required to be considered in the zone, overlay or other provision.*
  - *The orderly planning of the area.*
  - *The effect on the environment, human health and amenity of the area.*
  - *The proximity of the land to any public land.*
  - *Factors likely to cause or contribute to land degradation, salinity or reduce water quality.*
  - *Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.*
  - *The extent and character of native vegetation and the likelihood of its destruction.*
  - *Whether native vegetation is to be or can be protected, planted or allowed to regenerate.*
  - *The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.*
  - *The adequacy of loading and unloading facilities and any associated amenity, traffic flow and road safety impacts.*
  - *The impact the use or development will have on the current and future development and operation of the transport system.*

All matters have been considered. The proposal is found to result in the continued orderly planning of the area with no significant effect on the amenity of the area.

9.61 **Other**

- 9.62 In January 2018, Kingston Council adopted the *Mentone Station and Gardens Urban Design Framework* (the Framework) (January 2018).
- 9.63 The Framework was prepared in 2017 as a response to the proposed level crossing removal at Balcombe Road, Mentone which includes a new Mentone train station and retention of the two State Heritage listed station buildings. The Framework is used to guide infrastructure, public realm and built form outcomes within the activity centre.
- 9.64 Of most relevance to this application, the Framework outlines the importance of:
- Retaining and enhancing the historic Mentone gardens, including the traditional Palm and Norfolk Island Pine plantings.
  - Retaining and enhancing the two State Heritage listed station buildings.
  - Improving pedestrian access and cycle connections between public open space, community hubs and public transport within the surrounding street network.
- 9.65 Council's heritage advisor conducted an assessment of the proposal and commented that the use of a bar can co-exist within the planning unit without detrimental impacts to the recognised historical and architectural significance of the heritage sites. Council's heritage advisor also states the proposal would not only conserve the heritage sites but would possibly reinforce their social significance.
- 9.66 Since the referral response was received, the proposal was amended under Section 57A to change the use from bar to food and drink premises. The change of use is not considered to be a major change given a bar is nested under food and drink premises and other land uses under food and drink premises are similar in nature (e.g. restaurant, hotel). It is considered that the no objection response from Council's heritage advisor would remain.

9.67 The proposal is not considered to have any detrimental impact on pedestrian and cycle movements, given the proposal is mostly within the two existing buildings.

9.68 For the reasons above the proposal is considered to be in accordance with the Framework.

#### **10.0 GENERAL COMMENT**

10.1 The proposed extensions to include a deck and external bin storage are considered to be complimentary to the existing buildings on the site.

10.2 The proposed alterations to the existing external sides of the buildings (changes to windows and doors) are considered to be consistent with the planning scheme requirements. Council's heritage advisor is satisfied that the minor alterations are in keeping with the heritage value of the buildings. There are no other planning issues considered applicable to this development.

10.3 The proposal does not result in any loss of impact to vegetation.

10.4 The proposed use of the land for a food and drink premises accords with the provisions of the Transport Zone 1 and is considered appropriate in the context of the subject site. The site is well located in an area which is characterised by a diverse range of commercial uses.

10.5 Subject to the inclusion of suitable conditions, the proposal is considered reasonable and warrants support.

10.6 It is considered that the issues raised in the objections can be addressed via the use of suitable conditions on any permit issued. These requirements should seek to ensure that the use is efficiently managed with minimal impact to the amenity of surrounding residential areas.

10.7 It is considered that the objector's concerns have been addressed, where appropriate, and, subject to the inclusion of appropriate conditions (including those discussed in this report) the proposed use of the land for a food and drink premises, for a live music entertainment venue, and for the sale and consumption of liquor is considered appropriate to the site and its location in the Transport Zone and adjoining the Activity Centre Zone (Schedule 2). It is therefore recommended that the application be supported with the issue of a notice of decision to grant a planning permit.

10.8 The use is unlikely to have an unreasonable impact on the traffic flow, road safety or local amenity of the area as vehicle movements can be contained from the rear train station car park.

#### **11.0 RESPONSE AGAINST GROUNDS OF OBJECTIONS**

11.1 **Parking concerns:** Concerns were raised regarding the availability of car parking and the appropriateness of the proposed waiver of the car parking requirements.

11.2 It is considered that the waiver of on-site car parking for employees and visitors is suitable given the availability of on street car parking and connectivity to public transport (Mentone train station and multiple bus routes).

11.3 An objector noted that the traffic engineering assessment incorrectly characterised the Mentone train station public car park to the rear of the planning unit as "unrestricted". The objector highlighted that the purpose of the car park is for people using public transport.

11.4 The inclusion of the train station car park in the assessment is considered appropriate particularly for weeknights and weekends given lower commuter demands in these periods. While this car park is expected to be in higher demand during weekdays, the traffic



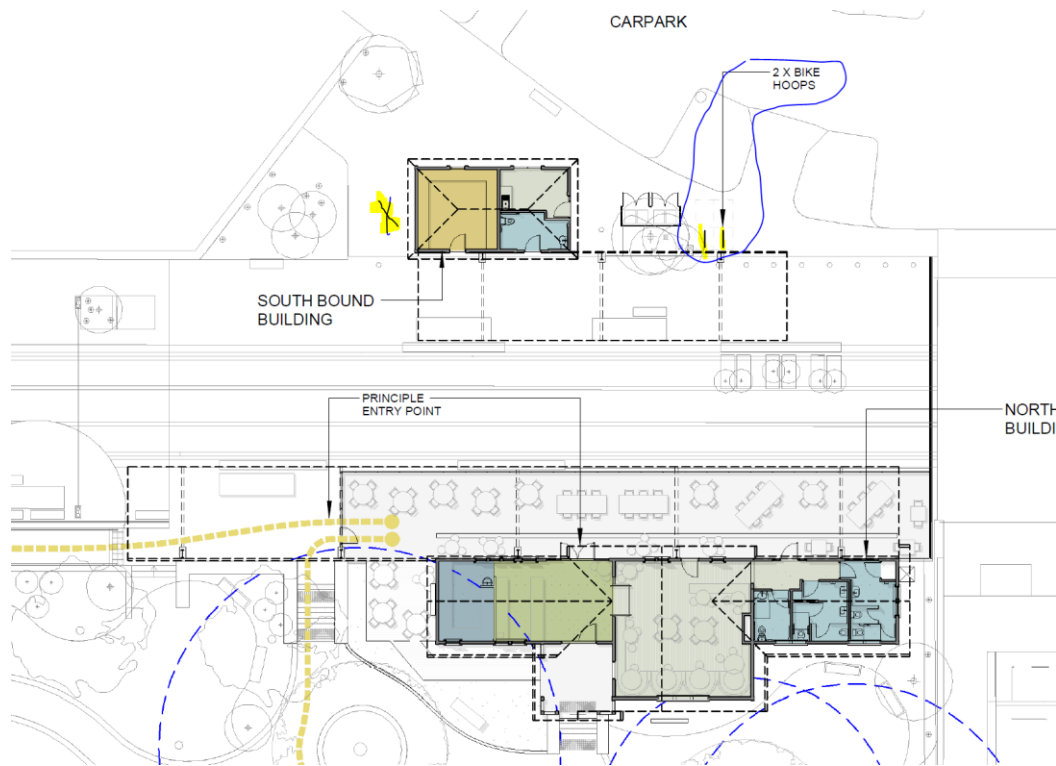
engineering assessment provided demonstrates that the surrounding road network can readily accommodate any traffic generated by the proposal.

- 11.5 Council's traffic engineer has advised of no objection to the proposed waiver of car parking spaces for both the original application and the amended application under Section 57A with increased operating hours.
- 11.6 **Use of a food and drink premises in this location:** The proposal is located within the heart of the Mentone activity centre and the proposed use of a food and drink premises is considered to be in keeping with the diverse range of commercial uses in the surrounding area. The proposed use of a food and drink premises in this location is considered to contribute to the vibrancy of the Mentone activity centre.
- 11.7 **Amenity (noise) concerns:** Concerns were raised with noise concerns from the number of patrons, hours of operation and proposal for live music to be played, noting that there are residential areas approximately 30 metres east of the planning unit.
- 11.8 An acoustic report was prepared by the applicant and was submitted as part a Section 57A amendment. Council's acoustic consultant reviewed and approved the noise management protocols and mitigation measures which were recommended in the report. These measures will be placed as conditions on any permit issued. Of most relevance, the measures include no live or pre-recorded music outdoors after 10:00pm, restricting live music decibel levels and restricting the outdoor area to twenty (20) patrons after 10:00pm.
- 11.9 **Neighbourhood Character:** An objector raised concerns for impact to the neighbourhood character. The planning unit is located directly adjacent to commercial uses to the south-east and to the west across Como Parade West.



- 11.10 The primary building used for the proposed food and drink premises' is the north bound building which is closest to the existing buildings used for commercial purposes on Como Parade West.

- 11.11 The proposal is considered to be in line with the existing neighbourhood character, being in close proximity to existing commercial uses that are within Precinct 1 (Retail Core) of the Activity Centre Zone.
- 11.12 **Location of bicycle parking:** An objector noted that the plans do not show the existing four (4) bicycle hoops located on the north side of the south bound building.
- 11.13 The proposal includes two (2) new bicycle hoops on the south side of the south bound building. As discussed previously in Section 9 of this report, the proposal meets the requirements of Clause 52.34 (Bicycle Facilities), which requires only one (1) bicycle parking space.
- 11.14 Notwithstanding, the applicant responded to the objection and stated that the plans can be updated to include the existing four (4) bicycle hoops. A requirement (**condition 1a**) will be placed on any permit issued for the existing four (4) bicycle hoops to be shown on the plans.



**Figure 15 - Concept plan showing the two (2) proposed bicycle hoops and a cross to indicate approximate location of existing bicycle hoops.**

- 11.15 The objector requested a nine (9) space bicycle rack to replace the existing four (4) bicycle hoops, however the proposal is well in excess of the requirements of Clause 52.34.
- 11.16 The objector also stated that the proposed two (2) bicycle spaces are not in an appropriate location as it would obstruct access to the heritage deck public open space. The proposed two (2) bicycle hoops take up approximately 1 metre in width and this is not deemed to be a significant obstruction to pedestrian movement.
- 11.17 Pursuant to the *Planning and Environment Act 1987* and Kingston Planning Scheme, the following concerns fall outside of the scope of planning considerations.
- The proposed use of public land for private purposes  
There are no town planning related concerns specifically with the leasing of public buildings to tenants.

The relevant decision guidelines for consideration of any change in use (whether for public or private use) must be considered on its own merit.

- Commercial rating requirements

This requirement is regarding Building Regulations. It is expected that a future permit holder would conduct the necessary permits for the function of a food and drink premises.

- Arrangement for toilets

Toilets for the food and drink premises are shown on both the north bound and south bound buildings. The provision of public toilets is not a relevant consideration for the assessment of this application.

- COVID controls

The consideration of how this proposal can accommodate present or future COVID controls is not a town planning matter.

## **12.0 CONCLUSION**

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

12.2 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.

12.3 The proposed use 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 PPF, zoning controls, Particular Provisions and General Provisions.

## **13.0 RECOMMENDATION**

13. That Council determine to support the proposal and issue a Notice of Decision to grant a Planning Permit to use the land for a food and drink premises, for the sale and consumption of liquor (General Licence), for a live music entertainment venue and including a waiver of the car parking requirements at Railway Reserve, Balcombe Road, Mentone (Lots 1 and 2 on TP597980P) 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 an electronic copy must be provided. The plans must be substantially in accordance with the plans prepared by CohenLeigh Architects, Drawing No. 210501, Sheets SK01 to SK10, submitted on 21 December 2021, but modified to show:
  - a) The existing bicycle hoops on the north side of the south bound building.
  - b) All recommended noise management protocols of the amended acoustic report as per condition 12 annotated.
  - c) A noise management plan in accordance with condition 18 of this permit.
  - d) All windows shown on floor plans to be consistent with the respective annotation.
  - e) The location of all externally-located heating and cooling units, exhaust fans and the like, clearly shown and annotated.



- f) Re-located planter boxes.

**Endorsed Plans**

2. The use as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.

**Operation Hours**

3. The use must operate only between the hours of:  
Monday to Sunday: 5.00am to 12.00am (midnight)  
Or otherwise as approved by the Responsible Authority in writing.

**Maximum Capacity**

4. No more than two hundred (200) patrons are to be permitted on the premises at any one time, unless with the prior written consent of the Responsible Authority.
5. No more than twenty (20) patrons are to be permitted in the outdoor patron seating areas between 10.00pm and 12.00am (midnight), unless with the prior written consent of the Responsible Authority.

**Sale and Consumption of Liquor**

6. The serving of liquor is to be restricted to the following times:
- Monday to Sunday: 10.00am to 12.00am (midnight).
- Or otherwise as approved by the Responsible Authority in writing.
7. No more than 200 patrons are to be permitted on the premises at any one time during the licensed hours, unless with the prior written consent of the Responsible Authority.

**Responsible Serving of Alcohol**

8. During all operating hours of the use hereby authorised, there must be present on the site a person above the age of 18 years, who has been authorised by the occupier of the land and that person will be responsible for the good conduct of patrons arriving, using or leaving the land (for the purposes of this permit, this person is known as "The Manager"), to the satisfaction of the Responsible Authority.
9. All staff on the premises (except kitchen staff) must be appropriately trained in the responsible serving of alcohol, to the satisfaction of the Responsible Authority.
10. The Manager (as referred to at condition 8 of this permit) must be qualified in operating in accordance with the policies and guidelines prescribed by the Victorian Gambling and Casino Control Commission, to the satisfaction of the Responsible Authority.

**Live Music Entertainment Venue and Noise**

11. Noise levels associated with the use must at all times comply with the Environment Protection Regulations under the Environment Protection Act 2017 and the incorporated Noise Protocol (Publication 1826, Noise Limit and Assessment Protocol for the Control of Noise from Commercial, Industrial and Trade Premises and Entertainment Venues).

12. Prior to the endorsement of plans required under condition 1 of this planning permit, an amended acoustic report prepared by a suitably qualified acoustic consultant must be submitted to the satisfaction of the Responsible Authority. The acoustic report shall be endorsed concurrently with the amended plans required in condition 1 to form part of the planning permit. The amended acoustic report must be generally in accordance with the report prepared by Resonate, Rev A, dated 16 August 2022, submitted on 2 November 2022, but amended to show:
  - a) A revised noise monitoring location to be more representative of the nearest sensitive receiver.
  - b) The measured average background noise level figures in Table 7 to be consistent with the figures in Table 2.
  - c) The music noise limits in Table 8 to include a date and time this was recorded.
  - d) The average background levels of Table 11 to be consistent with the figures in Table 2.
13. The endorsed acoustic report must be implemented and continue to be maintained, to the satisfaction of the Responsible Authority.
14. The playing of live or pre-recorded music is not permitted outdoors between 10.00pm to 7.00am the next day.
15. Doors and windows must be closed between 10.00pm to 7.00am the next day when live music is played indoors.
16. Live or pre-recorded music is to be only at background music levels (e.g.  $L_{Aeq}$  73dB(A) at 1 metre).
17. Windows must be closed between 10.00pm to 7.00am the next day.

#### **Noise and Venue Management Plan**

18. Prior to the endorsement of plans under condition 1 of this planning permit, a noise and venue management plan (NVMP) must be submitted that provides detailed technical and management measures to manage music noise levels to not to exceed relevant time and noise level limitations. The noise management plan shall be endorsed concurrently with the amended plans required in condition 1 to form part of the planning permit. The noise management plan shall also include the following:
  - a) Incorporation of safe design principles as detailed in the 'Design Guidelines for Licensed Venues (Victorian Commission of Gambling and Liquor Regulation 2017)'.
  - b) Details of training provided for staff in the responsible serving of alcohol.
  - c) Measures to be taken by management and staff to ensure patrons do not cause nuisance or annoyance beyond the land.
  - d) Installation of appropriate signage throughout the venue and in common areas instructing patrons on expected behaviour, including to minimise levels in outdoor areas, including car park, and whilst accessing or leaving the premises.
  - e) Adequate seating and places to put down drinks (including in outdoor courtyard), to limit intoxication and associated off site noise impacts.
  - f) The maintenance of a register for any complaints.
  - g) Provide a telephone number to contact the premises, provided on the internet and a notice put on the door and linked to the complaints register.

**City of Kingston  
Planning Committee Meeting**

**Agenda**

**14 December 2022**

- h) Deliveries and waste collections to be conducted in accordance with EPA Publication 1254 'Noise Control Guidelines' and shall not occur after 10:00pm, and before 7:00am weekdays or 9:00am all other days.
- i) Emptying bottles into bins and glass crushing shall not occur after 10:00pm, and before 7:00am weekdays or 9:00am all other days. Noise enclosures are required for any bottle crushers that are to be used.
- j) Measures to encourage incidental smokers not to congregate within car parking areas or cause off site noise impacts.
- k) Procedures to be undertaken by staff in the event of complaints by a member of the public, the Victoria Police, an 'authorised officer' of Council or the Victorian Gambling and Casino Control Commission.
- l) The management and dispersal of patrons, including patrons loitering around the venue after the venue has closed.
- m) The management of large group bookings.
- n) The management of smokers and on and off-site smoking areas (particularly where liquor may not be allowed to be sold and consumed within the smoking area after a particular time).
- o) The management of external queues.
- p) How the movement and exit of patrons is to be managed, particularly where there is a requirement to close different sections of the venue at different times.
- q) Details of the provision of music including frequency and hours of entertainment provided by live bands and DJs.
- r) Any other measures to be undertaken to ensure no unreasonable amenity impacts from the licensed premises.

The noise and venue management plan must be to the satisfaction of, and be approved by, the Responsible Authority. Once approved, the noise management plan will form a part of the endorsed documents under this permit.

**General Amenity**

- 19. The amenity of the area must not be detrimentally affected by the development and/or use, 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.
- 20. The loading and unloading of goods to and from vehicles must only be carried out on the land.
- 21. 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.
- 22. 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.

### **Completion of Works**

23. Once the use and development has started it must be continued to the satisfaction of the Responsible Authority.

### **Permit Expiry**

24. This permit as it relates to use will expire if one of the following circumstances applies:

- a) The use is not commenced within two (2) years of the issue date of this permit.
- b) The use is discontinued for a period of two (2) years.

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 development or use you are required to obtain the necessary building permit.



**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*).

### **Appendices**

Appendix 1 - KP-2021/832 - Railway Reserve, Balcombe Road, MENTONE VIC 3194  
- Considered Development Plans (Ref 22/328785)  

Appendix 2 - KP-2021/832 - Railway Reserve, Balcombe Road, MENTONE VIC 3195 -  
Considered Red Line Plan (Ref 22/332545)  

Appendix 3 - KP-2021/832 - Railway Reserve, Balcombe Road, MENTONE VIC 3194  
- Considered Planning Report (Ref 22/328778)  

Author/s: Laurence Lim, Statutory Planner

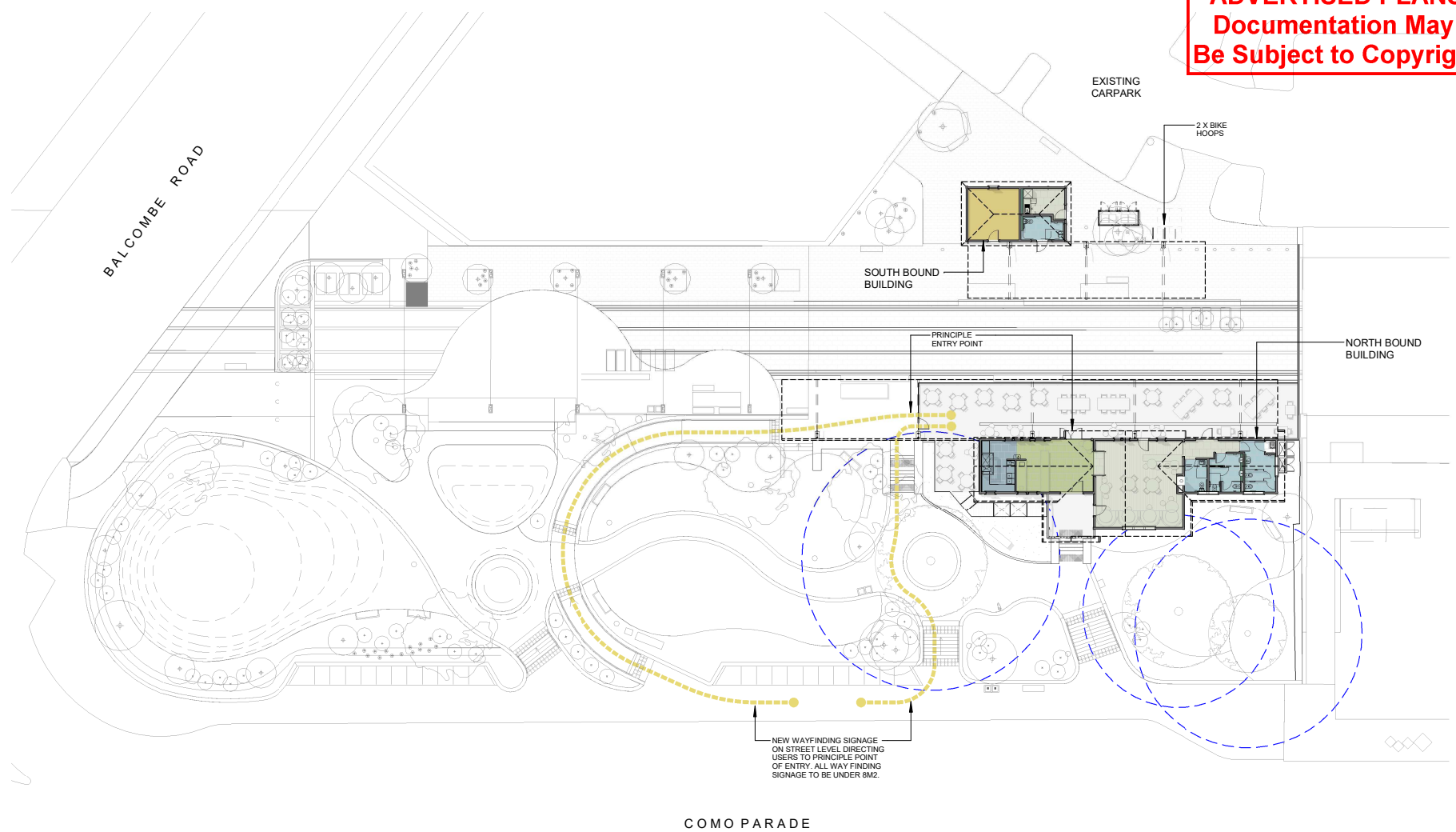
Reviewed and Approved By: Nikolas Muhllechner, Team Leader Statutory Planning  
Jaclyn Murdoch, Manager City Development

## 4.3

### **KP-2021/832 - RAILWAY RESERVE, BALCOMBE ROAD, MENTONE (LOTS 1 AND 2 ON TP597980P)**

- 1 KP-2021/832 - Railway Reserve, Balcombe Road, MENTONE  
VIC 3194 - Considered Development Plans..... 149
- 2 KP-2021/832 - Railway Reserve, Balcombe Road, MENTONE  
VIC 3195 - Considered Red Line Plan ..... 153
- 3 KP-2021/832 - Railway Reserve, Balcombe Road, MENTONE  
VIC 3194 - Considered Planning Report ..... 155

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**CohenLeigh Architects**

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info@cohenleigh.com

PROJECT  
**Mentone Railway Station Re-development**

CLIENT  
Kingston City Council

PROJECT  
210501

SCALE  
1 : 300

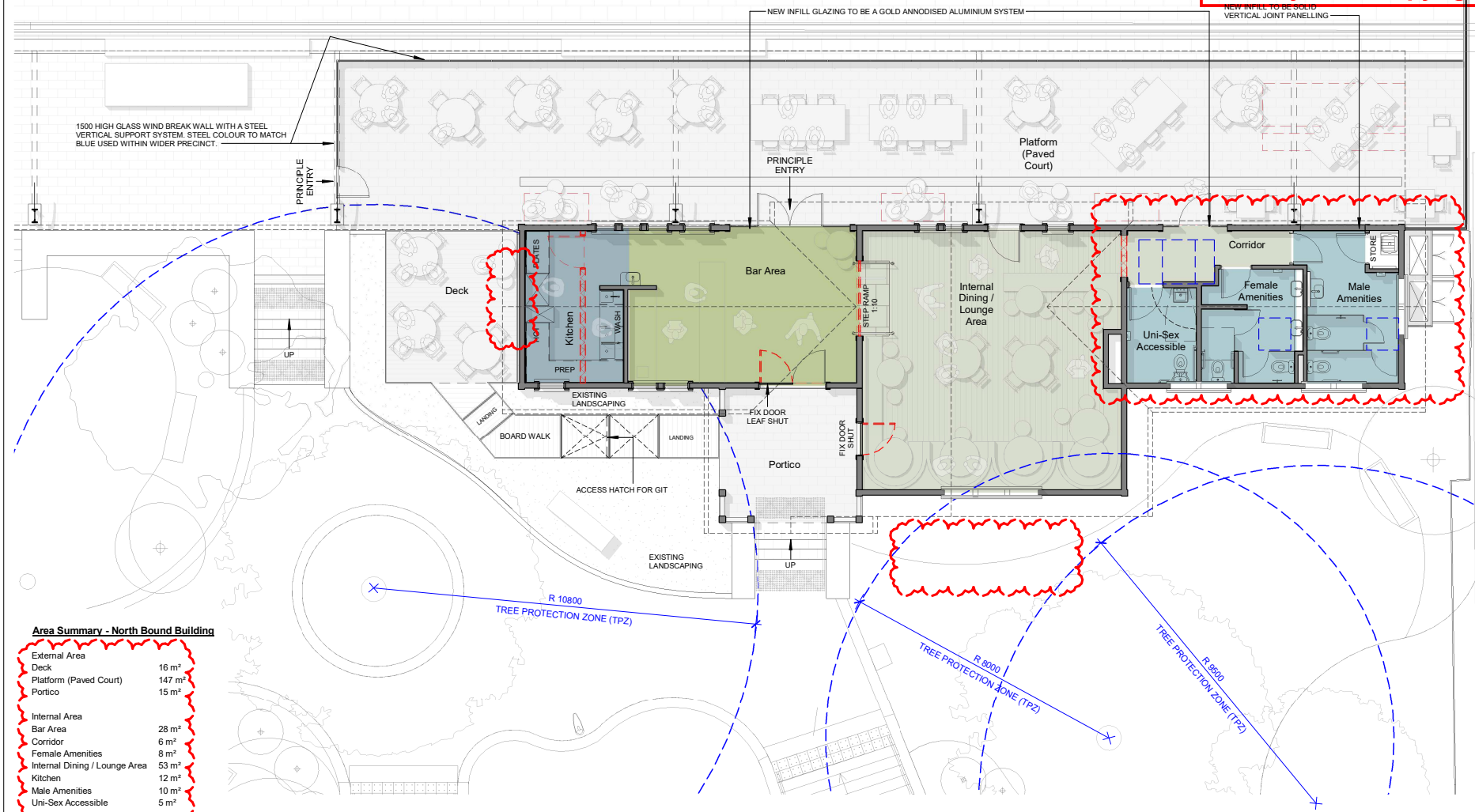


DRAWING TITLE  
**Concept Plan - Overall**

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**Area Summary - North Bound Building**

External Area	
Deck	16 m <sup>2</sup>
Platform (Paved Court)	147 m <sup>2</sup>
Portico	15 m <sup>2</sup>
Internal Area	
Bar Area	28 m <sup>2</sup>
Corridor	6 m <sup>2</sup>
Female Amenities	8 m <sup>2</sup>
Internal Dining / Lounge Area	53 m <sup>2</sup>
Kitchen	12 m <sup>2</sup>
Male Amenities	10 m <sup>2</sup>
Uni-Sex Accessible	5 m <sup>2</sup>

No.	Description	Date
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PROJECT  
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Kingston City Council

PROJECT  
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SCALE  
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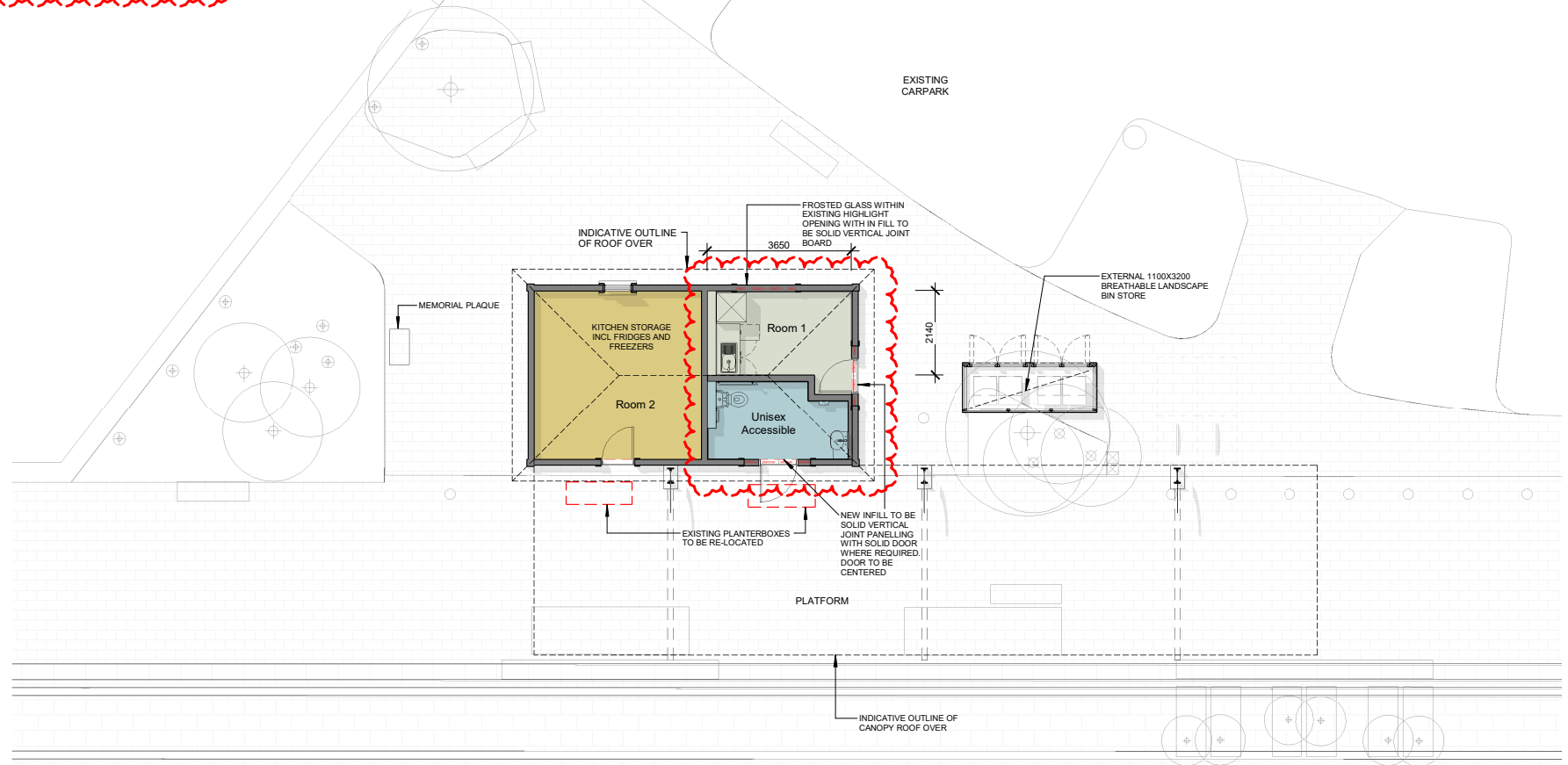
DRAWING TITLE  
**Concept Plan - North Bound Building**  
  
DRAWING  
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**A**



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Area Summary - South Bound Building

Room 1	8 m <sup>2</sup>
Room 2	18 m <sup>2</sup>
Unisex Accessible	7 m <sup>2</sup>



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PROJECT

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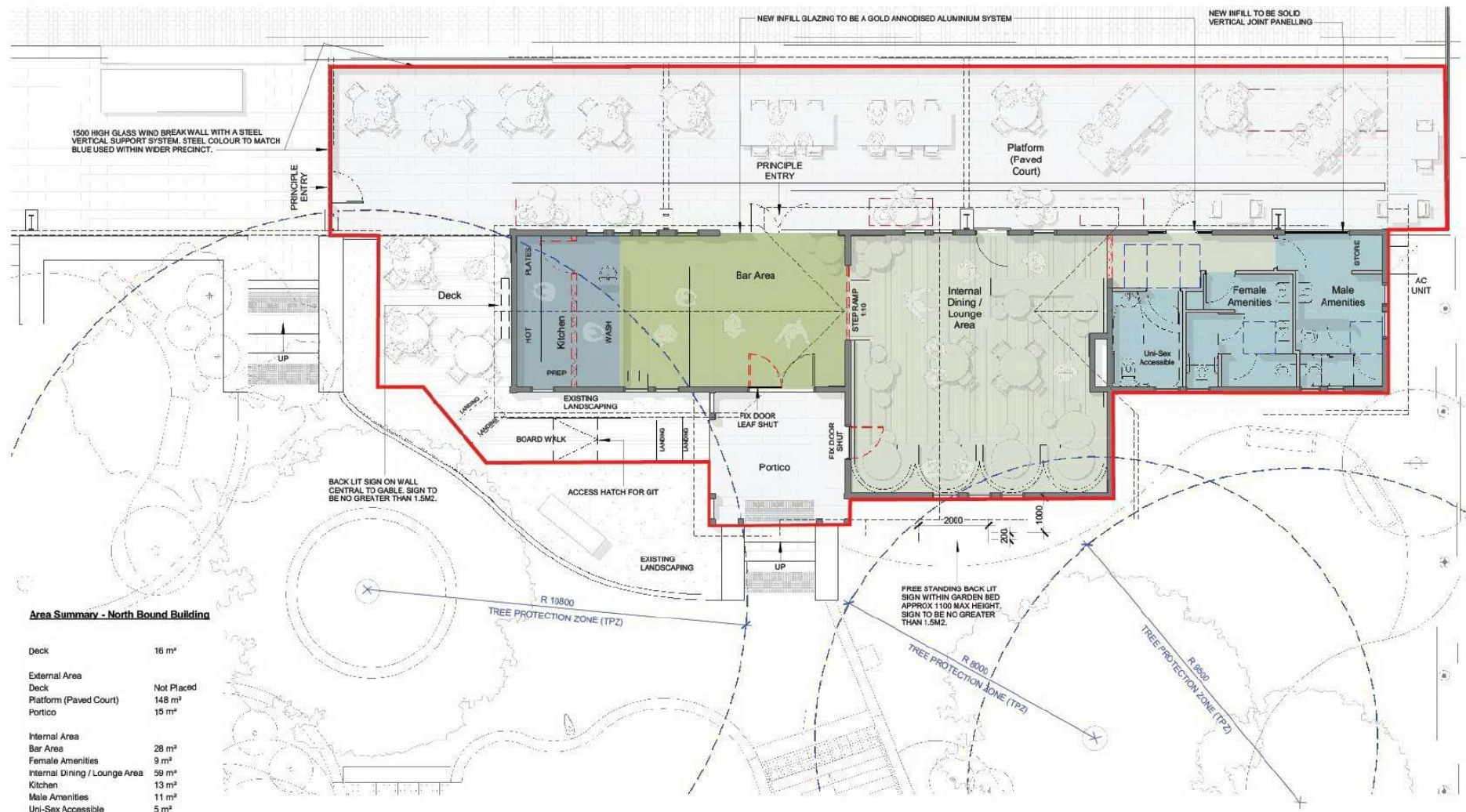
Concept Plan - South Bound Building

DRAWING

SK04

REV

A



#### Area Summary - North Bound Building

Deck	16 m²
External Area	
Deck	Not Placed
Platform (Paved Court)	148 m²
Portico	15 m²
Internal Area	
Bar Area	28 m²
Female Amenities	9 m²
Internal Dining / Lounge Area	59 m²
Kitchen	13 m²
Male Amenities	11 m²
Uni-Sex Accessible	5 m²

No.	Description	Date
C	Client Design Issue	210713
D	Client Design Issue	210814
E	South Bound Amenities Revision	210921
F	Areas & TPZ outline Revision	211013
G	Bin Store Relocated	211015
H	Decking Reduced	211104
I	General Revisions	211118

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DRAWING TITLE  
Concept Plan - North Bound Building

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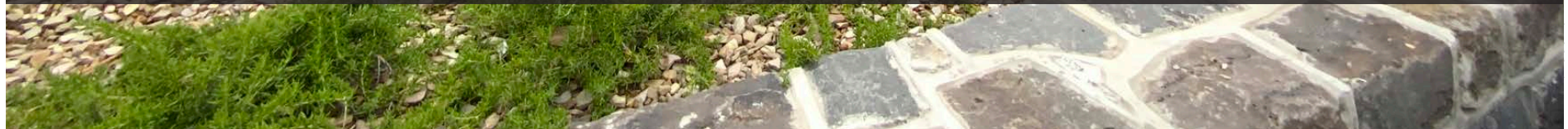
hansen



# Former Mentone Station Building

Planning Permit Application

Prepared by **Hansen Partnership** | October 2022





# APPLICATION SUMMARY

## PERMIT TRIGGERS



A permit is required for the proposed 'food and drink premises' land use under Clause 36.04-1 of the zone, to use land to sell or consume liquor under Clause 52.27, and to waiver car parking requirements under Clause 52.06.

## PERMIT PREAMBLE



To use the land for the purpose of a food and drink premises and a waiver of car parking requirements

## PROJECT TEAM



**Architecture** | Cohen Leigh Architects

**Traffic** | Traffix Group

**Waste Management** | Leigh Design

**Acoustic Engineering** | Resonate



# CONTENTS

INTRODUCTION	5
PHYSICAL CONTEXT	6
THE PROPOSAL	10
THE PLANNING CONTEXT	12
KEY PLANNING CONSIDERATIONS	17
CONCLUSION	26



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# 1 INTRODUCTION

This report has been prepared by Hansen Partnership on behalf of the City of Kingston and seeks planning approval to use the former Mentone Station building at 11-13 Como Parade and Balcombe Road, Mentone (the subject site) as a food and drink premises.

The revitalised Mentone station precinct has recently been completed as part of the Balcombe Road level crossing removal project. The heritage buildings, including the former Mentone Station building, were preserved and partly restored as part of these works.

Council now propose the adaptive re-use and re-purpose of the former Railway Station building. All major works proposed will be internal, save for a new external deck, ensuring the existing heritage building and significant trees continue to be honoured in this location.

The proposed 'Food and Drink Premises' use provides flexibility for the future of the venue, allowing it to operate in different ways, including a restaurant or a bar. These uses are nested under the overall 'Food and Drink Premises' use.

This report steps through an analysis of the site, its planning and physical context and the proposal's response to these considerations.

In summary, it will:

- Describe the existing conditions both on-site and in the immediate surrounds.
- Outline the details of the proposal and any alterations proposed to the building.
- Undertake an assessment of the proposal against relevant planning policy.

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A summary of the planning controls and permit triggers is provided below.

**Transport Zone 1 'State Transport Infrastructure'** | Permit triggered for proposed 'food and drink premises' land use under Clause 36.04-1

**Heritage Overlay, Schedule 'Mentone Station and Gardens' (H0106)** | No permit triggered at a Council level as the property is included on the Victorian Heritage Register (H2099). A Heritage Victoria permit has been granted.

**Environmental Significance Overlay, Schedule 3 - Significant Trees (ES03)** | No permit triggered.

The site is identified as being within an area of Aboriginal Cultural Heritage where no permit is triggered.

A permit is triggered under Clause 52.06 to waiver car statutory parking requirements.

This application is also informed by the following expert advice:

**Architecture** | Cohen Leigh Architects

**Traffic** | Traffix Group

**Waste Management** | Leigh Design

**Acoustic Engineering** | Resonate

In short, the former Mentone Railway Station and its Gardens is recognised as an important public asset to the community. The proposal seizes the opportunity to provide a much needed upgrade of the existing building for the use as a boutique food and drink venue that will benefit the broader community and local economy.



*Mentone Station in 1910*



## 2

## PHYSICAL CONTEXT

### THE SITE

The suburb of Mentone (formerly Balcombe) was initially developed as a 'European' seaside destination during the late boom of the 1880's.

The railway line was originally constructed in 1881 as an extension from Caulfield to Mordialloc. The existing station buildings were reconstructed in 1914 after a fire destroyed the platform and associated structures.

Both station buildings are single storey, timber structures with 'Gisborne Style' cantilevered platforms. They are largely intact, save for some alterations to the original roof and removal of a west wing.

The surrounding Gardens were formed in 1910 and include several significant trees, including 2 Norfolk Island Pines and 3 Canary Island Palms, as well as Peppercorn Trees. The gardens have undergone some modifications, and are maintained by a local community group (with support from Council Open Space team).

The Mentone Railway Station and Gardens is affected by HO106 and listed on the VHR given its example as an outstanding Edwardian timber railway station and public garden.



Site aerial - subject site indicated in red



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*The Former Mentone Railway Station and significant trees*



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*View towards the Northern building*



*Rear of the northern building*



*View of the southern building*



*View towards the site from the car park*



*Mentone Gardens*



*View towards the site*

### THE SURROUNDS

Mentone is a Major Activity Centre within Kingston, built around the historic train station and gardens.

It has a village feel and historic character comprising strip-based retail and laneway cafes, restaurants and retail venues. There is a family-friendly and relaxed atmosphere.

The existing heritage built form contributes to the areas unique identity, with newer built form punctuating the historic elements and fabric. These elements contribute to the physical character of the suburb, complemented by the manicured landscape of Mentone Gardens.

The precinct represents a lively and attractive historic setting. The former Mentone Railway Station building sits proudly within this setting, acting as the 'beating heart' of the precinct.

More recently, the precinct, like many other suburbs within Melbourne, has been devastated by COVID closures and there is an absence of hospitality venues in the area.

In summary:

- There are 11 cafes within a 250 metre radius, representing 55% of all venues along the strip.
- There are only 2 late night offerings, both being approximately 700 metres from the subject site and largely catering to an under 25 year demographic.
- A total of 10 'night' venues (52% of all venues within the Activity Centre).
- 9 licensed venues (47% of all venues within the Activity Centre).

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The recently revitalised Mentone Station precinct

# 3

## THE PROPOSAL

### PROJECT SUMMARY



Use of land for a 'Food and Drink Premises'



Internal Buildings and Works



Waiver of 9 Car Parking Spaces



Maximum 200 Patrons



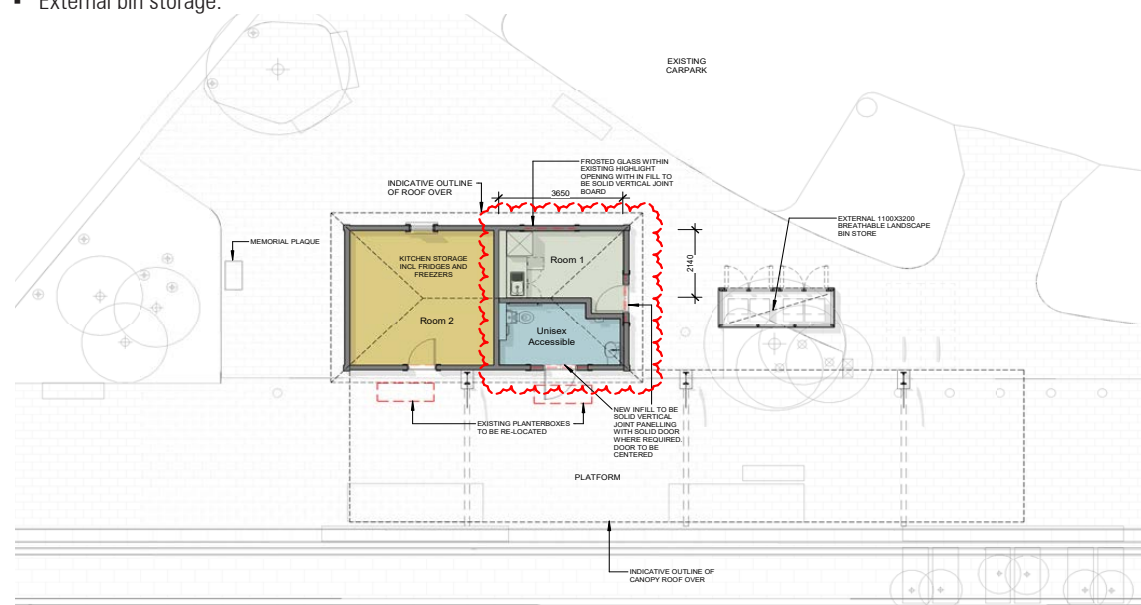
Opening hours:

- 5am to midnight Monday to Sunday.
- Liquor licence from 10am to midnight Monday to Sunday

### SOUTH BOUND BUILDING

The southern building will feature:

- Kitchen storage inc. freezer and fridge space.
- Additional storage/preparation room.
- A unisex bathroom for public use, on a dawn to dusk opening schedule.
- External bin storage.



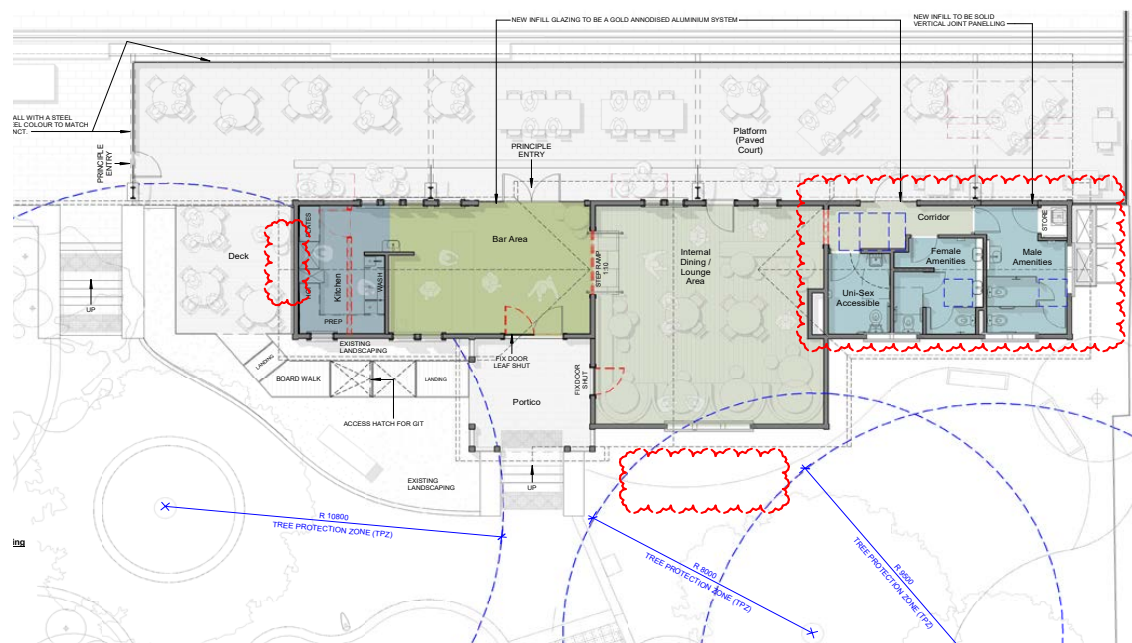
Proposed works within the south bound building



## NORTH BOUND BUILDING

The Northern building will feature:

- A 13m<sup>2</sup> kitchen.
- A 28m<sup>2</sup> bar area.
- A 59m<sup>2</sup> internal dining / lounge.
- Bathroom facilities, including a DDA accessible toilet.
- A 16m<sup>2</sup> timber deck.
- The former platform will be utilised for outdoor seating, with direct access to the northern building provided.
- Way-finding signage close to Como Parade.



Proposed works within the north bound building



# 4

## THE PLANNING CONTEXT

### PLANNING POLICY CONTEXT

A non exhaustive list of relevant planning policy is provided in the following.

#### Planning Policy Framework

- Clause 02.02 Vision
- Clause 13.05: Noise
- Clause 15.01 Built Environment
- Clause 15.01-1S Urban Design
- Clause 15.01-1R Urban Design - Metropolitan Melbourne
- Clause 15.01-1L-01 Urban Design - Kingston
- Clause 15.01-1L-02 Signs
- Clause 15.01-2S: Building Design
- Clause 15.01-5S Neighbourhood Character
- Clause 15.01-5L-01 Neighbourhood Character - Kingston
- Clause 15.03 Heritage
- Clause 15.03-1S Heritage Conservation
- Clause 15.03-1L Heritage Conservation - Kingston
- Clause 17 Employment
- Clause 1701-1S Diversified Economy
- Clause 17.02 Commercial
- Clause 18 Transport



*Existing significant trees*

PARTICULAR & GENERAL PROVISIONS

**Clause 52.06 Car Parking** | Establishes statutory car parking requirements. A waiver is sought to zero.

**Clause 52.27** | Requires a permit to sell and consume liquor on the site under the Liquor Control Reform Act 1998. A cumulative impact assessment and noise and amenity action plan are included in this report addressing matters relevant to the sale and consumption of liquor.

**Clause 52.34 Bicycle Facilities** | Establishes statutory bike parking requirements. Under this Clause, 3 bicycle spaces are required. Given 4 are provided on-site (2 bike hoops), this is satisfied.

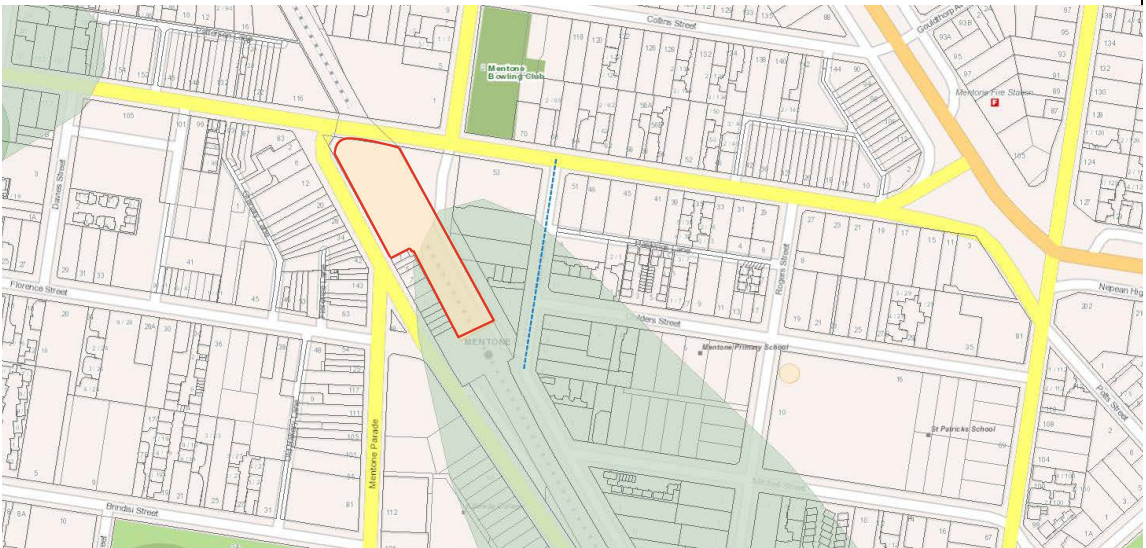
**Clause 52.05 Signage** | Under Clause 36.04-1 land within the Transport Zone, the sign category which applies is the category which applies to the adjoining zone nearest to the land. If land is equidistant from two or more adjoining zones, the least restrictive category applies.

The adjoining land is zoned ACZ. The ACZ1 (Mentone Activity Centre) notes that sign controls within Precinct 1 (the closest precinct to the site) fall into Category 1 (Commercial Areas) of Clause 52.05-11.

The proposed signage does not exceed the dimensions outlined within the table at Clause 52.05-11 and as such a permit is not required.

**Clause 53.06 Live Music Entertainment Venues** | For a food and drink premises including live music entertainment, a response to Clause 53.06 is required (as detailed later in this report). The application is supported by an acoustic report demonstrating that impacts can be managed and mitigated.

**Clause 62.02 Buildings and Works** | outlines a number of buildings and works not requiring a permit. Of particular relevance is the exemption related to buildings and works with an estimated cost under \$1M carried out by or on behalf of Council.



Aboriginal Cultural Heritage map

ABORIGINAL CULTURAL HERITAGE

The property is identified as being within an area of Aboriginal Cultural Heritage where no permit is triggered.

A Cultural Heritage Due Diligence Assessment is provided with the application. This notes the site has been subject to significant ground disturbance and is therefore not an area of cultural heritage sensitivity. A mandatory CHMP is not required in support of the proposal.



The site is located in the **Transport Zone 1**.

The purpose of the zone is:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To provide for an integrated and sustainable transport system.
- To identify transport land use and land required for transport services and facilities.
- To provide for the use and development of land that complements, or is consistent with, the transport system or public land reservation.
- To ensure the efficient and safe use of transport infrastructure and land comprising the transport system

A 'Food and drink Premises' is a Section 2 use, and as such a permit is required for use given it is not for the purpose of Transport (Clause 36.04-1). A permit is normally required to construct a building or carry out works for any Section 2 Use (Clause 36.04-2).

However, as the minor external works are under \$1M and carried out by Council, a permit is not required as per Clause 62.02-1.

Due to the site's location within the TRZ1, the written consent of VicTrack, as delegated by the Department of Transport, has been sought and granted. This is included with the application.



Zoning map





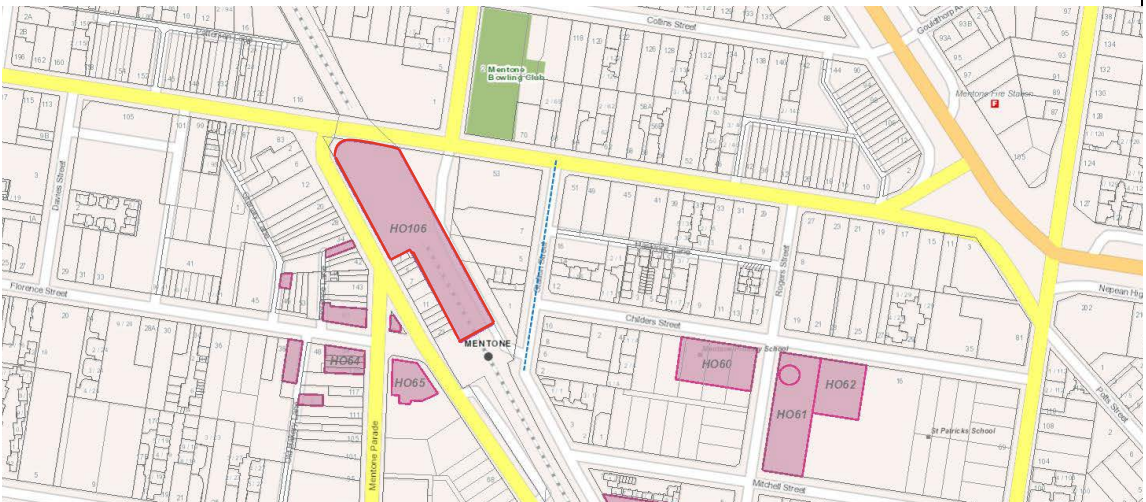
The site is located in the **Heritage Overlay, Schedule 'Mentone Station and Gardens' (H0106) at 11 - 13 Como Parade and Balcombe Road, Mentone.**

The heritage place includes the area generally bounded by Mentone Parade, Balcombe Road and a curtilage around the station platforms.

The purpose of HO is:

- *To implement the Municipal Planning Strategy and the Planning Policy Framework.*
- *To conserve and enhance heritage places of natural or cultural significance.*
- *To conserve and enhance those elements which contribute to the significance of heritage places.*
- *To ensure that development does not adversely affect the significance of heritage places.*
- *To conserve specified heritage places by allowing a use that would otherwise be prohibited if this will demonstrably assist with the conservation of the significance of the heritage place.*

No planning permit is triggered under H0106 at a Council level as the property is included on the Victorian Heritage Register (H2099). A separate Heritage Victoria permit has been applied for and granted (P35804).



HO map



The site is located in the **Environmental Significance Overlay, Schedule 3 - Significant Trees (ES03)**.

The purpose of ES03 is:

- To implement the Municipal Planning Strategy and the Planning Policy Framework.
- To identify areas where the development of land may be affected by environmental constraints.
- To ensure that development is compatible with identified environmental values.

ES03 relates specifically to the following Significant Trees:

- The *Acaucaria heterophylla* south of the railway entrance.
- The *Phoenix canariensis* south of the railway entrance.
- The *Phoenix canariensis* north of the railway entrance.

A permit is not triggered for buildings and works under the ES03 given the proposal falls under the exemptions listed at Clause 62.02-1 for buildings and works that are estimated to be under \$1m and carried out by or on behalf of the Municipality.

It is noted however that the trees are not impacted as a result of the proposal.



ES0 map

# 5

## KEY PLANNING CONSIDERATIONS

Having regard to the previous section of this report and the Kingston Planning Scheme, the following section of this report will address the relevant planning and design consideration.

In summary, it will seek to answer the following:

- Is the proposal supported by planning policy?
- Is there any impact on heritage?
- Will the proposal result in any amenity impacts?
- Is there any impact on the significant trees?
- What is the impact, if any, on car parking and traffic?

In short, we are of the view that the proposal is an appropriate response to the physical and planning policy context and will result in a positive contribution to the area.



Mentone Activity Centre





### Is the proposal supported by planning policy?

The site is located within the revitalised Mentone Station precinct, within the Mentone Major Activity Centre. The proposed food and drink premises will complement the mix of uses typically found in the area and around the Station precinct. This is an accessible location, and thus responds to the wider policy intent for a mix of land uses that will facilitate and foster modest economic growth in activity centres and well-serviced locations (Clauses 17-01-S, 17.01-1R, 17.02-1S & 17.02-1L-01).

The works are largely confined internally, to retrofit and re-purpose the former historic Station building as a food and drink premises. The architecturally designed interior prepared by Cohen Leigh Architects is of a high quality, curated with contemporary materials which will contribute to a positive and engaging atmosphere, complementary to the historic character of the village. The premises is intended to cater to a wide demographic, with emphasis on a family friendly environment, and encouraging activation of the public realm (Clauses 15, 15.01-1S, 15.01-1R, 15.01-1L-01 & 15.01-2S).

The re-purpose of heritage building will ensure these historic assets continue to contribute to the unique character of the precinct. This is considered appropriate to the heritage character of the centre and surrounding nature of development as required by policy (Clauses 15, 15.01-1S, 15.01-5S, 15.03 & 15.03-1L).



*The northern building and significant tree*

Hansen Partnership



## Is there any impact on heritage?

The site is affected by HO106 which relates to the Mentone Railway Station and Gardens, generally bound by Mentone Parade, Balcombe Road and a curtilage around the station platforms.

It should be noted that given the site's inclusion on the VHR, no planning permit is triggered at Council level under the Heritage Overlay. A separate Heritage Victoria permit has been applied for and granted (P35804).

As such, heritage is not a relevant consideration under this application.

Notwithstanding the above, to enable complete transparency, the following details all proposed works to the existing station building and its gardens.

Glass balustrade is proposed on the heritage deck to provide outdoor weather protection. There will be minor penetration to the existing north bound building for services (air conditioning etc). There will also be doors placed on both the north and south bound buildings where currently there is just an opening (protected by hoarding at present). This includes doors to the nominated commercial area and on to the public toilets/store room on south building.

A Cultural Heritage Due Diligence Assessment is provided with the application. This notes the site has been subject to significant ground disturbance and is therefore not an area of cultural heritage sensitivity. A mandatory CHMP is not required in support of the proposal.



The northern building and significant trees



## Will the proposal result in any amenity impacts?

### 1

#### Potential for Amenity Impacts

The proposal will have no impact on either the safety or amenity of the surrounding community. In response to Clauses 13.05 and 53.06 of the Planning Scheme, the application is supported by an acoustic report prepared by Resonate (16 August 2022), which demonstrates how impacts can be managed and mitigated to an acceptable level.

The location of the site is well suited to accommodate the proposed food and drink premises use, being the heart of the Activity Centre.

It is recognised that while there are residential uses in the immediate environs, there is a realistic expectation for noise and a lively environment when living within a Major Activity Centre. Any impacts to these properties can be readily managed through permit conditions that limit potential noise impacts and hours of operation.

The premise does not propose to operate beyond midnight and the earliest liquor sale is from 10am. Given the mix of uses in the surrounds, it is not anticipated that the proposed hours of operation will result in any amenity loss.

Patron activity is largely contained internally. The maximum number of patrons on premises will be 200 - this represents a peak or maximum, rather than the constant number on site. Venues of this size are also generally considered low

risk and as mentioned previously, the location of the site within an Activity Centre is well suited to the proposed use.

Movement of patrons entering and exiting the premises will be responsibly managed by staff. There is also increased opportunity for a public safety and surveillance from the deck and as patrons enter and leave the premises.

The acoustic report concludes that patron noise from the outdoor seating area is predicted to comply with the Environment Protection Authority (EPA) noise limits provided controls are put on the outdoor area during the Night period (10pm to 7am).

Generally background music will be played on premises. Occasionally, live music will be played on the 16m<sup>2</sup> outdoor deck, however, this is not expected to be a common occurrence. There will be no live music outdoors during the Night period (past 10pm). As such, the acoustic report concludes that music noise levels are predicted to comply with EPA music noise limits.

The waste collection service is to be provided by a private operator who will collect waste on-site during off-peak traffic periods. Noise minimisation initiatives have been incorporated, and swept path diagrams have been provided with the application to demonstrate vehicle movement and access.



## Will the proposal result in any amenity impacts?

### 2

#### Cluster Analysis

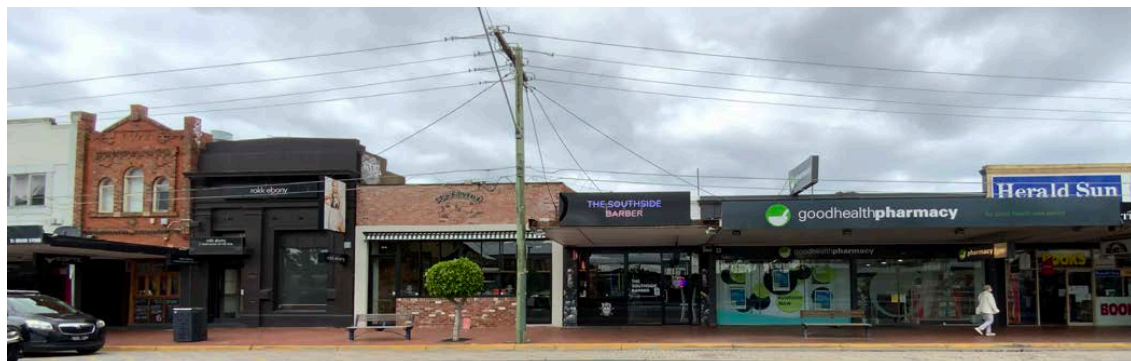
A cluster of licensed premises exists in the area, with 18 licensed premises within proximity of the subject site, 9 of which are in the Activity Centre boundary.

Most of these licensed premises are restaurants and cafes which operate with a restaurant and/or cafe on-premise liquor licenses.

In this context, the proposed use will operate without contributing any significant increase to the cumulative impact on the area.

The modest number of patrons on the premise is expected to disperse gradually, and can readily move to other venues within the surrounding area. The absence of regular live music and provision of table service will further limit amenity impacts.

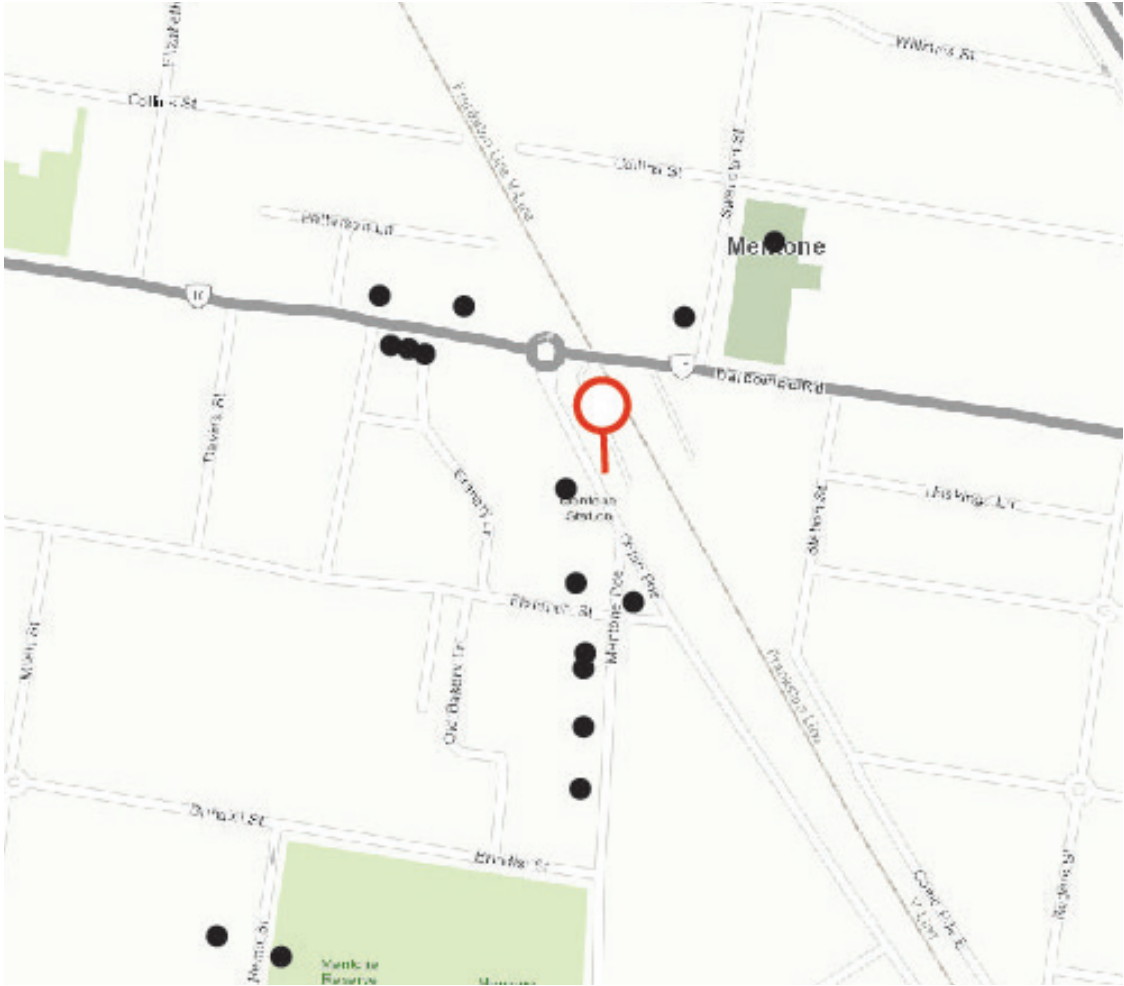
The table and map on the following page illustrates those premises that operate with a liquor licence.



Strip retail found within the Activity Centre

**ADVERTISED PLANS**  
**Documentation May**  
**Be Subject to Copyright**

NAME OF VENUE	LICENCE TYPE
The Corner Store	On-Premises
Busy Boy Cafe	On-Premises
Thai Wah Restaurant	BYO Permit
Thai Village Restaurant	Restaurant & Cafe
BWS	Packaged Liquor
TAO Dumplings	Restaurant & Cafe
Truly Scrumptious	Restaurant & Cafe
Sunnyside Sliced	Restaurant & Cafe
Kofte Grill Bar	Restaurant & Cafe
Marpha Indian & Nepal Restaurant	Restaurant & Cafe
La Porchetta Pizza	Restaurant & Cafe
Xing Restaurant	Restaurant & Cafe
White Bricks	Restaurant & Cafe
Just Italy Mentone	General Licence
Duncans of Mentone Liquor Shop	Packaged Liquor
Mentone Cricket Club	Renewable Limited
Mentone & St Bedes O.C.A.F.C	Renewable Limited
Mentone Bowls Club	Renewable Limited



Existing liquor licence in the immediate environs (shown in black)





Is there any impact on significant trees?

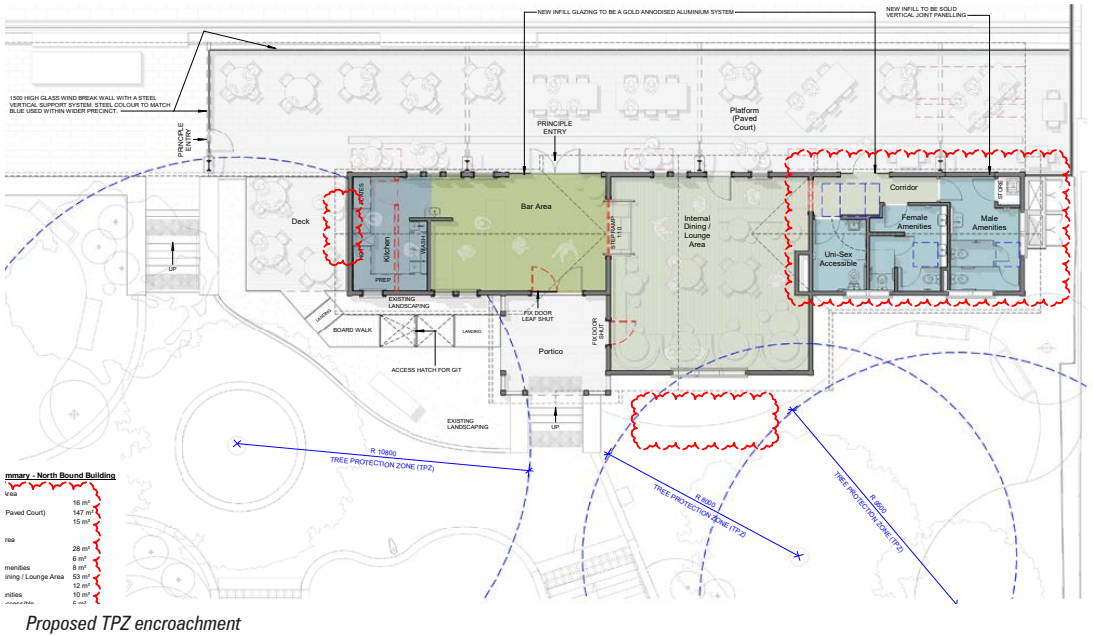
The site is affected by the ESO given the significant Norfolk Pine (*Acaucaria heterophylla*) and two Canary Island Date Palm (*Phoenix canariensis*) adjacent the station building.

These are recognised on Council’s Significant Tree Register as an important landmark and contribution to the valued landscape setting.

It is again highlighted that as the proposed external works located within the TPZs, generally associated with the deck, are to be carried out by Council and are under \$1M, then they are exempt from a planning permit as per Clause 62.02-1. As such, the ESO is not a relevant consideration under this application.

It is however noted that from a planning perspective, a 10% Tree Protection Zone (TPZ) encroachment is generally considered acceptable.

As demonstrated in the image opposite, the majority of works are internal to the existing building fabric (exception of the deck and balustrade), further limiting impact on the TPZ. The encroachment of TPZ of these trees is not significant, and easily falls under the 10% allowable. As such, they will not be impacted by the proposal.







## What is the impact, if any, on car parking and traffic?

### 1

#### Statutory Requirement

Under Clause 52.06, 9 statutory car parking spaces are required. Given the application seeks to utilise the existing heritage building, a full reduction of car parking to zero is sought.

This waiver is considered acceptable, given the site is located in the Mentone Activity Centre and the Principal Public Transport Network Area (PPTN), which demonstrates its excellent accessibility to a wide range of public transport opportunities within walking distance.

Reduced car parking rates apply for properties within the PPTN as it is recognised they benefit from their access to public transport and necessary urban infrastructure.

The nature of the use, combined with the site's location within the Activity Centre, adjacent the Railway Station mean that most clientele will access the premises via foot as a 'by-product' of the surrounding activity.

The peak usage associated with a food and drink premises is expected to primarily occur on weekday evenings and weekends. Traffix Group have assessed the usage and have concluded that the traffic generated can be readily accommodated.

### 2

#### Car Parking Demand

A car parking demand assessment has been undertaken by Traffix Group to assess the impact (if any) on a reduction of car parking spaces in the area - refer the accompany Car Parking Demand Assessment accompanying this application.

This assessment found:

- Given the site's location adjacent the Mentone Railway Station and within the Mentone Activity Centre, the clientele will effectively be a 'by-product' of existing surrounding activity.
- During the week, the use is likely to be driven by the surrounding area and the car parking generated by the site can be readily accommodated.
- While there may be more weekend and evening period demand, the car parking assessment found that the proposal can be supported by the existing car parking resources surrounding the site. The car parking survey revealed at least 204 vacant car parks at 6pm within 200m of the site.
- The car parking strategy aligns with the objectives of Council planning policy, which seeks to reduce dependence on private motor vehicle use.
- The site is well located to take advantage of access to sustainable transport, such as public transports, cycling, walking and rideshare/taxis.

3

Access to Alternative Transport Modes

The site is in an ideal location to take advantage of sustainable transport options.

Within a few metres, one has access to:

- Frankston Train Line, between the City and Frankston.
- Bus Route 903 along Balcombe Road.
- Bus Routes 708, 811, 812 and 825 along Como Parade.

There is plenty of bicycle infrastructure, including bicycle routes (off-street paths and on-street bicycle lanes). Four (4) bicycle parking spaces are provided on site (2 hoops).

Given the nature of the use, it is anticipated that alternative transport modes will be highly used by future patrons.



Kingston Public Transport map

# 6

## CONCLUSION

We encourage Council to approve the proposal for the following reasons:

- The proposed use is consistent with the relevant provisions of the Kingston Planning Scheme.
- It meets the requirements of the zone and relevant overlays.
- It is a high quality architectural response that makes excellent use of a heritage building that will further contribute to the revitalised Mentone Railway Station precinct.
- The proposal provides a family friendly community hospitality venue.
- It provides net community benefit to the Mentone Activity Centre and the wider community.
- The venue will operate in a responsible manner, and have minimal off-site amenity impacts, including cumulative impacts in conjunction with other licensed premises.
- The car parking waiver is considered to be minimal and is in a highly accessible location and the car parking demand can be accommodated within the surrounding area.



*The former Mentone Railway Station building and surrounding gardens*

## Planning Committee Meeting

14 December 2022

**Agenda Item No: 4.4**

### **KP-2016/465/A - MOORABBIN RESERVE, 32-60 LINTON STREET MOORABBIN**

**Contact Officer: James Leonard, Principal Planner**

#### **Purpose of Report**

This report is for the Planning Committee to consider Planning Permit Application No. KP-2016/465/A - Moorabbin Reserve, 32-60 Linton Street, Moorabbin.

#### **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 an amended Planning Permit to Amend permit condition 34 by allowing the community gym, aquatics area and recovery area (stage 2) to operate earlier from 5:30am (7 days) rather than previously approved 7:00am (7 days) at Moorabbin Reserve, 32-60 Linton Street, Moorabbin, subject to the conditions contained within this report.

This application requires a decision by Council as it is an application on Council owned land.

**City of Kingston  
Planning Committee Meeting**

**Agenda**

**14 December 2022**

**EXECUTIVE SUMMARY**

<b>Address</b>	Moorabbin Reserve, 32-60 Linton Street, MOORABBIN VIC 3189
<b>Legal Description</b>	Lot 1 on TP678542Q Lot 1 on TP409682D
<b>Applicant</b>	St Kilda Football Club
<b>Planning Officer</b>	James Leonard

**PLANNING REQUIREMENTS**

<b>Planning Scheme</b>	Kingston
<b>Zoning</b>	Clause 36.02 – Public Park and Recreation Zone
<b>Overlays</b>	Clause 44.50 – Special Building Overlay
<b>Permit Trigger/s</b>	No new permit triggers from this proposal.

**APPLICATION / PROCESS**

<b>Permit</b>	Use and development of the land for a minor sports & recreation facility and a restricted place of assembly (Clause 36.02), To provide car parking to the satisfaction of the Responsible Authority (Clause 52.06-5A), To vary the existing liquor licence and to grant a new on-premises liquor licence (Clause 52.27), To undertake buildings and works in an area covered by a Special Building Overlay (Clause 44.05)		
<b>Proposal</b>	Amend permit condition 34 by allowing the community gym, aquatics area and recovery area (stage 2) to operate earlier from 5:30am (7 days) rather than previously approved 7:00am (7 days)		
<b>Reference No.</b>	KP-2016/465/A	<b>RFI Received</b>	N/A
<b>App. Received</b>	20 September 2022	<b>App. Amended</b>	N/A
<b>S.52 Advertising Commenced</b>	20 October 2022	<b>Advertising Completed</b>	7 November 2022
<b>S.55 Referrals</b>	N/A		
<b>Internal referrals</b>	Yes		
<b>Objection(s)</b>	Nil (TRIM checked on 21/11/2022)		

**LEGISLATIVE**

<b>Covenant/other Restriction</b>	No	Complies: N/A
<b>Aboriginal Cultural Sensitivity Area</b>	Yes	
<b>CHMP</b>	Exempt	

**DISCLOSURE OF OFFICER / CONTRACTOR DIRECT OR INDIRECT INTEREST**

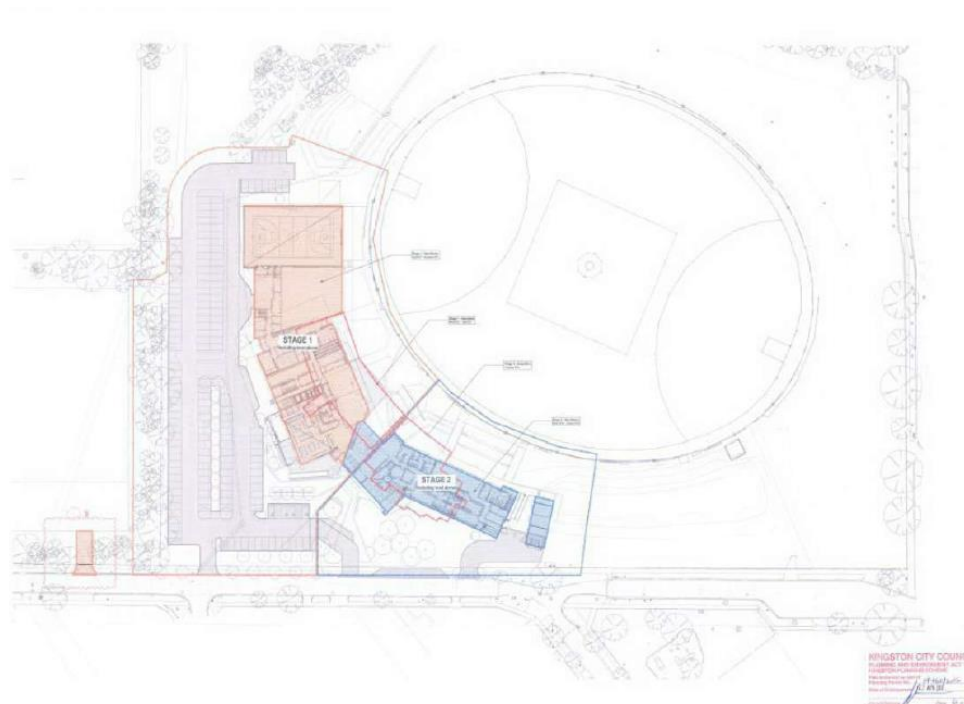
No Council officer/s and/or Contractor/s who have provided advice in relation to this report have declared a Conflict of Interest regarding the matter under consideration.

## **1.0 PERMIT HISTORY**

- 1.1. Planning Permit KP-2016/465 was issued on 23 December 2016 and provided for the redevelopment of the existing facilities and grounds at Moorabbin Reserve. The permit was issued for the:

*Use and development of the land for a minor sports & recreation facility and a restricted place of assembly (Clause 36.02), To provide car parking to the satisfaction of the Responsible Authority (Clause 52.06-5A), To vary the existing liquor licence and to grant a new on-premises liquor licence (Clause 52.27), To undertake buildings and works in an area covered by a Special Building Overlay (Clause 44.05)*

- 1.2. This permit supported the original 'Stage 1' and 'Stage 2' buildings and works.



*Image 1 - Original approved staging plan under KP-2016/465*

- 1.3. Planning Permit KP-2018/523 was issued on 22 October 2018 for

*Buildings and works in a Special Building Overlay, in association with a minor sports and recreation facility and restricted place of assembly and to provide car parking to the satisfaction of the Responsible Authority.*

- 1.4. This permit supported additions to the 'Stage 2' buildings and works, that being 'Stage 2A' and 'Stage 2B' as shown below.



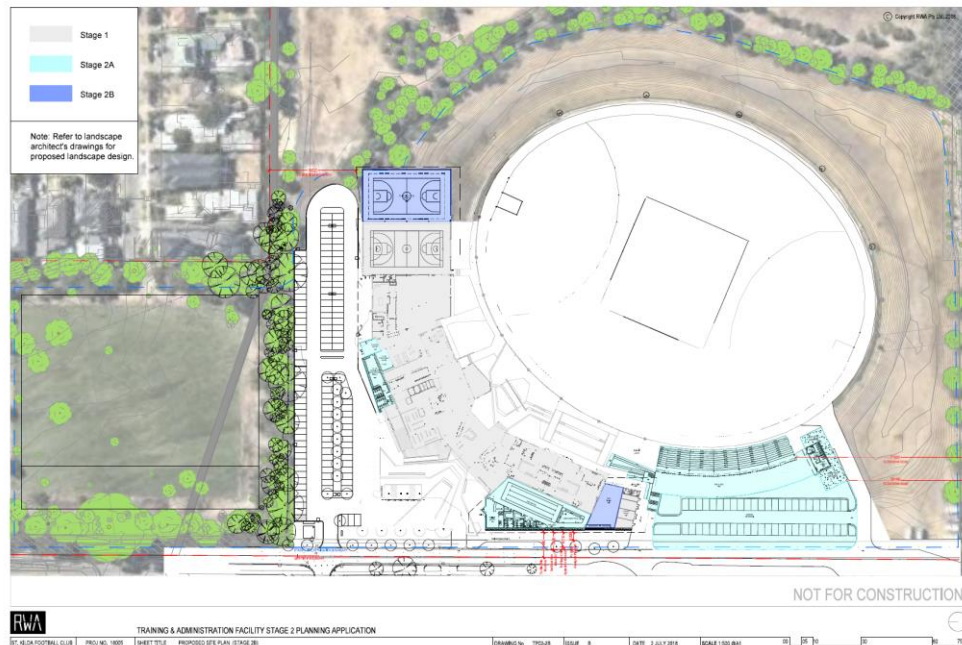


Image 2 - Original approved staging plan under KP-2018/523

- 1.5. Planning Permit KP-2019/236 was issued on 7 August 2019 for

*The construction of a grandstand, pool complex, scoreboard and associated car parking.*

- 1.6. This permit updated the southern part of the 'Stage 2A' buildings and works shown above (now referred to as 'Stage 2B' – Danny Frawley Centre).
- 1.7. The 'Stage 1' and part of the 'Stage 2' redevelopment works approved under the 2016, 2018 and 2019 planning permits have either been completed or are under construction.
- 1.8. The 2016 permit (KP-2016/465) set out operation hours for the development under Condition 34. Condition 34 states the following:

*The uses must operate only between the hours nominated below:*

- *Training Field and Associated Lights: 7.00am to 10.00pm, seven days*
- *Internal Sports Facilities: 7.00am to 10.00pm, seven days,*
- *Gaming Room and Lounge: 9.00am to 1.00am the following day, Monday to Saturday and 10.00am to 1.00am the following day, Sunday*
- *Function Room: 7.00am to 1.00am the following day, seven days with the exception of 12 days per calendar year, where the hours can be extended from 7.00am to 2.00am the following day.*

*Or otherwise as approved by the Responsible Authority in writing.*

- 1.9. Further, the operation hours under Condition 34 of Planning Permit KP-465/2016 are also referenced in permits for subsequent stages of development across the Site.

This includes:

- Stage 2 (Stage 2A, 2C, 2D) – Planning Permit KP-2019/236 – Condition 8
- Stage 2B - Planning Permit KP-2018/523 – Condition 17

- 1.10. Planning Permit KP-2018/523 and KP-2019/236 both include parts of the Danny Frawley Centre, including a Community Gym, recovery centre and aquatics area, contained within Stage 2B and 2C.
- 1.11. The operation hours for these activities are set out under the 2016 Permit. The operation hours set out for these activities were set prior to them being implemented on the Site.
- 1.12. Under Condition 34 of the 2016 permit these activities fall under the category of 'Internal Sports Facilities', with operational hours of 7am and 10pm applicable.

## **2.0 SITE & SURROUNDS**

<b>Subject site</b>	<p>The Moorabbin Reserve is located on the east side of Linton Street, to the south of South Road and the Bowling Club. It comprises approximately 10.6ha of land owned by the City of Kingston, of which the St Kilda Football Club lease part of this land.</p> <p>As detailed in the image below, the subject site has frontage to Linton Street (west) and Doonga Avenue (south) and incorporates the existing oval, stadium facilities and associated car parking. As noted previously, 'Stage 1' and 'Stage 2A' have been completed and 'Stage 2B' is currently under construction.</p> <p>The Reserve gains access to the surrounding road network via five double-width vehicle crossovers off Linton Street and two gated accessways off Doonga Avenue. There are approximately 206 publicly available on-site parking spaces.</p>
<b>Surrounds</b>	<p><u>North</u></p> <p>The Moorabbin Reserve Bowls Club occupies the land at 426 South Road, at the northern end of the Moorabbin Reserve. The bowls club comprises playing greens and a clubhouse and car park facility adjacent to the site. Vegetation is established around the edges of the car park and scattered within the site frontage alongside signage within the South Road frontage.</p> <p><u>East</u></p> <p>The rear (or side) of residential properties fronting Sheppard Street, Margaret Street and Clay Street abut eastern parts of the site and/or the reserve. Restricted vehicular access is available to the site from the western end of Margaret Street.</p> <p>No. 1 Sheppard Street is located at the northwest corner of Sheppard Street and Margaret Street and is an example of recent infill development, having been recently subdivided and developed with a second dwelling toward the rear of the site. The dwelling comprises two storeys and benefits from a level of amenity enhanced by an immediate abuttal, access and aspect to the subject site. No. 2 Margaret Street also adjoins the reserve along it's south and west boundary and is developed with three double storey dwellings. Numerous other multi-unit developments have occurred along Sheppard Street, Margaret Street and Clay Street over the last few years, in varying styles and densities.</p> <p><u>South</u></p> <p>Residential properties in Doonga Avenue currently benefit from a relatively unobscured view and access to the southern end of the site and training and clubhouse facilities. In addition, Doonga Avenue provides direct access to the pedestrian network and 'off leash' dog walking areas in the southeast part of the site.</p>

The experience of residential properties in Doonga Avenue is currently influenced by the presence of existing overhead sports lighting facilities, which are positioned at intervals around the main oval.

West

Linton Street defines the site's west boundary connecting with South Road at its northern end.

West of Linton Street are residential, public open space, light industrial and commercial uses, including Harvey Norman. These sites are earmarked for a primarily residential redevelopment and complementary commercial uses with an application approved for a 3 - 10 storey building at 420 South Road, Moorabbin.

Horscroft Place is a cul-de-sac and accommodates a range of light industrial uses but was recently re-zoned to the Activity Centre Zone. Therefore, this area may also be re-developed in the future. Horscroft Place also accommodates a key pedestrian link with Central Avenue (to the west), which is a connection between the Moorabbin Activity Centre, the Principal Public Transport Network and Holmesglen TAFE, via the Moorabbin Reserve.

2.1. The following images and map illustrate the subject site in its surrounding context.



*Image 3 – View of the subject site looking south east from no. 35 Perry Street*





Image 4 – View of the subject site looking north east from no. 35 Perry Street

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

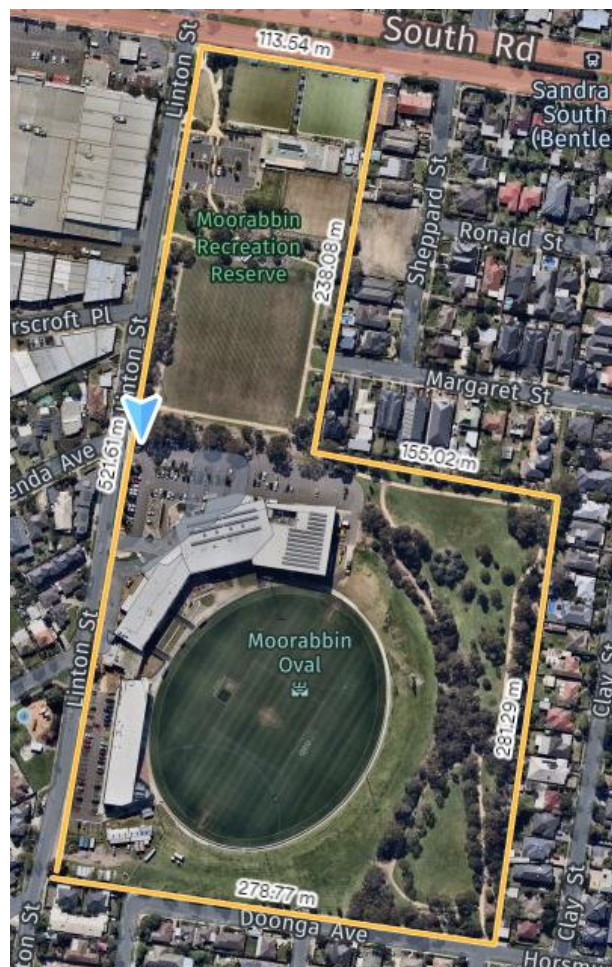


Image 5 – NearMap 14 September 2022

### **3.0 PROPOSAL**

- 3.1. The application seeks to amend Condition 34 of the planning permit, allowing the operation of the Community Gym, Recovery Centre and Aquatics areas are proposed to commence at 5:30am.
- 3.2. Condition 34 is to read as follows:

*The uses must operate only between the hours nominated below:*

- *Training Field and Associated Lights: 7.00am to 10.00pm, seven days*
- ***Internal Sports Facilities: 7.00am to 10.00pm, seven days, with the exception of the Community Gym, Aquatics area and Recovery area (Stage 2) which may operate between 5.30am to 10.00pm, seven days***
- *Gaming Room and Lounge: 9.00am to 1.00am the following day, Monday to Saturday and 10.00am to 1.00am the following day, Sunday*
- *Function Room: 7.00am to 1.00am the following day, seven days with the exception of 12 days per calendar year, where the hours can be extended from 7.00am to 2.00am the following day.*

*Or otherwise as approved by the Responsible Authority in writing.*

- 3.3. No other conditions of the permit are sought to be amended by this amendment.

### **4.0 LEGISLATIVE PROVISIONS**

- 4.1. The amendment has been requested pursuant to section 72 of the Act.
- 4.2. Section 72 of the Act states:

*(1) A person who is entitled to use or develop land in accordance with a permit may apply to the responsible authority for an amendment to the permit.*

*(2) This section does not apply to-*

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

- 4.3. It has been established that the Permit:

- was not issued at the direction of the Tribunal;
- was not issued under Division 6 of the Act.

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

**5.0 RELEVANT POLICIES**

**5.1. Purpose and Vision**

Clause 02.03 Strategic Directions

**5.2. Planning Policy Framework (PPF)**

Clause 11 Settlement

Clause 13 Environmental Risks and Amenity

Clause 17 Economic Development

Clause 18 Transport

Clause 19 Infrastructure

**6.0 PLANNING PERMIT PROVISIONS**

**Zone**

- 6.1. Public Park and Recreation Zone: Pursuant to Clause 36.02-1 of the Kingston Planning Scheme, a planning permit is required to use the land for a minor sports & recreation facility and a restricted place of assembly (Clause 36.02).
- 6.2. Public Park and Recreation Zone: Pursuant to Clause 36.02-2 of the Kingston Planning Scheme, a planning permit is required to construct a building or construct and carry out works.
- 6.3. Furthermore, pursuant to Clause 36.02-3, an application for a permit by a person other than the relevant public land manager must be accompanied by the written consent of the public land manager, indicating that the public land manager consents generally or conditionally.
- 6.4. A letter of permission from Peter Gillieron, Team Leader – Property Services for the proposed change to operational hours (dated 15 September 2022) was submitted with the application, satisfying this requirement.

**Overlay**

- 6.5. Special Building Overlay: Pursuant to Clause 44.05 of the Kingston Planning Scheme, a planning permit is required to construct a building or construct and carry out works.
- 6.6. No works are proposed as part of this amendment application.

**7.0 ADVERTISING**

- 7.1. 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.
- 7.2. No representations for or against this application have been received.



7.3. A Planning Consultation Meeting was necessary as no submission were received.

## **8.0 AMENDMENTS UNDER SECTION 50 / 50a / 57a OF THE ACT**

8.1. There were no formal amendments made by the permit applicant pre or post the notice period.

## **9.0 REFERRALS**

9.1. The amendment application was referred to Council's Social Development Department. No objection was raised to the proposal.

9.2. The amendment was referred to Council's Traffic Department who raised no objection to the proposal. This is discussed in further detail below section 10.10.

9.3. No external referrals were required for the amendment.

## **10.0 PLANNING CONSIDERATION**

10.1. The use of the land for the purpose of community facilities has already been assessed and considered as part of the original application, where it was deemed these uses are a positive contribution to Danny Frawley Centre and the broader municipality.

10.2. The amendment is limited to extending the operating hours of the community facilities from commencement at 7:00am to 5:30am, being 1.5 hours earlier than currently approved.

10.3. Assessment of this change to operation hours is generally limited in regard to the provision of the planning scheme as the use has existing approval, therefore consideration must be had for any potential amenity impacts the earlier commencement could result to the surrounding residential area.

10.4. The proposed amendment is considered to align with policy contained within Clause 02.03, Clause 11, Clause 13, Clause 17, Clause 18 and in particular is in accordance with the purpose and objectives of Clause 36.02 being the Public Park and Recreation Zone.

10.5. As part of the application material, the applicant has indicated that a 5:30am commencement of uses such as publicly accessible gyms, pools and associated recovery centres is an industry standard as the public commonly use these facilities in the early morning, generally prior to normal work hours.

10.6. The applicant has also provided a comparison to similar facilities, located within the Kingston municipality and surrounding areas. It is noted these facilities are similarly located adjacent to residentially zoned and used land. The following operational hours are currently permitted:

- *Kingston Waves – adjacent to GRZ3 (opens 6am),*
- *Dingley Goodlife Health Club – adjacent to GRZ3 (opens 6am),*
- *Clayton Aquatics and Health Club – adjacent to GRZ6 (opens 6am),*
- *Noble Park Aquatic Centre – adjacent to GRZ1 (opens 5.30am),*
- *Glen Eira Sports and Aquatic Centre – adjacent to NRZ1 (opens 5.45am), and*
- *Monash Aquatic and Recreation Centre – adjacent to GRZ3 (opens 5.45am).*

10.7. Various operating hours for similar privately owned premises within Kingston and surrounding municipalities is as follows:

- *F45 Moorabbin – opens 5:45am,*
- *Cross-Fit Moorabbin – opens 5:45am,*

- *Anytime Fitness – 24 hours / 7 days*
- *Cochranes Health and Fitness – 24 hours / 7 days*
- *Life Hub – opens 5:30am*
- *Star Fitness – 5:00am (24-hour access)*

10.8. This comparison shows that similar uses have commencement between 5:00am and 6:00am.

10.9. Regarding potential amenity impacts to surrounding residential properties, consideration must be had for traffic generation and road use, noise generation and light spill.

*Traffic Generation and Car Parking*

10.10. The conditions of the permit do not currently limit the use of the car park located on site. The use of the car park is associated with uses both associated with the permit and uses not regulated by the permit, for example dog walkers or users of the park land.

10.11. It is not considered the increase to the operational hours associate with the pool, gym or recovery centre would result in a significant increase in demand for the car park or result in significant traffic generation in the surrounding streets.

10.12. In relation to traffic generation and car parking, the change to the hours would not have a detrimental impact to surrounding residential properties.

10.13. The application was also referred to Council's Traffic Department who raised no objection to the proposal. It was considered the existing car parking on-site is sufficient to accommodate the demand generated by the 1.5 hour extension to the operating hours associated with the community gym, aquatics area and recovery area. This is highlighted by the peak demand on-site generally being later in the day, in the hours of the office operation, when the facilities are being utilised by the St Kilda Football Club, and on weekends for game days for example.

*Noise*

10.14. The noise sources generated by the pool, gym and recovery centre are located within the buildings, therefore there is no excessive noise generation / spill towards residential properties.

10.15. In relation to noise generation, the change to the hours would not have a detrimental impact to surrounding residential properties.

*Light Spill*

10.16. Light spill already existing within Linton Street in the form of street lights immediately adjacent to where the proposed activities in the Danny Frawley Centre are sought to occur.

The car park and associated access points into the centre have appropriate lighting that is not required to be altered to facilitate the earlier commencement of the use.

- 10.17. In relation to light spill, the change to the hours would not have a detrimental impact to surrounding residential properties.

**11.0 CONCLUSION:**

- 11.1. On balance, the proposal is considered to substantially comply with the relevant planning policy and therefore should be supported.
- 11.2. 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.
- 11.3. The proposed amendment to condition 34 is considered appropriate for the site as evidenced by:
- The proposal should not have a detrimental impact on surrounding properties (subject to appropriate conditions); and,
  - The proposal satisfies the requirements of the Kingston Planning Scheme, including the PPF, Strategic Vision and Zoning controls.

## **12.0 RECOMMENDATION**

- 12.1. That the Planning Committee determine to support the proposal and issue an amended Planning Permit, approving the varied hours of operation contained within Condition 34 for the:

Use and development of the land for a minor sports & recreation facility and a restricted place of assembly (Clause 36.02), To provide car parking to the satisfaction of the Responsible Authority (Clause 52.06-5A), To vary the existing liquor licence and to grant a new on-premises liquor licence (Clause 52.27), To undertake buildings and works in an area covered by a Special Building Overlay (Clause 44.05)

at Moorabbin Reserve, 32-60 Linton Street, MOORABBIN VIC 3189, subject to the following conditions:

1. Before the development starts amended plans to the satisfaction of the Responsible Authority must be submitted to and approved by the Responsible Authority. When approved, the plans will be endorsed and will then form part of the permit. The plans must be drawn to scale with dimensions and three copies must be provided. The plans must be substantially in accordance with the plans Development Plans, reference TP01 – TP06, prepared by Williams Ross Architects, dated June 2016, Perspective images, reference 07 - 12, prepared by Williams Ross Architects dated June 2016, Town Planning Assessment, prepared by 10 Consulting Group dated June 2016, Traffic Engineering Report, prepared by Ratio Consultants Pty Ltd, dated 29 June 2016, Waste Management Plan, prepared by Ratio Consultants Pty Ltd, dated 27 June 2016, Civil Engineering Statement prepared by Irwin Consult, Integrated Stormwater Management Plan, prepared by Irwin consult, dated 22 June 2016, revision 2, Landscape Plan prepared by MDG Landscape Architects, Sustainability Report, prepared by Irwin Consult, dated 29 June 2016, revision 4, Acoustic Report, prepared by Marshall Day Acoustics, dated 29 June 2016, Lighting Report, prepared by BRT Consulting Engineers, dated 23 June 2016 and Arboricultural Inspection Report, prepared by Arboriculture Pty Ltd, dated April 2016, but modified to show:
  - a. all requirements of Melbourne Water, in accordance with Conditions 3 to 7 of this permit
  - b. the layout of the lounge / café and entry area amended to strengthen the connection with the outdoor seating area and reducing focus on the gaming facilities
  - c. the proposed crossover and driveway access to the hardstand at the southern end of the building relocated to the north end of the road narrowing treatment
  - d. the provision of landscaping solutions (eg garden beds / trees) between the car park and forecourt area where possible
  - e. a materials and finishes schedule for all building works, hardscaping treatments and furniture / infrastructure including image samples with:
    - i. paving to withstand vehicle loading
    - ii. fountain details to include dog water bowl
    - iii. bollard types

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- f. plans to nominate the location of all bicycle parking spaces in accordance with the Traffic Report
- g. a suitably designed treatment to prevent access to the rear section of the car park after 10pm in accordance with the recommendation of the Acoustic report
- h. the colour of the maintenance shed to be 'Woodland Grey' or similar
- i. details of the proposed crossover to the overflow car parking area nominated
- j. the location of grease traps nominated
- k. path works nominated to be 'delivered by Council' as applicable
- l. location of lighting within the proposed car park
- m. the provision of a detailed landscape plan incorporating:
  - i. associated planting schedule showing location, species type, mature height and width, pot sizes, densities and number of species
  - ii. tree species in accordance with recommendations of Council's Parks and Recreation Team
  - iii. street tree plantings to be in accordance with Council's Street Tree Planting Guidelines
  - iv. trees to be purchased in 40cm/45L containers
  - v. ground cover densities to be four plants per square metre
  - vi. details of the proposed bio swale adjacent to the car park
- n. a staging plan including, but not limited to, the following information:
  - i. staging of demolition and construction, and
  - ii. the ongoing operation of existing uses on the land
- o. the provision of a Tree Management Plan (TMP) in accordance with condition 32 of this permit
- p. the Sustainable Management Plan (SMP), Built Environment Sustainability Scorecard (BESS) assessment and plans amended in accordance with the following:
  - i. documents updated to eliminate inconsistencies
  - ii. a waste reduction target nominated
  - iii. commitment to the preparation of an Operational Waste Management Plan
  - iv. the lighting control strategy to include lighting types and efficacy targets across different occupancy areas

- v. provision of a metering strategy for electricity gas and water
- vi. the external reflectance details amended in accordance with the development plans and finishes schedule
- vii. details of standard practice for heat exchange and improvements where such innovations are not possible
- viii. nomination of domestic hot water systems and strategies to ensure energy efficiency
- ix. provision of any HVAC strategy details for space occupancies, including efficiency details for proposed system(s) including control logic and energy savings if applicable
- x. specific details of the method and location of information relating to public transport scheduling
- xi. the development plans to nominate the catchment area
- xii. details of water efficiency of fixtures, fittings and irrigation
- xiii. clear commitments made within the innovation section of the SMP.
- q. The acoustic report amended to also include:
  - i. recommendations for clean-up activities following night time events,
  - ii. recommendations to provide noise attenuation to the sports court in accordance with the relevant legislation and / or guidelines

### **Endorsed Plans**

2. The use and development as shown on the endorsed plans must not be altered without the written consent of the Responsible Authority.

### **Conditions Required by Melbourne Water**

3. Any new building must be constructed with finished floor levels set no lower than 31.45 metres to Australian Height Datum, which is 300mm above the applicable flood level of 31.15m AHD.
4. The car parking areas must be set at natural surface levels.
5. Imported fill must be kept to a minimum on the property below the applicable flood level and must only be used for the sub floor areas of the buildings.
6. Prior to the commencement of works, a separate application direct to Melbourne Water must be made for the approval of any new or modified storm water connection to Melbourne Water's drains or watercourses. You can now apply using our online application process (<http://melbournewater.com.au/apply>).



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7. Pollution and sediment laden runoff must not be discharged directly or indirectly into Melbourne Water's drains or waterways.

**Stormwater Management Conditions**

8. Before the development commences, prior to submission of detailed Stormwater Management (Drainage) Plan of the development as per the condition below, a comprehensive stormwater management strategy of the site including a report with MUSIC model output and stormwater layout concept plan incorporating Rainwater Tanks for water reuse and other Water Sensitive Urban Design Treatments to achieve best practice objectives must be prepared as per Council's "Civil Design Requirements for Developers – Part A – Integrated Stormwater Management" to the satisfaction of the Council.
9. The Stormwater Management Strategy as per the condition above, must incorporate an appropriate management of 1 in 100 year flow paths from/through the subject site to Council satisfaction.
10. Before the development commences, a detailed Stormwater Management (drainage) Plan, in line with accepted Stormwater Management Strategy pursuant to the two conditions above, showing the stormwater works to the nominated point of discharge must be prepared to the satisfaction of the Responsible Authority. The Stormwater Management (drainage) Plan must be prepared by a qualified person and show all details of the proposed stormwater works including all existing and proposed features that may have impact (e.g. trees to be retained, crossings, services, fences, abutting buildings, existing boundary surface levels, etc.). The Stormwater Management Plan must be prepared as per Council's "Civil Design Requirements for Developers – Part A - Integrated Stormwater Management".
11. The development of the site must be provided with stormwater works which incorporates the use of water sensitive urban design principles to improve stormwater runoff quality and which also retains on site any runoff above the permissible site discharge. The system must be maintained to the satisfaction of the Responsible Authority. The satisfactory options to achieve these desired outcomes may include the use of an infiltration or bioretention system, rainwater tanks connected for reuse and a detention system.
12. Stormwater works must be provided on the site so as to prevent overflows onto adjacent properties.
13. The overall outflow of the development to Council drainage system must be limited to a discharge rate calculated as per Council's "Civil Design Requirements for Developers – Part A - Integrated Stormwater Management" and acceptable to Council.

**Build Over Easement Conditions**

14. Prior to the commencement of works a report must be prepared to the satisfaction of the Responsible Authority detailing measures and mitigations works to future proof the existing 1050mm Council pipe (located beneath the proposed building) for 80 years.
15. The report required as per the condition above must address the following requirements as a minimum:
  - a. Details of the proposed rehabilitation treatment of the existing pipe. Consideration

- should be given to lining the pipe (approximately 90m under the building between the new pits) to mitigate against concrete deterioration and joint displacement.
- b. A structural report including computations demonstrating the proposed pipe treatment and the proposed building footing design to avoid loading the existing pipe.
  - c. Engineering drawings to confirm the location, length and details of the proposed pipe treatment between junctions pits located to facilitate access to the section of pipe under the building.
16. All existing drainage connections into the existing 1050mm diameter Council pipe must be removed and sealed so that no other active stormwater pipes are located under the proposed building. The existing smaller diameter pipes shall be redirected as part of the proposed drainage design for the carpark and building surrounds. The CCTV report submitted earlier must be referred to for all the locations of these connections.
17. All existing drainage connections into the existing 1050mm diameter Council pipe must be removed and sealed so that no other active stormwater pipes are located under the proposed building. The existing smaller diameter pipes shall be redirected as part of the proposed drainage design for the carpark and building surrounds. The CCTV report submitted earlier to Council must be referred to for all the locations of these connections.
18. All of the existing pits along the alignment of the 1050mm Council pipe, within the full extent of all proposed works including the carpark, must be fully reconstructed to current Council standards as follows:
- a. Pits located within the carpark or building surrounds must have new cast iron / concrete infilled pit lids to suit the new surface levels.
  - b. Pits located under the proposed building, or at changes in pipe direction, must have buried lids or an alternative approved treatments to Council satisfaction.
19. All drainage construction or modification works to be at the developer's cost.
20. All reports, drawings and documentation required under any issued permit must be to Council's satisfaction.

**Road Infrastructure Conditions**

21. Prior to the commencement of works detailed engineering design drawings must be submitted to the satisfaction of and approved by the Responsible Authority showing all levels and storm water flows for the Shared User Path and Bus Drop Off Point.
22. Vehicle crossings must be constructed at a 90 degree alignment with the kerb on Linton Street and all internal driveways must align with the existing / proposed vehicle crossing.
23. The replacement of all footpaths, including offsets, must be constructed the satisfaction of the Responsible Authority.
24. All reinstatements and vehicle crossings must be constructed to the satisfaction of the Responsible Authority.

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25. Vehicle crossings and other reinstatements must be constructed to Council's industrial strength specifications.
26. All redundant vehicle crossing not in accordance with the endorsed plan must be removed (including redundant portions of vehicle crossings) and kerb reinstated to the satisfaction of the Responsible Authority.

**Function Management Plan**

27. Prior to the commencement of the use a Function Management Plan (FMP) to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority. The FMP must address the following:
  - a. the protection of the amenity of the neighbourhood in accordance with the amenity provisions of the applicable liquor licenses and the acoustic report
  - b. the management of functions so that off street parking can be assured for the combined uses on the site at any point in time
  - c. the availability of the alternative training facility for overflow car parking

**Traffic Management Conditions**

28. Prior to the commencement of use, payment must be made to Kingston City Council for the implementation of the residential parking scheme to the satisfaction of the Responsible Authority.
29. Prior to the occupation of the development an Event Management and Transport Management Plan must be prepared to the satisfaction of and approved by the Responsible Authority for any event exceeding 500 patrons. The Event Management and Transport Management Plan should address management recommendations at section 4.4 of the Moorabbin Reserve Traffic Impact Assessment Report prepared by Ratio Consultants Pty Ltd, dated 29 June 2016 and detail:
  - a. methods to encourage public transport usage to the site, including running additional services for peak days
  - b. management of parking resources within the site and consideration of remote car parking
  - c. traffic management at key intersections identified in the following the conclusion of the event.

**Construction Management Conditions**

30. Prior to the commencement of any buildings and works on the land (including demolition), a Construction Management Plan (CMP), to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority. The CMP must be prepared in accordance with the City of Kingston Construction Management Policy, July 2015 and Construction Management Guidelines, 1 November 2015 (and any superseding versions and / or documents). The CMP must specify and deal with, but is not limited to, the following elements:

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

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

**Ecologically Sustainable Development**

31. Prior to the occupation of any building approved under this permit, a report from the author of the SMP report, approved pursuant to this permit, or similarly qualified person or company. This report must be submitted to the satisfaction of the Responsible Authority. The report must confirm that all measures specified in the SMP have been implemented in accordance with the approved Plan.

**Tree Protection Conditions**

32. Prior to the endorsement of plans under condition 1 of this permit, a Tree Management Plan (TMP) must be submitted to show how trees 2, 4, 5, 11, 16, 29, 48-52 and 86-90 as nominated in the submitted arborist report will be protected pre, during and post construction, to the satisfaction of the responsible authority. The approved TMP will be endorsed and form part of the planning permit.
33. Prior to the commencement of any works on the site including demolition, a tree protection barrier must be installed at three (3) metres from the base of the *Eucalyptus scoparia* (Wallangarra White Gum) street tree located within the road narrowing treatment at the front of the site

**Operation Conditions**

34. The uses must operate only between the hours nominated below:
- Training Field and Associated Lights 7.00am to 10.00pm, seven days
  - Internal Sports Facilities 7.00am to 10.00pm, seven days, **with the exception of the Community Gym, Aquatics area and Recovery area (Stage 2) which may operate between 5.30am to 10.00pm, seven days**
  - Gaming Room and Lounge 9.00am to 1.00am the following day, Monday to Saturday

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- Function Room
  - 10.00am to 1.00am the following day, Sunday
  - 7.00am to 1.00am the following day, seven days with the exception of 12 days per calendar year, where the hours can be extended from 7.00am to 2.00am the following day.

Or otherwise as approved by the Responsible Authority in writing.

35. The operator of the function room must keep a venue operations plan (VOP) which lists the date of the events that conclude at 2am the following day. The VOP must show that the number of events is not exceeded to that allowed in the condition above. The VOP must be kept on the premises and be available for inspection by the Responsible Authority as soon as requested.
36. The sale and consumption of liquor on-premises (restaurant / café licence) associated with the Café / Kiosk must only occur between the hours nominated below:
- 7.00am to 6.00pm, seven days

Or otherwise as approved by the Responsible Authority in writing.

37. The sale and consumption of liquor (Full Club Licence) must operate in accordance with the conditions set out within the existing liquor licence (32103082) with the terrace and external forecourt area to comply with the sale and consumption between the following hours:
- 7.00am to 10.00pm except for:
  - Sunday 9.00am to 10.00pm and
  - Good Friday & Anzac Day 12.00 noon to 10.00pm
38. Any noise emitted from the site must comply with State Environment Protection Policy N-1 (Control of noise from commerce industry and trade) and State Environment Protection Policy N-2 (Control of music noise from public premises).
39. Parking areas and access lanes must be kept available for these purposes at all times and maintained to the satisfaction of the Responsible Authority.

**Amenity Conditions**

40. The amenity of the area must not be detrimentally affected by the development and/or use, through the:
- a. transport of materials, goods or commodities to or from the land
  - b. appearance of any building, works or materials
  - c. emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam
  - d. soot, ash, dust, waste water, waste products, grit or oil
  - e. presence of vermin, or

f. any other way

41. The loading and unloading of goods to and from vehicles must only be carried out on the land.
42. 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.

**Completion of the Development**

43. 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.
44. 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.
45. 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:
- a. Constructed to the satisfaction of the Responsible Authority.
  - b. Properly formed to such levels that they can be used in accordance with the plans.
  - c. Surfaced with an all-weather sealcoat to the satisfaction of the Responsible Authority.
  - d. Drained to the satisfaction of the Responsible Authority.
  - e. 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.
  - f. In accordance with any Council adopted guidelines for the construction of car parks.
46. Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.

**Permit Expiry**

47. 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 use and 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 this permit.
  - The use is discontinued for a period of two (2) years.

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

- before the permit expires; or



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

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**Note:** The applicable flood level for the location of the building that has a probability of occurrence of 1% in any one year is 31.15 metres to Australian Height Datum (AHD).

**Note:** If further information is required in relation to Melbourne Water's permit conditions shown above, please contact Melbourne Water on 9679 7517, quoting Melbourne Water's reference 255903.

**Note:** It is noted the development includes part of the proposed building to be built over the easement. Separate consent from Council and the relevant service authority is required to build over the easement and will need to be obtained prior to the issue of a Building Permit.

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

**Note:** Areas relating to food handling, storage and sales must be designed as per Australian Standard for the Design, Construction and Fit-out of Food Premises. By providing detailed plans for these areas to Council's Health Department for approval prior to construction and fit out, it will ensure the areas are compliant with the Food Act.

**Note:** All food premises must be registered with Council prior to the commencement of the use.

**Note:** The fee for the implementation of the Residential Parking Scheme \$10,000 plus GST.

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

**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.

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

Amendment	Date of Amendment	Description of Amendment	Name of responsible authority that approved the amendment
A	(Date to be the same as Date Amended)	Amending the conditions of the permit by: <ul style="list-style-type: none"><li>• Amending Condition 34 by adding the words <i>'with the exception of the Community Gym, Aquatics area and Recovery area (Stage 2) which may</i></li></ul>	City of Kingston

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		<i>operate between 5.30am to 10.00pm, seven days'</i>	
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<b>Date of Correction</b>	<b>Brief Description of the Correction</b>
28/02/2017	Correct the permit preamble and condition 36 to include on-premises which was omitted from the permit preamble and condition

Author/s: James Leonard, Principal Planner  
Reviewed and Approved By: Amy Lin, Team Leader Statutory Planning  
Jaclyn Murdoch, Manager City Development

## Planning Committee Meeting

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**Agenda Item No: 4.5**

### **1233 NEPEAN HIGHWAY, HIGHTT KP-2016/124/B S87A AMENDMENT**

**Contact Officer: Sarah Capenerhurst, Principal Strategic Planner**

#### **Purpose of Report**

This report is for the Planning Committee to consider a section 87A amendment to Planning Permit No. KP-2016/124/B - 1233 Nepean Highway, Highett.

#### **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:

1. Not to support the proposed section 87A amendment application for reasons outlined in this report.
2. That Council participate in the Compulsory Conference and Merits Hearing and advance the position outlined in this report, as well as advocate for changes to the amendment application in line with the recommendations provided in this report.

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EXECUTIVE SUMMARY				
Address	1233 Nepean Highway, HIGHETT VIC 3190			
Legal Description	Land in Plan of Consolidation 155598 Lots 26 and 27 on PS010356 Lots 1 and 2 on PS412251C			
Applicant	H1 Land Australia Pty Ltd C/O Urbis			
Planning Officer	Sarah Capenerhurst			
PLANNING REQUIREMENTS				
Planning Scheme	Kingston Planning Scheme			
Zoning	Clause 32.04 – Mixed Use Zone			
Overlays	Clause 42.01- Environmental Significance Overlay Schedule 3 (ESO3) Clause 43.02- Design and Development Overlay Schedule 21 (DDO21) Clause 44.05- Special Building Overlay (SBO) Clause 45.12- Specific Control Overlay Schedule 14 & 15 (SCO14 &15)			
Particular Provisions	Clause 52.06 – Car Parking Clause 52.29 – Land adjacent to the Principal Road Network Clause 52.34 – Bicycle Facilities Clause 58- Apartment Developments			
Permit Trigger/s	Clause 32.04 -2 a permit is required to use the land for a shop where the leasable floor area exceeds 150sqm Clause 32.04 - 6 a permit is required to construct a building or construct or carry out works associated with a residential building. Clause 32.04-8 a permit is required to construct a building or carry out works for a section 2 use. Clause 42.01- a permit is required to construct a building or construct or carry out works Clause 43.02- a permit is required to construct a building or construct or carry out works Clause 44.05 – Construct or carry out Buildings or Works in a Special Building Overlay Clause 52.06 2- the car parking spaces required under Clause 52.06-5 must be provided on the land prior to the commencement of a new use. A permit may be granted to reduce or waive the number of car spaces required by the table included in Clause 52.06-5. Clause 52.29 – Land adjacent to the Principal Road Network			
APPLICATION / PROCESS				
Proposal	S87A application (before the Tribunal) to amend Planning Permit No. KP-2016/124.			
Reference No.	KP-2016/124/B	RFI Received	N/A	
App. Received	20 Sept 2022	App. Amended	N/A	
Site inspection	Yes	Advertising Completed	No	
S.52 Advertising	Yes (7th-23rd November) directed by VCAT			
S.55 Referrals	Transport for Victoria, Melbourne Water, Suburban Rail Loop			
Internal referrals	Yes			
Objection(s)	Two (2) Statements of Grounds have been received to date (checked 29/11/2022)			
Vegetation	Trees > 8m	Yes-protected ESO	No. of Trees to be removed (circumference 110cm)	N/A

<b>Application to be determined under officer delegation</b>	This application is considered to be significant. Given the application was made directly to the VCAT, Council is not the decision maker, however as the Responsible Authority, Council is required to form a position prior to the VCAT proceeding.		
LEGISLATIVE			
<b>Covenant/other Restriction</b>	Yes	Complies: YES	
<b>Aboriginal Cultural Sensitivity Area</b>	Yes	<b>CHMP</b>	Required prior to any statutory authorisation - yet to be provided
<b>Considered Plans</b>	Rothe Lowman dated 8 September 2022		

## **1.0 RELEVANT LAND HISTORY**

- 1.1 Planning Permit KP-2016/124 (**Permit**) was issued at the direction of the Victorian Civil and Administrative Tribunal (VCAT) on 10 August 2017 to *Develop and use the land for a mixed use development comprising four retail premises and 242 apartments, with a maximum height of 14 storeys, a reduction of the car parking requirements, waiver of the loading requirements, alteration of access to a Road Zone category 1, buildings and works within a Special Building Overlay, Design and Development Overlay and within the tree protection zone of a significant tree.*
- 1.2 A Section 72 amendment was lodged with Council for changes to the wording of Condition 1 (fii) which referred to internal ceiling heights. The preamble of the permit was amended to allow the following
- *Develop and use the land for retail premises*
  - *Develop the land for multiple dwellings*
  - *Reduce car parking requirements*
  - *Waive loading requirements*
  - *Create and remove easements*
  - *Alter access to a Road zone category 1*
  - *Construct buildings and works within a Special Building Overlay, Design and Development Overlay and Environmental Significance Overlay.*
- 1.3 The Section 72 Amendment was approved on 16 December 2021. Plans satisfying condition 1 of the Permit were endorsed on 22 December 2021 with a total of 218 apartments endorsed.
- 1.4 The permit expiry condition allowed three (3) years to commence works by 10 August 2020 and six (6) years to complete by 10 August 2023. The permit was extended on 21 May 2020 for a further three (3) years. The development must now commence by 10 August 2023 and complete by 10 August 2026. The Owner has not yet acted on the Permit.

## **2.0 CURRENT SECTION 87A AMENDMENT OF PLANNING PERMIT KP-2016/124 through VCAT APPLICATION P1295/2022**

- 2.1 An application to amend the permit under s 87A of the *Planning and Environment Act 1989* was lodged by Best Hooper Layers on behalf of H1 Land Group Pty Ltd on 20 September 2022 (VCAT reference P1295/2022). The Tribunals Initiating Order dated 12 October 2022 was vacated with a new date of order set as the 18 October 2022. Relevant dates are as follows:
- 2 December 2022- Practice day hearing
  - 16 January 2023- Compulsory Conference
  - 21-22 March 2023 - A full hearing has been scheduled for two days

- 2.2 VCAT directed the extent of notice required with advertising from the 7<sup>th</sup> November to 23<sup>rd</sup> November 2022. Letters were re-issued to all notified persons due to a clerical error and the permit applicant stated they would not object to statements of grounds lodged by 5<sup>th</sup> December.
- 2.3 The purpose of this report is to assess the proposal and determine whether a consent position can be reached and/or otherwise determine Council's position prior to the compulsory conference and merits hearing.
- 2.4 Council's resolution (either to support or refuse the amendment) will be further discussed at the VCAT proceeding/s including the compulsory conference scheduled for January and hearing scheduled to commence in March 2023.
- 2.5 Please note that the recommendations provided by Officers are based purely on the information supplied with the application, there are reports, referrals and key information/assessments yet to be provided.

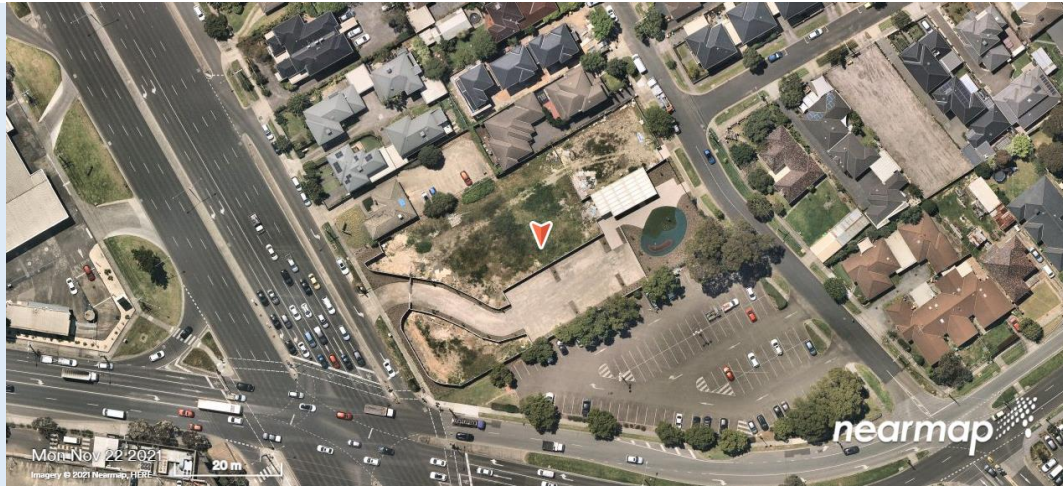
### **3.0 SITE PARTICULARS**

#### **Built form**

The land has been mostly cleared albeit for a display suite and car park has been established. The site has recently been utilised for temporary accommodation in association with a circus show (located on the neighbouring site). The below aerial imagery depicts the existing site conditions (as of 24 September 2022) which illustrates the temporary accommodation and circus facilities. The second aerial photo depicts the site's usual conditions (taken 22 November 2021).







Source: Nearmaps

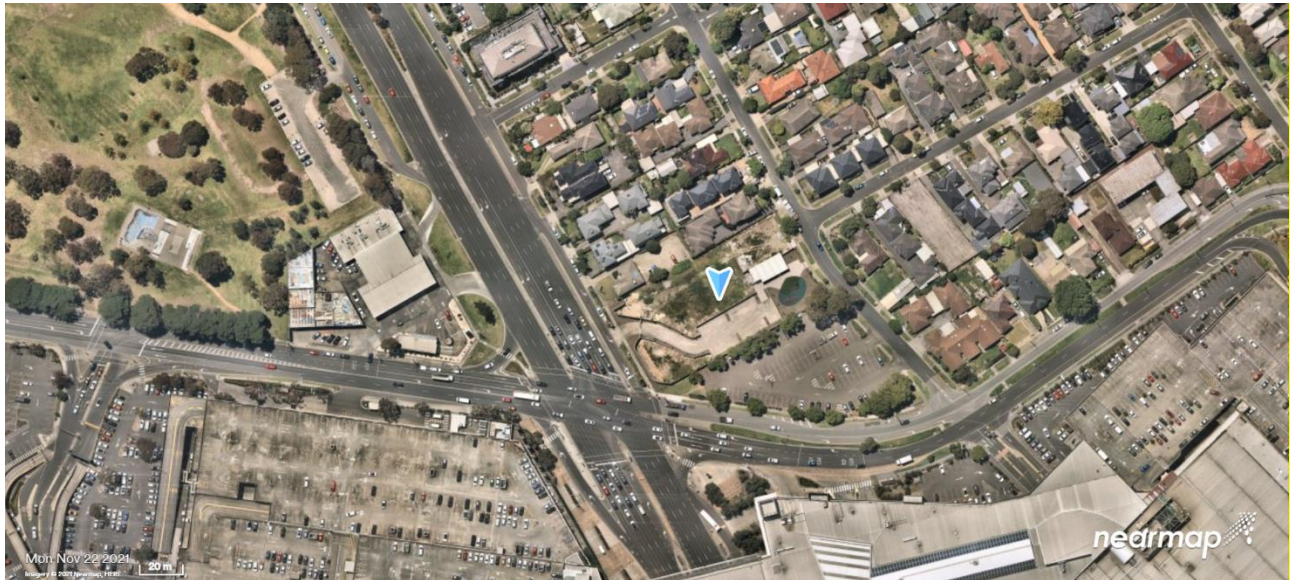
The subject site is located on the north-eastern side of the Nepean Highway and the south-western side of Matthieson Street. The site has two street frontages, with the frontage width of 45.77 metres to the Nepean Highway service road and frontage width of 37.28 metres to Matthieson Street. The site has a maximum depth of 91.44 metres along its north-western boundary.

<b>Size (m<sup>2</sup>)</b>	4300m <sup>2</sup>
<b>Topography</b>	The land has a gentle rise from the north-east to south-west corner of the site. With an approximate fall of 2 metres from the Nepean Highway frontage to Matthieson Street.
<b>Fencing</b>	Fencing is varied throughout the site.
<b>Access</b>	Access to the site from Nepean Highway is via a double width crossover, whilst three crossovers are located on Matthieson Street.
<b>Vegetation</b>	Void of any significant vegetation however it is noted that there is a large river red gum on the adjacent land to the south-east which is protected by the Environmental Significance Overlay – Schedule 3.
<b>Easements</b>	A Council drainage pipe dissects the site in a north/south direction, and diverts along the southern side boundary towards Matthieson Street.
<b>Title restrictions</b>	<p>Several restrictions are listed on each of the titles for the land, including covenants that restrict the excavation and removal of earth, clay, stone, gravel or sand from the site except for the purposes of excavating for the foundations of a building. These covenants are as follows:</p> <ul style="list-style-type: none"> <li>• For Land in Plan of Consolidation 155598, covenant as to parts 1200666, 1203153 and 1203154.</li> <li>• For Lot 26 on PS 010356 covenant 1775739</li> <li>• For Lot 27 on PS 010356 covenant 1852969</li> <li>• For Lots 1 and 2 on PS412251C covenant 1852968</li> </ul> <p>Further to this, there is a Section 173 agreement AK949098D, dated 6 March 2014 which applies to all lots except Lot 26 on PS 010356 and relates to Planning Permit KP284/2013. The reason for Council entering the agreement was to acknowledge that there may be a 'higher and better use' for the land than that proposed by the permit application, and to limit the life of the use and buildings on the site to 20 years from the commencement of the use and development.</p>

	The proposal does not breach any requirements contained within the covenants and the section 173 agreement.
<b>Footpath assets/ access</b>	There are a number of assets located within each of the road frontages of the site including two power poles are located in the nature strip to the site's frontage to Nepean Highway, along with two camera poles. Two street trees are located within the nature strip to the site's frontage to Matthieson Street.

#### 4.0 SURROUNDING LAND

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



##### North

The site is located at the north-east corner of the busy intersection of Nepean Highway extending north/south, Karen Street extending eastward and Bay Road extending westward. This intersection forms a transition to a commercial precinct to the south of the site. This precinct is dominated by Southland Shopping Centre which straddles the Nepean Highway, on the southern side of Karen Street and Bay Road. The Shopping Centre entails extensive built form and car parking areas on both sides of the Nepean Highway. Its interface to Karen Street is dominated by car parking, access to undercroft parking and a bus interchange, and relatively blank high walls. Three properties abut the site to its north:

No's 58 and 58A Matthieson Street form a dual occupancy development sited in a tandem arrangement along the length of the site. No. 58 Matthieson Street is occupied by a double storey dwelling of brick and render wall materials, with concreted tiled hipped roof. Its vehicle access is located towards its northern side boundary.

No. 58A Matthieson Street is occupied by a single storey brick dwelling, its driveway extends along the southern side boundary – a boundary shared with



	<p>the subject site. Each of these dwellings is provided with private open space to its rear.</p> <p>No. 1231 Nepean Highway is occupied by a medical centre (podiatry clinic). The building is a single storey rendered brick, converted dwelling. Access to the site is via a crossover located towards the site's northern side boundary – providing access to a car park to the rear of the building.</p>
<b>East</b>	<p>The immediately surrounding residential area to the north and east of the site is predominantly comprised of single detached and semi-attached dwellings of single or double storey form. The area has experienced a notable degree of infill development, primarily in the form of dual occupancies and three to four townhouses in tandem arrangements along the length of sites. This land is in the GRZ2. Directly opposite the site on the eastern side of Matthieson Street are two properties:</p> <p>No. 2 Edsall Street is occupied by a single storey brick dwelling, with vehicle access from Matthieson Street.</p> <p>No. 49 Matthieson Street is a relatively new double storey townhouse, constructed on the northern corner of Matthieson Street and Edsall Street – part of a three townhouse development.</p>
<b>South</b>	<p>Car park associated with Southland Shopping Centre. A large river red gum (protected by the ESO) exists in the north-east corner of the car park directly adjacent to the subject site.</p> <p>Further south of the Southland Shopping Centre within the commercial precinct are large format retailers and car dealerships on the western side of Nepean Highway, and a mix of commercial premises on the eastern side.</p>
<b>West</b>	<p>On the opposite corner of the Nepean Highway intersection (northern corner of Nepean Highway and Bay Road) at No's. 1152 and 1152B Nepean Highway are a car wash and petrol station.</p>

## **5.0 SECTION 87A AMENDMENT- THE PROPOSAL**

- 5.1 It is proposed to amend existing planning permit KP-2016/124 under Section 87A of the *Planning and Environment Act*. The Tribunal may cancel or amend a permit that has been issued at its direction if it considers it appropriate to do so. This application seeks a number of key changes to the approved building including a redesign of the façade by RotheLowman Architects. A 3D render of the building that was proposed by the original application is shown below with comparison images (Figures 1-4).
- 5.2 The plans under assessment are those lodged with the VCAT appeal and received by Council on 24 October 2022, prepared by Rothelowman titled as 'Planning Amendment' and dated 08/09/22. Council Officers have noted that there are some minor discrepancies between the applicant's town planning report and traffic report and the amended plans/summary of changes (namely the reports refer to a residential apartment block that was approved and endorsed for 242 apartments within 14 storeys) which may confuse the community when reading the documents. Under the original permit issued by the Tribunal 242 dwellings were approved. However, 218 apartments were approved under the S72 amendment issued by Council with the corresponding Condition 1 plans endorsed to illustrate this. For the purposes of this assessment, Officers have compared what was

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endorsed and the corresponding approved permit however have drawn from the original Tribunal decision and comments from Senior Member Baird.

5.3 The permit application has provided the following summary of proposed changes:

Change Proposed	Applicants Reason
1) Reduction of basement area along the northern boundary	Consideration to buildability and rationalization not to have basement area under each easement
2) Rationalisation of form, materiality and increase of window, and balcony, opening heights	Design development to suit current building regulations improvements to daylight access to apartments
3) Setting back of northwest built form on Ground to Level 3	Design development to improve urban relationship to neighbouring property (1231 Nepean Highway).
4) Built form change facing the courtyard	Improvement of daylight access to 4 no. apartments (LG.05, G.08 ,UG. 20, 1.26) effected by cantilevered part of the project facing the courtyard.
5) Refinement of building structure and apartment layouts.	Design development.
6) Removal of over benet storage cages to be replaced with full height storage cages	Design development impacts by basement area reduction
7) Removal of swimming pool and refinement of retail area	Design development
8) Design development of roof communal area, including removal of communal area from Level 9	Design development
9) Renumbering of apartment numbers	To match Plan of Subdivision.

5.4 Council Officers have provided a further summary of proposed changes in that the proposal for the use and development is consistent with what was originally proposed- that of a mixed-use building consisting of residential apartments, communal facilities and retail tenancies located at ground floor. The building height and massing is largely consistent with the approved development. However, the architectural presentation is proposed to be modified and apartments reconfigured internally. Changes are as follows;

- Reduction in number of apartments endorsed from 218 to 217
- Modifying the dwelling typologies and alterations to their internal layouts (as illustrated in Table 1 below)
- Reduction of 39 carparking spaces (proposed total is 234)
- Change to the external façade through modifications to the curved building design

- Setbacks
  - Setback from northern boundary- design is no longer along the boundary but provides setbacks from lower ground, ground floor, upper ground floor and level 1.
  - Basement setback to allow for easement
- Reduction in communal facilities (deletion of gym and pool)
- Change the material and colour palette
- An increase in fenestration
- Internal changes:
  - Additional retail space at ground floor
  - Redesign of retail spaces
  - Changes to the basement levels as a result of car parking including the layout of the car parking
- A number of permit conditions relevant to the above proposed changes are proposed to be amended.
- A number of permit conditions are proposed to be deleted altogether including landscaping and tree protection (a copy of the applicants proposed permit with tracked changes is provided at Appendix 1)

5.5 The following provides an overview of the changes including illustrations.



**Table 1: Development Comparison**

		Endorsed Plans	Proposed	Difference
Maximum Building Height (metres)		45.67 metres	45.35m	Reduction of .32m
Number of apartments		218	217	Reduction of 1 apartment
Residential make up	1 bed	15	21	Addition of 5
	1 bed w/study	20	35	Addition of 15
	2 bed	49	24	Removal of 25
	2 bed2 bath	121	126	Addition of 5
	3 bed	13	12	Removal of 1
Retail Floor Space		537sqm	554.7sqm	Addition of 14sqm
Gym		266.7sqm	No gym is proposed	Removal of 266.7sqm
Car Parking		273 spaces	234 spaces	Reduction of 39 spaces
Bicycle Parking		192 spaces	192 spaces	No change

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Gross Floor Area (excluding terrace)	29,611.8sqm	28,273.2sqm	Reduction of 1,338.6sqm
Open Space Areas	2470sqm	3936sqm	Increase of 456sqm
Materials Proposed			
			Similar colours are proposed



*Figure 1: Endorsed Façade (left) vs Proposed Façade (right)*



*Figure 2: Endorsed Façade (left) vs Proposed Façade (right) view from Nepean Highway looking east*





Figure 3: View from Matthieson Street Endorsed (left) vs Proposed (right)



Figure 4: Proposed pedestrian link



Figure 5: View from Nepean Highway looking east Figure 6: Elevation profile looking north

## 6.0 PLANNING CONTROLS

Zone / Overlay / Particular Provision	Rationale
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<b>32.04- Mixed Use Zone</b>	<p>Pursuant to Clause 42.04-2- a permit is required to use the land where the leasable floor area exceeds 150 square metres.</p> <p>Pursuant to Clause 32.04 - 6 a permit is required to construct a building or construct or carry out works associated with a residential building.</p> <p>Pursuant to Clause 32.04-8 a permit is required to construct a building or carry out works for a section 2 use.</p> <p>A permit is not required to use the land for a dwelling</p>
<b>42.01- Environmental Significance Overlay- Schedule 3</b>	<p>Pursuant to Clause 42.01-2 a permit is required to construct a building or construct or carry out works. As per Schedule 3, a permit is required to construct a building or construct or carry out works inside the Tree Protection Radius/Zone of any significant tree.</p>
<b>43.02- Design and Development Overlay 21</b>	<p>Pursuant to Clause 43.02-2 a permit is required to construct a building or carry out works.</p>
<b>44.05 Special Building Overlay</b>	<p>Pursuant to Clause 44.05-1 a permit is required to construct a building or carry out works.</p>
<b>45.12- Specific Control Overlay Schedule 14 and 15</b>	<p>A permit is required to demolish, remove or relocate a building and construct a building or construct or carry out works (excluding the removal, destruction of lopping of vegetation) on all land shown in Project Infrastructure Protection Area A (the subject site is within Area A) in Appendix 1 for:</p> <ul style="list-style-type: none"> <li>- The demolition, relocation or removal of a building</li> <li>- Construction of a new building or structure (whether temporary or permanent)</li> <li>- Excavation and/or earthworks and/or any works necessary to prevent soil erosion, or to ensure soil conservation or reclamation that lowers the Surface Level by more than 0.5 metres</li> <li>- A pole, sign or retaining wall if any footing is founded more than two metres below Surface Level.</li> <li>- Internal and external alterations to a building if it: <ul style="list-style-type: none"> <li>i. increases the building height; or</li> <li>ii. extends the footprint of a building, or</li> <li>iii. requires structural works, or new or modified footings, or</li> <li>iv. includes extensions to the footprint or deepening of basements.</li> </ul> </li> </ul>
<b>52.06 Car parking</b>	<p>Pursuant to Clause 52.06-2, the car parking spaces required under Clause 52.06-5 must be provided on the land prior to the commencement of a new use. A permit may be granted to reduce or waive the number of car spaces required by the table included in Clause 52.06-5.</p> <p>Pursuant to Clause 52.06-5 the following should be provided:</p> <ul style="list-style-type: none"> <li>- 4 spaces to each 100sqm of leasable floor area;</li> <li>- 1 car space to each one or two bedroom dwelling;</li> <li>- 2 car spaces to each three or more bedroom dwelling; and</li> <li>- 1 car space for visitors to every 5 dwellings for developments of five or more dwellings.</li> </ul> <p><u>Updated Plans</u></p>

	234 Car parking spaces are proposed in this amendment with a reduction of 39 spaces from the endorsed plans. This is discussed further in the report in the assessment section.
58	A Clause 58 assessment is not technically required as the permit application was lodged prior to Amendment VC136 however officers have completed an assessment to aid in the decision making which is discussed further in the report.

## 7.0 REFERRALS

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

- Suburban Rail Loop Authority (SRLA)
- Melbourne Water
- Transport for Victoria

7.2 As the application will be decided by the Tribunal, it is up to the applicant to seek comments by the above referral authorities. At the time of writing this report, two referrals have been provided to Council, a letter from the head of Transport for Victoria and SRLA. These are further expanded upon further in the report.

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

Department / Area	Comments / Rationale / Recommended Conditions
Traffic Engineer	Recommended additional information be provided and previous conditions be continued. Further discussed within the assessment of the report.
Development Advice Engineer	The conditions provided for the original permit are considered to be satisfactory and are to be carried through should any new permit be issued.
Waste Management	Council's Waste Management Officer had no objection or any further comment to make. The submitted WMP is considered to be satisfactory.
Sustainable Design Advisor	Raised a number of deficiencies with the sustainable design assessment submitted with the application. Conditions contained within the recommendation section of this report address these deficiencies, where necessary.
Vegetation Management Officer	Noting no arborist report has been provided, raised a number of issues. Due to the encroachment into the TPZ objected to the application. This is further discussed in the assessment further within the report.
Urban Design	No objection raised. Provided a number of recommendations. Discussed further within the assessment.

**8.0 ADVERTISING**

- 8.1 As directed by the Tribunal, the applicant undertook notification of the amendment application in accordance with the Tribunal's order. Advertising commenced 7<sup>th</sup> November, closing on the 23<sup>rd</sup> November 2022. Letters were re-issued to all notified persons due to a clerical error and the permit applicant stated they would not object to statements of grounds lodged by 5<sup>th</sup> December.
- 8.2 At the time of this report's completion, two statements of grounds had been lodged with the Tribunal, one (1) requesting not to appear and one (1) will appear. Reasons include:
- Inappropriate development
  - Out of character
  - In excess of DDO-21 height limit restrictions
  - Potentially hazardous to aircraft using Moorabbin Airport
  - Visual bulk
  - Overlooking/line of sight from backyards
  - Lack of parking
  - Inaccurate traffic assessment report
  - Increase in noise and light pollution
  - Overshadowing of public and private space
  - Significant risk to protected tree
  - Impacts to the proposed east tunnel of the SRLA project

**9.0 CHANGES IN PLANNING PERMIT CONTROLS AND PLANNING POLICY SINCE THE GRANTING OF THE ORIGINAL PERMIT**

- 9.1 Since the original application approval date on 10 August 2017, the following planning scheme amendments have resulted in relevant changes to the planning scheme.

Amendment VC139

- 9.2 Amendment VC139 was gazetted on 29 August 2017 and introduced new guidelines for apartment developments at Clause 58 of the planning scheme and removed redundant references to older documents. However, transitional provisions apply for applications to amend an existing permit, so that Clause 58 does not technically apply to this application.

Amendment VC142

- 9.3 Amendment VC142 - delegation of loading bay provisions Amendment VC142 was gazetted on 16 January 2018 and made numerous changes to the VPPs. Of particular relevance to this application was the deletion of Clause 52.07, so that a planning permit is no longer required to reduce the minimum loading bay dimensions

Amendment VC148 and VC 151- introduction of the Planning Policy Framework (PPF)

- 9.4 Amendment VC148 was gazetted on 31 July 2018 and made significant changes to the VPPs, notably replacing the State Planning Policy Framework (SPPF) with the new integrated PPF. Transitional provisions apply to the Local Planning Policy Framework (LPPF). VC148 also:
- amended the **Mixed Use Zone (Clause 32.04)** to enable the schedule to the zone to specify a different sign category from Clause 52.05.
  - It further amended **Clause 43.02 (Design and Development Overlay)** to enable its schedule to specify additional matters including purposes, objectives, application requirements and decision guidelines.

- It amended **Clause 42.01 (Environmental Significance Overlay)** to enable the schedule to specify additional matters including purposes, objectives, application requirements or decision guidelines.

9.5 Also of relevance to this application is the amendment of Clause 52.06 Car parking, to apply the car parking rates in Column B of Table 1 if any part of the land is identified as being within the Principal Public Transport Network Area as shown on the *Principal Public Transport Network Area Maps* (State Government of Victoria, 2018). The correct *Principal Public Transport Network Area Maps* were introduced in Amendment VC151 which came into effect on 6 August 2018. The site is located within this area and therefore column B rates apply. A planning permit is still required to reduce the standard car parking requirement under the amended Clause 52.06. Also relevant here, Amendment VC148 deleted clauses 52.35 Urban context report and 52.36 Integrated Public Transport Planning.

9.6 This proposal has been assessed against the PPF and updated Clause 52.06

Amendment VC174 – 2021

9.7 Amendment VC174 was gazetted on 20 December 2021 and implements the revised Better Apartment Design Standards (BADs), which delivers improved external amenity and design outcomes for all apartment developments. It introduced a transitional provision for applications lodged before the approval date of this amendment in Clause 32.04 (MUZ), specifically relating to Clause 32.04-6 (Residential building) for the site.

Amendment C183king

9.8 Amendment C183king was gazetted on 23 May 2019. It made a number of changes to a number of local schedules in the Kingston Planning Scheme. The amendment updates local provisions of the Kingston Planning Scheme where local schedules in zones, overlays, particular provisions, general provisions and operational provisions are inconsistent with:

- The Victoria Planning Provisions as a result of Amendment VC142 and VC148, and
- The Ministerial Direction – Form and Content of Planning Schemes

Amendment VC200

9.9 Amendment VC200 was gazetted on 17 February 2022. It introduced a new Clause 53.21 (State transport projects) and exemptions for specified land use and development for transport projects into the VPP and all planning schemes to facilitate transport projects delivered by or on behalf of the State of Victoria for the social, economic and environmental benefit of all Victorians. It amended Clause 42.01 (Environmental Significance Overlay) to exempt the removal or lopping of vegetation carried out by or on behalf of the Head, Transport for Victoria to the minimum extent necessary to construct or maintain transport system infrastructure on transport land and for tram stops from the need to obtain a planning permit.

9.10 It also amended Clause 44.05 (Special Building Overlay) to exempt buildings and works (Clause 44.05-2) for bicycle paths and trails from the need to obtain a planning permit if carried out by or on behalf of the Head, Transport for Victoria, to the satisfaction of the relevant floodplain management authority.

Amendment VC203



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- 9.11 Amendment VC203 (in operation from 1 July 2021) implements new environment protection legislation and tools in the VPP and all planning schemes. The amendment deletes the reference to State Environmental Protection Policy (Waters of Victoria) and updates the contents of Clause 44.05 (Special Building Overlay), including Clause 44.05-1 (Flooding management objectives and statement of risk).

Amendment C200king

- 9.12 Amendment C200 was gazette on 30 June 2022. The amendment updated the Kingston Planning Scheme to ensure consistency with the VPPs as a result of Amendment VC148 which introduced the PPF. As a result the Municipal Strategic Statement (MSS) and the LPPF were replaced with a Municipal Planning Strategy (MPS) and local policies within the PPF. Revisions were made to local schedules and overlays.

Amendment GC197

- 9.13 Amendment C200 was gazette on 30 September 2022. The amendment updated the Kingston Planning Scheme to facilitate the Suburban Rail Loop Project East by applying the Specific Controls Overlay (Schedule 14 and 15) to land required for the project to allow the use and development of that land in accordance with the specific controls of:

- *Suburban Rail Loop East Incorporated Document, August 2022; (Schedule 14)*
- *Suburban Rail Loop East Infrastructure Protection Incorporated Document, August 2022 (Schedule 15)*

- 9.14 The consequence of this amendment will be decided on by the Suburban Rail Loop Authority. Officers will inform Council of these comments when they are received.

**PLANNING CONSIDERATIONS:**

**General Provisions**

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

**Planning Policy Framework**

- 9.16 The Planning Policy Framework sets out the relevant state-wide policies for residential development at **Clause 11** (Settlement), **Clause 15** (Built Environment and Heritage) and **Clause 16** (Housing). 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).
- 9.17 Clause 11 seeks to ensure planning anticipates and responds to the needs of existing and future communities through provision of zoned and serviced land for housing, employment, recreation and open space, commercial and community facilities and infrastructure. More broadly, planning is also to prevent environmental and amenity problems created by siting incompatible land uses close together and facilitate sustainable development that takes full advantage of existing settlement patterns and investment in transport, utility, social, community and commercial infrastructure and services.
- 9.18 **Clause 11.01-1R** includes strategies that seek to create mixed-use neighbourhoods at varying densities, including through the development of urban-renewal precincts, that offer more choice in housing, create jobs and opportunities for local businesses and deliver better access to services and facilities.



- 9.19 The settlement policies at **Clause 11** seek to promote sustainable growth and development and deliver choice and opportunity through a network of settlements. Of particular relevance to housing, **Clause 11** promotes housing diversity and urban consolidation objectives in the established urban realm. **Clause 11.02-1S** (Supply of urban land) states that Planning Authorities should plan to accommodate projected population growth over at least a 15 year period, taking account of opportunities for redevelopment and intensification of existing urban areas as well consideration being had for environmental aspects, sustainable development and the costs associated with providing infrastructure. This clause states:

*Planning for urban growth should consider:*

- *Opportunities for the consolidation, redevelopment and intensification of existing urban areas.*
- *Neighbourhood character and landscape considerations.*
- *The limits of land capability and natural hazards and environmental quality.*
- *Service limitations and the costs of providing infrastructure.*

- 9.20 **Clause 11.01-1R** (Settlement – Metropolitan Melbourne) and **Clause 11.03-1S** (Activity centres) places particular emphasis on providing increased densities of housing in and around activity centres or sites that have good access to a range of services, facilities and transport options.

- 9.21 **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. To achieve this, it takes into account sufficient land availability to meet forecasted demand. **Clause 11.03-1S** places particular emphasis on providing a diversity of housing, including forms of higher density housing, in defined activity centres to cater for different households that are close to jobs and services. **Clause 11.03-1R- Activity Centres- Metropolitan Melbourne** seeks to support the development and growth of Metropolitan Activity Centres by ensuring they are able to accommodate significant growth for a broad range of uses and provide high levels of amenity. This is further reinforced at a local level by **Clause 11.03-1L- 01' Activity Centres Kingston'** and **Clause 11.03-1L-02 'Cheltenham- Southland Major Activity Centre'**. The subject site is one of three sites not located within the Southland shopping centre that is included in this policy and designated for mixed use. Objectives include:

- *To direct regional office and retailing activities to the Cheltenham-Southland Major Activity Centre.*
- *To consolidate and renew built form through the redevelopment of key sites within the centre.*
- *To promote innovative medium density residential development in areas around the activity centre.*
- *To promote the aggregation of sites as a means of providing greater flexibility for the design of higher density housing.*

- 9.22 The setting in which the site is located, in terms of policy, has been established by the Tribunal with an approved permit and endorsed plans issued. Officers consider that broadly speaking, the proposal remains consistent with the policy in which is set and what was considered by the Tribunal.

- 9.23 **Clause 13** (Environmental Risks and Amenity) 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. Further, planning should identify and manage the potential for the environment, and environmental changes, to impact upon the economic, environmental or social well-being of society. Planning should 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.

- 9.24 **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. Furthermore, it aims that all new land use and development appropriately responds to its landscape and character, valued built form and cultural context, and protect places and sites with significant heritage, architectural, aesthetic, natural, scientific and cultural value.
- 9.25 Policies pertaining to urban design, built form and heritage outcomes are found at Clause 15 of the Planning Policy Framework. Of particular significance, **Clause 15.01-1S** (Urban design) and **Clause 15.01-1R** (Urban Design – Metropolitan Melbourne) encourages development to achieve high quality architectural and urban design outcomes that contribute positively to neighbourhood character, minimises detrimental amenity impacts and achieves safety for future residents, and the community, through good design.
- 9.26 The provisions of **Clause 15.01-2L** (Environmentally Sustainable Development) policy applies to the consideration of residential development of 3 or more dwellings (refer to policy guidelines). As required, the application for planning permit was accompanied by a Sustainable Design Assessment (BESS/STORM). This ESD assessment has yet to meet Council's expectations in relation to ESD for this site. Alterations to the report and application drawings needs to be undertaken before the application can be deemed to meeting Council's ESD standards.
- 9.27 Further, the ESD assessment was referred to Council's ESD officer who has advised a number of changes are required. These are discussed further in the body of report.
- 9.28 It is considered that the commitments expressed in the SMP report coupled with the proposed development plans and dwelling layouts, the proposal has yet to demonstrate that it can achieve an appropriate best practice ESD standard.
- 9.29 **Clause 15.03-2S (Aboriginal Cultural Heritage)** seeks to ensure the protection and conservation of places of Aboriginal cultural heritage significance.
- 9.30 The Subject Land is identified in an area of Aboriginal Cultural Heritage Sensitivity. At the time of the Original Permit's issue the subject site was not subject to a Cultural Heritage Management Plan. The introduction of the Aboriginal Heritage Regulations 2018 set out the prescribes standards and circumstances in which a CHMP should be prepared, namely that of a 'high impact activity' which this proposal would be defined as (construction of more than three dwellings and significant ground disturbance). The permit applicant has acknowledged within their town planning report that a CHMP may be required but has yet to provide one. Officers recommend that this is completed.
- 9.31 Housing objectives are further advanced at **Clause 16** (Housing) which seek to encourage housing diversity, ensuring the long term sustainability of new housing, including access to services, walkability to activity centres public transport, schools and open space and including the provision of land for affordable housing.
- 9.32 **Clause 16.01-1S** (Housing Supply) seeks to facilitates a well located, integrated and diverse housing that meets community needs. Higher density housing development is encouraged

on sites that are well located in relation to jobs, services and transport. The consideration of ensuring that an appropriate quantity, quality and type of housing is provided to support everyone in the community. Housing should offer diverse choices to meet changing household needs by widening housing diversity through a mix of housing types while encouraging that development is well designed to provide a high level of internal and external amenity.

- 9.33 **Clause 16.01-1L** (Housing Supply) seeks to promote housing change subject to the capacity of the local area within Kingston, from the Incremental Housing Change, Increased Housing Diversity, Residential Renewal or Minimal Housing Change. The Residential Land Use Framework Plan illustrates the range of housing outcomes sought across the City of Kingston.
- 9.34 These reinforce Planning Policy Framework relevant to housing, stressing the need to encourage urban consolidation in appropriate locations and to accommodate projected population increases. This includes a strategy to support Increased Housing Diversity areas within convenient walking distance of public transport. The policies contained within **Clause 16.01-3S** (Housing diversity) encourage the provision of range of housing types to meet the increasingly diverse needs of the community. Emphasis is placed on development of well-designed medium density housing with respect to neighbourhood character. Further, this Clause aims to make better use of the existing infrastructure and provide more energy efficient housing. **Clause 16.01-4S** (Housing affordability) raises the objective of delivering more affordable housing closer to jobs, transport and services.
- 9.35 **Clause 14.02-2S (Water Quality)** seeks to protect water quality. **Clause 19.03-3L (Stormwater Management)** is applicable to the consideration of medium and large scale developments as specified within the policy. This clause seeks to improve the quality and reduce the impact of stormwater run-off, incorporate the use of WSUD principles in development and to ensure that developments are designed to meet best practice performance objectives.
- 9.36 It is considered that the proposed development generally complies with the above guidelines and policies. It provides for an ability to incorporate WSUD and adequate space to include measures that can be used to reduce run-off. Council's Drainage Engineer is satisfied with the proposal subject to conditions included on any permit issued, as specified within the officer recommendation.
- 9.37 It is submitted that the proposed development satisfies the aforementioned State strategies and policy direction. Specifically, the subject site is located on land earmarked for mixed use purposes, whereby residential development is an 'as of right' use under the zoning provisions. Whilst there is policy support for the proposal, the design itself has fundamental concerns (to be discussed).
- 9.38 **Clause 19.02-6L-02 (Public Open Space Contributions)** forms the prevailing policy that guides Council to apply a land or cash public open space contribution, which is applicable to all subdivision applications. This policy identifies the important role that contributions play in funding new open space areas and facilitating capital improvements to existing public open space to meet the needs of the future population growth in Kingston.
- 9.39 Whilst the application at hand does not propose to subdivide the land, it is imperative to identify at this stage of the process whether a public open space contribution requirement is likely to be applied should the site be subdivided at a later date and, if so, whether the land is located in a 'cash' or 'land' preferred area. If in a land preferred area, the proposed design and layout must be considered as it will ultimately shape the subdivision configuration and whether any land is set aside for public open space purposes.

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- 9.40 As two hundred and seventeen (217) dwellings are proposed, any future subdivision is likely to result in two (217) allotments. The subject site is located in area Highett but included within the Cheltenham-Southland Activity Centre which is a Cash Contribution Preferred Area on the Public Open Space Sub-Precincts Plan of this clause.
- 9.41 As the site is located in a 'cash' preferred area, the public open space contribution requirements will be considered and advanced at the subdivision stage of the process. As such, there is no need to consider this matter any further at this point in time.
- 9.42 It is considered that the proposed development generally complies with the Planning Policy Framework guidelines, which aim to encourage well-designed medium density housing in appropriate locations.

**Overlay Provisions**

- 9.43 The subject site is located within the following overlays:
- Clause 42.01- Environmental Significance Overlay (Schedule 3)
  - Clause 43.02- Design and Development Overlay (Schedule 21)
  - Clause 44.05 - Special Building Overlay
  - Clause 45.12- Specific Control Overlay (Schedule 14 and 15)
- 9.44 As noted previously, the application will be referred to Melbourne Water (SBO) the Transport for Victoria and the Suburban Rail Loop Authority by the applicant. As this is a s87A hearing, it is up to the applicant to demonstrate to the Tribunal that they have notified and consulted with relevant stakeholders in an appropriate and completed manner.
- 9.45 As of 23 November 2022, both the Department of Transport and SRLA have provided comments.
- 9.46 As per Clause 52.29 'Land Adjacent to the Principal Road Network' Council advised the Tribunal that the applicant would need to refer the amended application to the Head of Transport for Victoria. On the 23 November 2022, the Head of Transport for Victoria has provided their referral advice and does not object to the granting of an amended planning permit subject to conditions 13 and 14 remaining unchanged.
- 9.47 It is noted that as part of the application, no assessment has been completed against Clause 45.12- Schedule 14 and 15, by the applicant. This may be due to the timing of when the applicant's documentation was written (prior to 30 September 2022 which was when GC197 was gazetted introducing this overlay).

**SRLA response to the proposed development**

- 9.48 On 23 November 2022, Council received Statement of Grounds by the SRLA who has requested to appear. They have undertaken a preliminary assessment of the proposed development and provides the following initial response:
- *the proposed development would straddle both tunnels for SRL East in close proximity to the eastern end of the proposed SRL Cheltenham Station, which will be located in the southern portion of Sir William Fry Reserve on the other side of the Nepean Highway from the subject site;*
  - *the Application seeks to lower the basement in the order of 700 millimetres, from a bottom level of AHD 29.6 metres as shown on the plans endorsed by Kingston City Council on 21 December 2021 to a level of AHD 28.9 metres as shown on the plans included with the Application;*

- *as the subject site is very close to the proposed SRL Cheltenham station, the section of the SRL East tunnels in this location will be relatively shallow. Based on the information in the Application, the distance from the bottom most point of the bulk excavation for the proposed development to the top of the SRL East tunnels will be in the order of approximately 3.4 metres;*
- *the Application does not include any structural information on the proposed buildings, such as the types and depth of foundations and building loads;*
- *based on the proposed layout, the foundations for the development would likely directly interact with the SRL East tunnels;*
- *potential for buoyancy and ground movement during the construction and operational phases of the SRL East tunnels must be considered and appropriate design solutions determined;*
- *there is potential for ground conditions that result in excessive heave or subsidence during tunnelling; and*
- *detailed foundation and structural designs that would protect the tunnels would need to be determined in consultation with SRLA at an early time, and at the very least, required by permit conditions.*

9.49 SRLA have stated that they will provide draft proposed permit conditions it considers necessary to protect the SRL East tunnels.

9.50 Design and Development Overlay-Schedule 21 will be discussed within the assessment of the report. Clause 42.01- ESO3 will also be discussed within the vegetation section of this report.

### **Particular Provisions**

#### Clause 52.06- Parking

9.51 The application was referred internally to Council's Traffic Engineer who raised a number of concerns with the application requesting more information to be required.

9.52 The development proposes to provide 234 on-site car parking spaces (including 0 visitor spaces). The development falls within the Principal Public Transport Network (PPTN) and thus column B rates apply which is why no visitor car parking spaces are required. The statutory car parking requirements as set out by Table 1 to Clause 52.06 require as follows:

Land Use	Statutory Parking Rate	Number/Area	Total Spaces Required
Dwelling	1 space per one or two bedroom dwelling	55 + 150	205
	2 spaces to each three or more dwelling	12	24



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Retail	5 (as required by Planning Permit KP)	551.8sqm	20
Total Required (without taking into consideration tribunal decision and corresponding permit condition)			249
Total Provided			234

- 9.53 Under the original Tribunal decision a shortfall of parking was requested. In the endorsed plans there were visitor's car parks to be shared with those utilising the retail/shop uses. This detail has now been removed from the proposal. As per Appendix 1 (the tracked change permit the applicant has provided) original condition 36 is not proposed to be deleted. This condition required *36(a)(iii) 24 shared residential and retail visitor car spaces*. The 24 spaces are not illustrated on the plans provided. Council Officers would request that this is clarified (if these spaces are to be provided or not) and whether the applicant is seeking to remove this condition.
- 9.54 Based on the rates included in Table 1 to Clause 52.06 the parking, on paper, does not provide enough for the retail component. However, it was a condition of the Tribunal that justified 5 car parking spaces be available for the retail and that this was warranted. As this application is a s87a assessment, only the changes can be assessed. The increase in retail ground floor is considered to be a minor variation (537.3sqm was approved on endorsed plans with now 551.8sqm now proposed, an increase of 14.5 sqm). Council Officers concur with Traffic Engineers assessment that a further car parking space is not warranted for the additional retail component and the condition as set out the Tribunal is satisfactory.
- 9.55 No reduction is required for occupants of the dwellings. Officers acknowledge that to the community, the removal of 39 spaces with a total of 234 provided, will appear inadequate. The number of parking spaces provided in the proposed plans does meet the car parking requirements under the Kingston Planning Scheme of Clause 52.06.
- 9.56 There are issues however with the plans provided with further information required. The new parking layout appears to be difficult to access for some of the spaces so further information is required to demonstrate that these can actually be accessed and meet the Australian Standards.
- 9.57 Council's Traffic Engineers are investigating further options for a pedestrian crossing along Karen Street for safety reasons and are also investigating options for a safe location for a new 'u-turn' location for vehicles that exit Matthieson Street to travel east along Karen Street heading to Tennyson Street.
- 9.58 Council's Traffic Engineer has assessed the plans provided, has no objection to the number of parks provided but has requested the following:
- *An updated SIDRA intersection analysis is to be provided for Karen and Mattheison Street intersection, based on the current volume in that area.*
  - *An improved swept path analysis is required to show that a B85 and B99 can pass each other at the location as shown below in Figure 6.*



proved Swept path analysis is required to show that a B85 and B99 can pass each other at the location as shown below a the one provided is not clear.

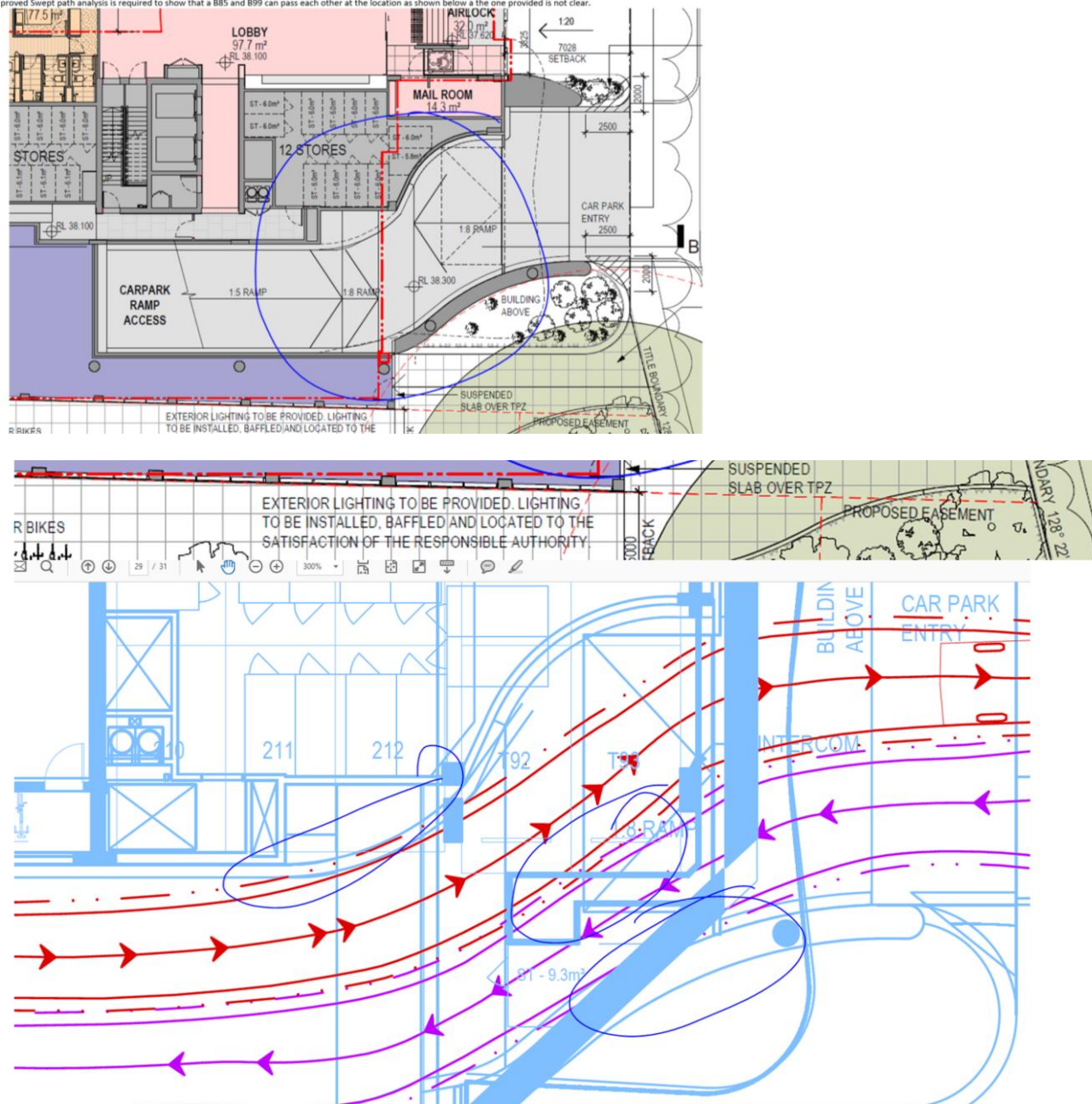


Figure 6: area requiring swept path analysis

- Parallel parking spaces 28,29, 134, 136 need to be dimensioned and comply with Planning Scheme or AS/NZS 2890.1
- Space 193 and 88 needs 1m aisle extension otherwise swept path is required.
- 1m extension has to be provided for 170, 171, 65 and 66 as these spaces are designed based on 2890.1 and swept path shows they are difficult to access.
- All lighting (blue) and loading bay (red) creation on Nepean Highway as per previous conditions should continue (as illustrated in Figure 7).

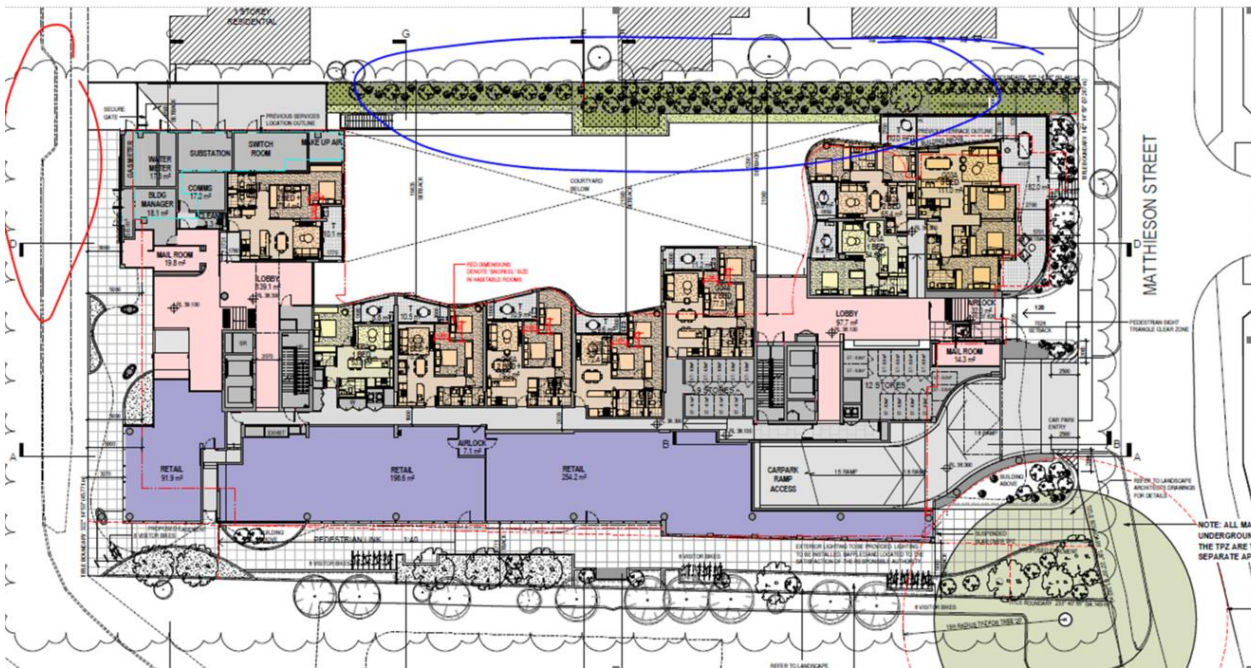


Figure 7: Previous conditions as illustrated (lighting- blue circle) and loading bay (red circle) to be reinstated.

9.59 The applicant proposes no changes to the number of bicycle parking spaces. One hundred and ninety-two (192) bicycle spaces were approved and endorsed under KP-2016/142/A. However, the number of bicycle spaces provided on the plans do not add up to 192. This can be rectified by way of a condition. There is also a further recommendation in section 9 which suggests a new location for some visitor bicycle parking spaces. Overall, Officers have no concerns with the amount provided nor their location, other than the commitments stated in the documentation must be illustrated.

## 10.0 ASSESSMENT

### Overview of amendment

10.1 The proposal seeks to make a number of changes to the endorsed plans, notably:

- Façade modifications
- Increase to building setbacks
- Reconfiguration of car parking with a reduction of 39 car parking spaces
- One less apartment with reconfiguration of apartments
- Minor increase in retail space and reconfiguration of space
- Reduction of communal facilities

10.2 Given this is an application to amend the existing planning permit, only the proposed changes can be assessed. It must be noted that the development already has a permit and endorsed plans which is why the extent of consideration is confined to the proposed amendments. The plans lodged with VCAT have formed the basis of this assessment.

10.3 The key issues that require assessment are:

- Is the proposal consistent with the planning policy framework?
- Does the building comply with the relevant built form guidelines, including DDO21?
- Would there be any additional off-site amenity impacts?

- Whether the internal amenity of the proposed amendments is satisfactory?
  - Has sufficient car parking and bicycle parking been provided and is the layout appropriate (including vehicle access) (this was addressed in section 8 under particular provisions).
- 10.4 Whilst Clause 58 is not applicable in this instance, Officers have completed an assessment as a means to answering these questions in order to prepare a response. In the applicant's town planning report provided it is submitted that the Better Apartments Design Standards (BADS) does not apply (which is correct) however states '*the project team has undertaken research into the forecast demand for the surrounding area and designed a development that will respond to the market changes and have largely adopted a compliant approach to these standards*'. Without actually demonstrating how this conclusion has been reached Officers consider it premature for the applicant to declare this with no data to quantify how that conclusion was reached. It is recommended that this information is provided for the benefit of the Tribunal. Furthermore, given the timing of the amendment, and since the introduction of BADS, there is a strong argument that an amendment should not change a previously endorsed proposal to seek a poorer outcome.
- 10.5 These issues are considered each in turn with Council Officers BADS assessment worked into addressing each of these questions.
- 10.6 **Is the proposal consistent with the strategic policy framework?**
- 10.7 As discussed in section 8 of the report, planning policy support has been established for a mixed-use development at this site which includes retail and residential apartments. The approved development supports housing diversity and affordability objectives and as referenced previously, the policy upon which the site is located in specifically encourages higher density housing to be located in or close to activity centres that offer good access to services and transport. Therefore, from a strategic planning point of view, the currently approved development responds to this trend and is consistent with the urban consolidation initiatives of planning policy highlighted in the previous section. It is considered that the amended proposal remains consistent with this policy.
- 10.8 The site is located within the Mixed Use Zone, proximate to various services and facilities. A mix of uses is encouraged under the zone and PPF policies.
- 10.9 **Does the building comply with the relevant design and built form guidelines, including DDO21?**
- Design and built form
- 10.10 The proposal broadly retains the permitted building envelope and proposed height (which at its maximum is 0.29metre lower than the approved permit and endorsed plans) so is therefore not a consideration for this assessment.
- 10.11 The façade however presents differently. DDO21 requires under 'Building Design' that development should be designed to '*be based on contemporary architectural and innovative urban design principles*'. A component discussed in the original hearing was the 'wave' like manner in which the building was presented in. Senior Member Baird stated '*overall, in architectural and urban design terms, we find that the curved styling of the 'western' tower stepping up to the Nepean Highway frontage, with the darker lower rectilinear 'eastern tower' and curved three storey podium, present a carefully crafted composition. It is high quality. It is an appropriate way to announce this gateway to Southland*'.
- 10.12 Council's Urban Design Consultant assessed the modifications and provided the following statement. '*Despite the broad consistency between the proposed and endorsed building*



envelopes, the revised architectural language is varied. The architectural language of the proposed scheme presents a more consistent outcome across the connected forms. This consistency is underpinned by the stronger presence of horizontal elements comprising continuous applications of fenestration that geometrically align with open balcony areas. This increased application of fenestration that seamlessly blends into open balconies that are set into the envelope, are boldly framed by the more 'solid' and linear balustrading. This linear arrangement highlights the visual presence of each floor level, thereby highlighting the curvilinear nature of the building form. The proposed scheme subsequently has a 'lighter weight' appearance when compared to the endorsed scheme that comprises more solid breaks between glazing and balconies, as well as generally narrower balcony openings. The 'lighter' appearance of the proposed scheme is most evident at the eastern building corner, that is eroded via open balconies of which are aligned across each level, whereas the vertical alignment of balconies in the approved scheme are more irregular – resulting in a varied corner form. While the revised architectural language broadly retains the elegance of the previous scheme, it is less successful in distinguishing between the connected forms – which previously resulted in the overall form being broken into a series of 'components.' Assessing elevations and renders of the Nepean Highway response (pictured below-Figure 8), three 'components' are present – the corner tower form (A), the recessed tower form (B) and the northern segment of street wall (C) that steps down from the adjoining corner tower. While all components are connected, they each comprises a varied architectural treatment in the endorsed scheme that distinguishes them from each other. The treatments that set them apart include complementary material and colour palettes, and changes to the fenestration/balcony language that alternate emphasis between horizontal to vertical elements. This results in the connected development appearing as a collection of related buildings. In comparison, the revised scheme presents a more consistent architectural language across these components that visually blend together. This is largely owed to a similar material and colour palette applied, and the less evident variation in the fenestration/balustrading strategy. Given the scale of the site and development in a context subject to a mix of urban and building 'grain' ranging from the large format retail typology of Southland to the fine grain detached residential environs, the proposal should seek to reinstate the element of variability which was previously effective in 'breaking up' the development into a series of 'parts.' The revised scheme which is more likely to be perceived as a single, large building in views towards the western tower is less successful in achieving this carefully considered response to context.



Figure 8: Comparison of the corner architectural language viewed from Nepean Highway, endorsed plan on the left with proposed on the right.

- 10.13 This issue is also evident when reviewing the southern elevations where the western tower and eastern building previously appears as separate buildings, due to the contrasting application of material/colour palette that complemented the change between curvilinear and regular form. There was also a clear visual 'break' between the forms present via the application of GTO3 material (bronze cladding). These measures were previously successful in 'breaking up' the breadth of this elevation. This distinction is less clear in the southern elevation of the proposed scheme, where the proposal is more legible as a single elongated form. Given that the breadth of the development is likely to be highly visible in the local surrounds, a more varied architectural language between the western tower and eastern building is recommended. Reinstating a clear break between the forms via architectural treatment to Levels G-2 where the development is connected will also be beneficial in achieving a more varied elevation.



Figure 9: Comparison of southern elevations (endorsed left vs proposed right)

- 10.14 To a lesser degree, this issue is also present within the eastern elevation (Matthieson Street), where there is clear architectural distinction in the endorsed scheme between the pale off-white textured render of the 'podium,' contrasted by the bolder finish of the charcoal metal cladding applied to upper levels. Complementing the material/colour palette, the architectural language also applied horizontal geometry to the fenestration and balustrading at podium levels, contrasted by a more vertical arrangement at upper levels. In comparison, the proposed scheme applies a language to the podium and recessed upper form that is less distinguishable – both in the choice of materiality and composition of façade treatments.
- 10.15 In summary, while the overarching architectural language of the proposed scheme may be meritorious in ways, it is far less successful than the endorsed scheme that successfully 'broke up' the development into a series of parts – visually perceivable as a collection of related buildings, albeit connected'.
- 10.16 In line with the urban design advice officers have provided changes/suggested conditions should a permit be granted by the Tribunal within the recommendation section of this report.



Figure 10: Comparison of the architectural language viewed from Matthieson (endorsed on left and proposed right)

### Streetscape interface

- 10.17 In terms of streetscape, DDO21 does not provide a great deal of guidance other than that the development should be designed to 'allow visual interaction between active ground floor uses and the street'. In this regard, the proposed design would provide for an acceptable streetscape interface to the two adjoining streets of Nepean Highway and Matthieson Street, subject to some proposed changes.
- 10.18 At the ground level, the increase of retail floor area is considered a positive outcome in this context with a greater degree of activation at ground level, through the reduction in services presented to Nepean Highway, shifting the mail room closer to the street frontage and doubling the retailing. Relocating the lower ground retail to ground level contributes positively in maximising ground level activity with the resulting retail laneway running along the common southern boundary, relying on a clearer 'wayfinding' with open visual access from the Nepean Highway an Matthieson Street public realm.
- 10.19 **Recommendations:** to further open up the laneway to Nepean Highway and maximise viability from the Nepean Highway, it is recommended that the applicant considers chamfering or curving the corner at ground level (and subsequently the void at upper ground level) as illustrated in Figure 11.

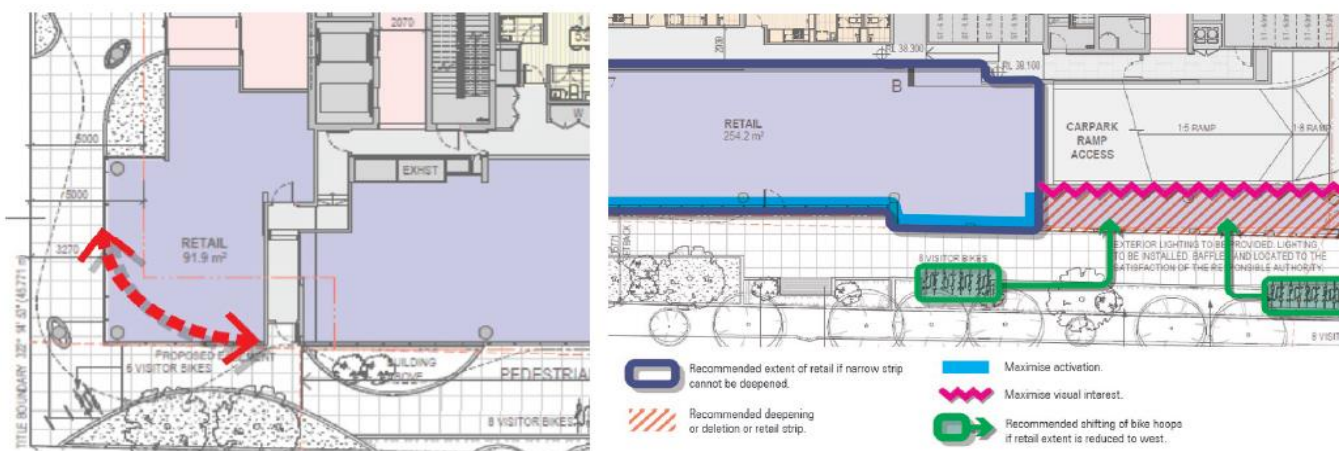


Figure 11: Potential chamfering or curving of Nepean Highway corner (left) and area of concern towards Matthieson Street (right).

- 10.20 Council's Urban Designer has also queried how functional the narrow strip of retail lining the car park ramp will be (2.2m at its narrowest point) which is also subject to structural columns.



*Ensuring this strip is activated will be key to the laneway experience and vibrancy at its eastern context. Given its narrow configuration as proposed, it is unlikely that meaningful retail activity could occur within this space, such as the placement of café tables or store shelving, while maintaining a clear connection to the building egress to the east.*

**Recommendation:** This narrow strip is either widened, requiring subsequent adjustment to floor plans, or removed entirely. The remaining space could then accommodate the visitor bike hoops, maximising opportunities for additional landscaping and/or seating along the southern boundary. Alternatively, the space could accommodate the 'spill out' of activity from the adjoining retail space such as outdoor dining, acknowledging the space would be sited beneath overhanging upper levels. The resulting exposed wall lining of the car park ramp should be carefully considered to maximise visual interest including the display of public art and feature lighting.

- 10.21 Providing some architectural treatment, public art or lighting as suggested would provide some visual interest rather than a blank wall. This would assist in providing some visual permeability to ensure a connected to the street and go some way to illustrating compliance with DDO21 which states that *development should be designed to avoid blank walls and unarticulated facades*.

#### Dwelling layout

A sufficient diverse mix of one, two- and three-bedrooms dwellings has been retained. A number of two-bedroom dwellings are now provided with two bathrooms. One-bedroom dwellings are a mix of one bedroom with a study area and one bedroom on their own. Officers have no objection to the dwelling diversity proposed.

#### Layout of access and communal areas

- 10.22 The general layout of access areas is generally acceptable. The main residential entry has improved from what was originally endorsed providing visibility from the street with the lobby shifted closer to the Nepean Highway frontage. Whilst the lift area is located further into the lobby which will provide minimal natural light, on balance of the overall design, it is considered to be acceptable.

#### Communal areas

- 10.23 The width of communal access corridors is generally consistent with the endorsed scheme at the lower levels. Above the podium, proposed widths within the western tower are consistent, ranging between 1.6m-2.07m. Within the square eastern building, east-west corridor widths have narrowed from 1.6m down to 1.1m-1.32m, with the wider north-south segment retained at 2.01m.
- 10.24 **Recommendation:** It is recommended that these are widened to reinstate the previously endorsed 1.6m widths to maximise the internal amenity of communal corridors, as achieved in the western tower where endorsed widths have been retained.
- 10.25 It is noted that communal facilities have decreased in size with some facilities removed (gymnasium and pool deleted) and the courtyard slightly reduced in size. In order to assess the plans, it is useful to refer to Clause 58.03-2 (BADS) 'Communal Open Space' as set out in the Kingston Planning Scheme. The objectives of this Clause are as follows:

- *To provide communal open space that meets the recreation and amenity needs of residents.*
- *To ensure that communal open space is accessible, functional, and is easily maintained.*

10.26 Standard D7 of this Clause require that:

- *A development of 10 or more dwellings should provide a minimum area of communal outdoor open space of 30 square metres.*
- *If a development contains 13 or more dwellings, the development should also provide an additional minimum area of communal open space of 2.5 square metres per dwelling or 220 square metres, whichever is the lesser. This additional area may be indoors or outdoors and consist of multiple separate areas of communal open space.*
  - *Each area of communal open space should be:*
    - *Accessible to all residents.*
    - *A useable size, shape and dimension.*
    - *Capable of efficient management.*
  - *Be located to:*
    - *Provide passive surveillance opportunities, where appropriate.*
    - *Provide outlook for as many dwellings as practicable.*
    - *Avoid overlooking into habitable rooms and private open space of new dwellings.*
    - *Minimise noise impacts to new and existing dwellings.*
    - *Any area of communal outdoor open space should be landscaped and include canopy cover and trees/plant and enhances resident amenity.*

10.27 The proposed development consists of two hundred and seventeen (217) dwellings and therefore, should provide for 220 square metres of communal outdoor open space. The proposal provides 529.3sqm of communal outdoor open space located on the northern boundary which includes a BBQ area and further usable space on the roof top deck (level 13) including a spa as illustrated in Figure 12 below. A multipurpose room is also proposed (but is not included for the purposes of this calculation). The areas are located in a practical location allowing for all persons to utilise the ground floor courtyard. Screening is afforded to those dwellings which have balconies facing at ground level, onto the courtyard. It is therefore considered an acceptable change.



Figure 12: Communal Open Space (roof top deck on the left vs proposed courtyard)

#### Dwelling Layout/Internal Amenity

10.28 Council's Urban Design Consultant stated that *should the layout of the eastern square tower be revised accordingly, the applicant should seek to gain space from the south facing allotments which are deeper when compared to the shallower north facing allotments. The amenity of these floorplans could be enhanced to maximise access to daylight for deeper dwellings, ideally positioned to face north rather than south. It is noted that the endorsed*

plans have not adopted the Tribunal recommendations that the minimum internal floor to ceiling heights in all habitable rooms should be 2.7m – which vary from 2.4m-2.7m. Bedrooms and living rooms are generally a minimum 2.5m in height, with 2.4m applied to kitchen, bathroom, laundry and storage areas. As habitable rooms are typically well within 9m of glazing, we consider the distribution of height to be broadly acceptable. A functional issue that is repeated across several apartments is the positioning and swing of doors preventing access to rooms while one or both are open. (as illustrated below in Figure 13).

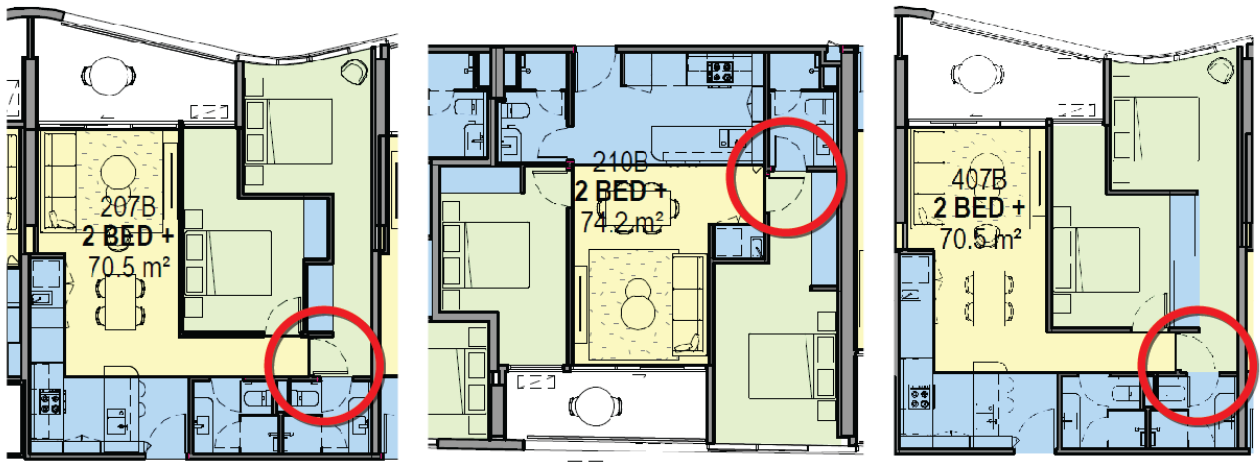
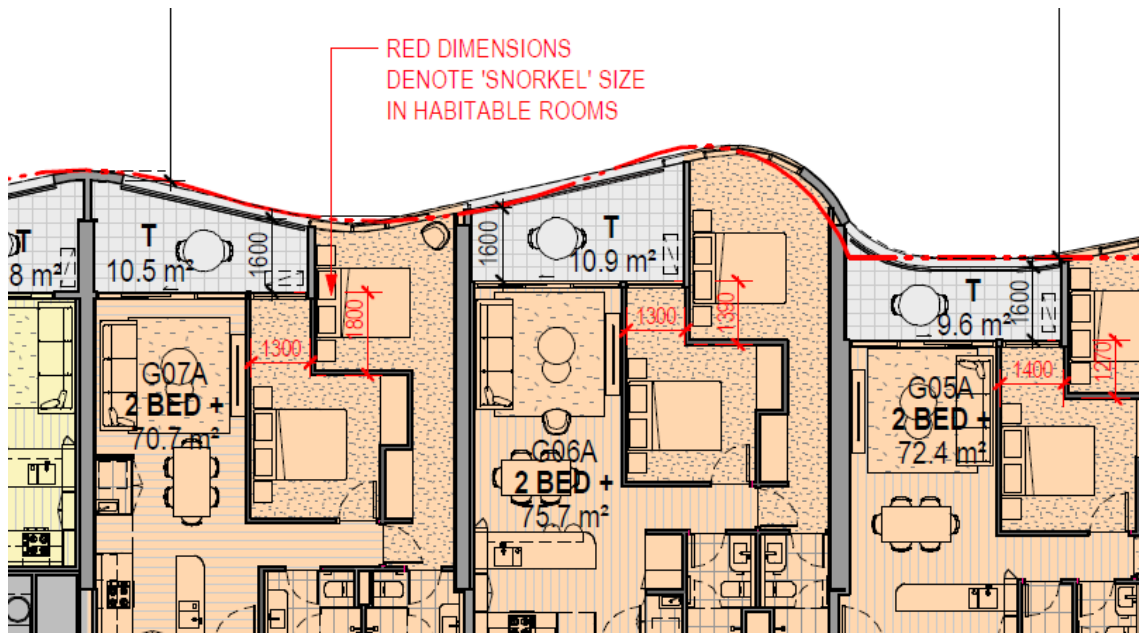


Figure 13: illustration of function issue of doors preventing access to rooms

- 10.29 An improvement to internal amenity is the removal of the overhanging footprint of the tower which previously resulted in dwellings 1.17 and 1.26 being significantly recessed beneath overhanging upper levels. The proposal avoids this through revision to level footprints and internal layouts.
- 10.30 Where bedrooms rely on a corridor or 'snorkel' for access to light, the Tribunal Decision of the endorsed scheme accepted recommendations that "*the minimum depth and width of the corridor should be 1.2 metres and 1.8 metres respectively*" which could be captured in permit conditions. This recommendation hasn't been adopted in the new scheme where several dimensions have been narrowed further. Studying the ground level as an example, these include (in addition to many instances at upper levels):
- G07A (formerly G.02) – previously 1.50m wide, 1.75m deep; now 1.30m wide, 1.80m deep.
  - G06A (formerly G.03) – previously 1.50m wide, 1.75m deep; now 1.30m wide, 1.39m deep.
  - G06A (formerly G.08) – previously 1.40m wide, 1.05m deep; now 1.28m wide, 1.30m deep.



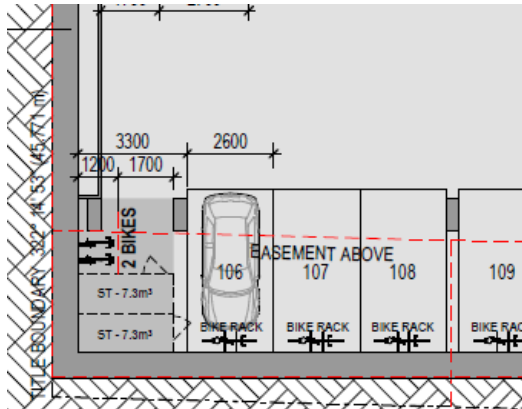
- 10.31 It is acknowledged that there are instances where the dimension widths have increased, including south facing dwellings at Upper Ground Level where several 'snorkel' dimensions were previously 1.2m wide, now increased in increments of 1.26m, 1.31m, 1.35m and 1.39m. Some previous widths of 1.5m have been increased to 1.60m-1.64m while another has been narrowed from 1.5m to 1.26m (UG07A, formerly UG.17). On the same level, north facing balconies that were previously 1.5m-1.7m wide are now narrowed to 1.2m-1.3m. This general pattern is repeated across all floor levels.
- 10.32 This presents a pattern where 'snorkel' corridors have been narrowed in width dimensions and in some instances, increased in depth in addition, contrary to Tribunal recommendations. The single orientation L-shaped open living kitchen spaces and the battle-axe bedrooms with balconies overhanging do not meet the BADS and whilst it is acknowledged that these do not apply, the Tribunal in its original decision made a recommendation to better these outcomes.
- 10.33 **Recommendation:** Retain current permit conditions. This includes some originally issued by the Tribunal and some allowed under the Section 72 Amendment dated 16 December 2021

#### Private Open Space Areas

- 10.34 Each apartment is afforded a balcony area of a minimum of 8sqm. In some instances the balconies have increased in size and width for a number of apartments. However in many cases with a general pattern, again repeated across all floor levels, there are a number which do not meet the minimum standard when an assessment is completed against the BADS standard which requires north facing balconies to be a minimum of 8m<sup>2</sup>, a minimum dimension of 1.7metres. South facing balconies are to be a minimum area of 8m<sup>2</sup>, at a minimum dimension of 1.2 metres. Apartments 805B, 905B (this is repeated across this podium) are 1.6m in width and north facing. Whilst the balconies are 10.5sqm, for a 2 bedroom/2 bath apartment, arguably does not meet the overall objective of BADS.
- 10.35 **Recommendation:** it is recommended that private open space areas met the minimum requirements of BADS (north facing balconies are a minimum of 1.7m in width).
- 10.36 With respect to Clause 58.05 'Storage', details pertaining to the allocation of storage cages has not been provided, nor are measurements provide within the dwellings illustrating

storage space. Each apartment is provided with storage areas (measurements not provided) with cupboard space provided in each bedroom. Storage cages are also provided across the development not just within the basement areas. Officers do question how the storage space provided in basement 1 in the southwest corner would function should a car be parked with a bicycle over the bonnet as well.

- 10.37 Overall it would appear storage space is provided and would meet the overall objective, the standard just needs to be demonstrated that it can comply. This could be conditioned.



**Are there any additional off-site amenity impacts?**

Height and setbacks

- 10.38 Because there would be no notable changes to the built form envelope, there would be no additional shadow or off-site impacts.
- 10.39 DDO21 provides discretionary setbacks rather than mandatory. In the previous Tribunal Hearing, Council advocated for a 3-storey interface rather than the proposed 5 storey form where the subject site abuts No. 1231 Nepean Highway. This site is located in the MUZ and is also subject to DDO21. It represents a typical allotment size found throughout the municipality (approx. 15m wide and 45m deep) with a total site area of approximately 690sqm. DDO21 has no specific guidance regarding this interface, other than a broad objective to provide transition to the residential environs. This site itself will play a role in transitioning to the adjoining GRZ to its northern boundary.
- 10.40 The revised proposal now has no built form to boundary, with all 9 storeys now setback to a minimum of 4.5m with this increasing as the development progresses into the site.





*Figure 14: Approved setback façade vs proposed setback*

- 10.41 The change in setback has led to a significant consideration been given as part of this assessment to neighbouring property located at No. 1231 Nepean Highway. Development should not unreasonably fetter redevelopment opportunities on adjoining sites. The proposal broadly retains the permitted building envelope with the adjustments to internal and boundary setbacks. The amendment now proposes to be set off the shared boundary leading to the question of equitable development rights. Councils Urban design consultant stated the following:
- 10.42 *The revised setback from the eastern boundary influenced by the easement, has resulted in a more beneficial interface to the adjoining residential environs, specifically the allotment at 1231 Nepean Highway. While the neighbouring dwelling is built closely to boundary, the outcome ensures an equitable opportunity for future residential development activity within the adjoining residential zone. To the common south-eastern boundary, the building profile is set back between 2.10m to 5.005m. While the corner component of the proposed form is set back below what would be typically expected to invite commensurate equitable development on the neighbouring property, we consider this to be acceptable as development on the neighbouring allotment is unlikely to occupy the corner due to the constraints of its triangular geometry. Beyond this corner location, the 5.00m – 5.005m setback will ensure a minimum 9.50m – 10.00m separation between the proposal and future development on the neighbouring site, provided its upper levels are set back a minimum 4.5m – a measurement that is commonly applied to ensure equitable development opportunities and to minimise the presence of screening on facades. Through providing this 5.00m setback to the common boundary and illustrating a 4.50m boundary setback at the neighbouring site in a potential development envelope, the proposal acknowledges that a minimum 9.00m gap between development form is an adequate measure. However, the proposal does not apply this approach internally, where the building separation between the ‘western’ and ‘eastern’ tower has decreased from 7.945m – 8.00m to 7.15m – 7.60m. While the internal layouts are primarily oriented north-south (minimising habitable windows facing opposite with less than 9m separation), narrowing the gap by upwards of 11% at the narrowest point (eastern corners), represents a decreased separation that brings habitable windows of the eastern building closer to walls of the western tower. This may risk compromising the sense of openness between the towers and subsequent daylight access when compared to the gap of the endorsed scheme. Visual interest in façades will also need to be maximised where outlooks are oriented towards blank walls of the western tower.*
- 10.43 Further comments from Council’s Urban Design Consultant formed an opinion that the separation is ‘a better outcome, allowing a clear sense of openness and separation along the boundary’. However, there is an argument to be made that the sheer 9-storey form is too aggressive and that the form could ‘step down’ towards it. It is considered that this sheer form should be justified further by the applicant. Changes to assist could include proposing that levels 4-7 are set back a further 3m, in addition to the 4.5m, resulting in a 5-storey base with an additional 4 recessed upper levels at this interface.
- 10.44 The setbacks have been increased as illustrated in the plans provided in Appendix 2. At ground level they vary between 5m at the north west corner through to 21.5m towards the middle of the site. Overall these are considered to be acceptable. The blank walls of the western tower should be further addressed. DDO21 sets out that development should be designed to avoid blank walls and unarticulated facades. A recommendation is provided in section 10.



**Landscaping/Vegetation**

- 10.45 Located in the northwest corner of the vacant carpark (No. 1239-1241 Nepean Highway and 64 Matthieson Street, Highett) is a *Eucalyptus camaldulensis* Red River Gum- pictured below in Image 1).



Image 1: View of ESO3 -*Eucalyptus camaldulensis*- from Matthieson Street looking north towards subject site

- 10.46 This is a significant tree which is listed on the Significant Tree Register Ref #57 and as such Clause 42.01 (Schedule 3) applies to the site. Council's Vegetation Officer has reviewed the application noting that no amended arborist or landscape plan was submitted in the amended documentations provided to Council. As per Appendix 1 (applicants proposed tracked changed permit), all landscape and tree protection conditions are proposed to be deleted. No justification has been provided as to why this is occurring and is unsupported by planning officers
- 10.47 Furthermore, no support for the proposal in its current form is provided by Council's Vegetation Officer due to the level of encroachment into the TPZ of the River Red Gum. The proposed plans illustrate 100% encroachment of the Tree Protection Zone (TPZ) of the River Red Gum within the subject site. Encroachment should remain as what is currently shown and approved on endorsed plans including the endorsed arborist report and landscape plan. Figure 15 below illustrates the endorsed southern elevation on the right and the area highlighted by the red arrow the TPZ on the proposed plan. The image on the left illustrates a level change of an increase of approximately 1 metre, with the surface proposed to be paved. The comparison is that the endorsed plans manage the transition from NGL at the site boundary to the GFL via a boardwalk on raised piers as an increase in the depth of material over the exiting natural ground reduces oxygen available to the tree's root system. This is not proposed in the current plans before the Tribunal.

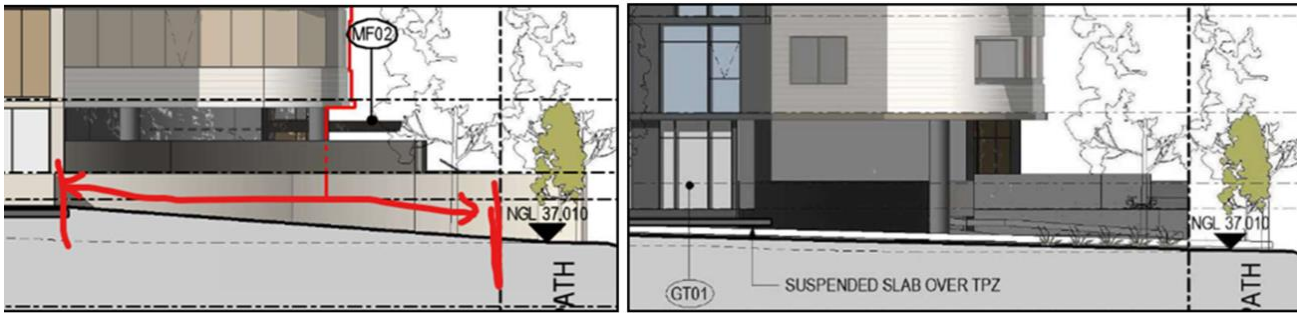


Figure 15: what is proposed (left) vs endorsed (right)

10.48 Additional comments by Council's Vegetation Officer are as follows:

- *Reduction in basement setback off Matthieson Street should be beneficial to tree but this is negated by the additional works highlighted further into the referral.*
- *Extra encroachment due to the addition of works beside driveway ramp means that excavation within the TPZ is increased.*
- *The amended proposal has a change of grade with paving on top and it appears there is a raised garden bed at the base of the tree which extends along the southern boundary. There is also a bike park within the TPZ. Endorsed ground floor plan has an at grade garden bed with pedestrian movement from the footpath/eastern entrance to the access way down the south side of the site through to the Nepean Highway via a boardwalk with bored piers across the TPZ of the River Red Gum*

#### Would Council's ESD and WSUD requirements be met?

10.49 As per DDO21, the design must demonstrate (emphases added):

- *A high standard of ESD has been achieved, including the use of low embodied energy materials in its construction and measures for a low energy intensive building operation;*
- *Good control of solar radiation including orientation, natural light and shading.*

10.50 Council's ESD Advisor has raised a number of issues with the proposed development, both the plans and the SMP provided, where the proposal is providing less than what was endorsed resulting in a poorer outcome. Officers recommend that an amended SMP is provided to ensure that an overall acceptable outcome would be achieved and plans updated to illustrate these changes. Being an amendment application, the key issue to focus on is ensuring that the overall outcome in terms of ESD/ WSUD initiatives and performance outcomes, will not be reduced. These are considered fundamental. Some examples are as follows:

- The endorsed proposal has a 45,000L tank connected to toilets and irrigation but the amended proposal has this reduced to 38,000L. The BESS assessment indicates that the 38,000L tank will be connected to ALL apartment toilets, but the SMP indicates the tank is only connected to 100 occupants.
- the Endorsed SMP indicates a commitment to a 6.5-star minimum. Current SMP only commits to a 6-star minimum. This is not an acceptable outcome
- The Endorsed SMP had commitments to the use of low VOC paints, sealants, adhesives, wall and ceiling covering and E1 or E0-grade composite wood products

(e.g. MDF, plywood, engineered-wood flooring). There are currently no commitments in current SMP which is also not acceptable.

- In the building materials section, there are much fewer commitments than the endorsed SMP, again this is not acceptable. The original commitments must be maintained.

10.51 In the recommendation section of this report, there are further requests for information to be provided by Council's ESD Officer.

### **Waste management**

10.52 The endorsed SMP indicates that waste separating and collection for paper, cardboard, PET, glass, aluminium, steel and HDPE. The proposed waste management plan does not reflect this. Council's waste officer is satisfied with the WMP supplied. It is considered that a condition could satisfy the SMP component of waste separation.

### **Do the amended plans raise any new issues?**

10.53 It is considered that the proposed amendments do not raise any additional issues that have not already been considered in this assessment.

10.54 A full review of the existing conditions has been undertaken and all conditions that remain relevant are recommended to be retained or modified as necessary. This includes the retention of condition 1 requirements that have not been addressed in the amended plans. Appendix 3 of this report contains a tracked changed list of the proposed amendments to conditions that Council Officers support.

10.55 It is noted that the applicant is seeking to remove a number of conditions which Council Officers do not support (Appendix 1). Officers assume that the applicant is seeking to remove the bulk of Condition 1's as they believe they've met them (given they have endorsed plans including expert reports such as landscaping/arborist/waste management/wind and so forth) however as the development has yet to be constructed and this proposal is different from what was proposed, it is considered to be premature and inappropriate to remove them.

## **11.0 RECOMMENDATION**

11.1 At this stage in the process, Council Officers are unable to support the application in its current form.


11.2 As Council are not the decision maker but a party to the proceedings, if the Tribunal were in mind to issue a permit the following recommendations are summarised as follows:



1. An approved Cultural Heritage Management Plan (CHMP) to be provided.
2. An assessment against Clause 58 to quantify statements made on compliance standards.
3. At ground level, chamfer or curve the southwestern corner of the retail provision to enhance visibility between Nepean Highway and the proposed retail lane.
4. Deepen the narrow strip of retail lining the car park ramp to a minimum dimension where plans can illustrate functional retail activity (not back-of-house functions) or delete it entirely to create additional public realm space to accommodate bike parking or seating.
5. Maximise visual interest along the resulting wall lining the car park entrance such as through the display of public art and feature lighting.



6. Provide a minimum upper-level separation between the western tower and eastern building of 9m, or at a minimum, reinstate the previously endorsed space between tower forms that has narrowed from 7.945m – 8.00m to 7.15m – 7.60m.
7. Levels 4-7 are set back a further 3m, in addition to the 4.5m, resulting in a 5-storey base with an additional 4 recessed upper levels at the interface with 1231 Nepean Highway.
8. Revise the architectural language to strengthen clear visual distinction between building components as successfully demonstrated in the endorsed scheme, specifically:
  - Within the northern elevation to strengthen distinction between the Nepean Highway 'corner' curvilinear tower form and adjoining rectangular 9-storey component, through complementary material/colour palettes and façade treatments.
  - Within the southern elevation to strengthen distinction between the Nepean Highway tower and Matthieson Street building, reinforcing the central 'break' that was previously present in the endorsed scheme, complementary material/colour palettes and façade treatments that 'break' the elevation into a series of parts.
  - Within the eastern elevation to strengthen the distinction between the 'podium' and recessed upper form through complementary material/colour palettes and façade treatments.
9. Adopt previous Tribunal recommendations regarding the dimension of 'snorkel corridors,' specifically increasing their minimum depth towards 1.2 metres and 1.8 metres' respectively.
10. Reinstate the previously endorsed widths of east-west corridors within the square eastern 'tower' that have narrowed from 1.6m down to 1.1m-1.32m.
11. Review internal dwelling layouts to avoid open doors blocking access into adjoining rooms.
12. Increase north facing balconies from 1.6m to a minimum of 1.7m.
13. Lighting at lobby entrance (Nepean Highway) to be provided.
14. An updated SIDRA intersection analysis is to be provided for Karen and Mattheison Street intersection, based on the current volume in that area.
15. An improved swept path analysis is required to show that a B85 and B99 can pass each other at the location as shown in Figure 7 of the assessment.
16. Parallel parking spaces 28,29, 134, 136 need to be dimensioned and comply with Planning Scheme or AS/NZS 2890.1
17. Space 193 and 88 needs 1m aisle extension otherwise swept path is required.
18. 1m extension has to be provided for 170, 171, 65 and 66 as these spaces are designed based on 2890.1 and swept path shows they are difficult to access.
19. All lighting (blue circle) and loading bay (red circle) creation on Nepean Highway as per previous conditions should continue (as illustrated in Figure 8).
20. Update SMP to illustrate the following:
  - Plans need to indicate rainwater tank location, size and connection to all toilets and irrigation as proposed in the BESS assessment
  - Endorsed proposal had a 45,000L tank connected to toilets and irrigation but current proposal has this reduced to 38,000L.
  - BESS assessment indicates that the 38,000L tank will be connected to ALL apartment toilets, but the SMP indicates the tank is only connected to 100 occupants.
  - The SMP needs to have clear statements that a dishwasher with a minimum 5 Star WELS rating and a washing machine with a minimum 3 Star WELS rating will be provided as part of the fit-out to each dwelling to reflect what is in the BESS assessment.
  - To claim the Water 3.1 Water Efficient Landscaping BESS credit, indicate on plans water efficient irrigation, connection of irrigation system to

- rainwater tank or water efficient plant selection including drought-tolerant turf/lawn.
- Endorsed SMP indicates a commitment to a 6.5-star minimum. Current SMP only commits to a 6-star minimum.
  - 6.8-star average has been entered into the BESS assessment contrary to commitments. This is again giving the development a higher score than what is proposed. SMP and plans need to indicate a clear commitment to the apartments achieving a 6.8-star average.
  - Roof plans need to indicate the proposed 11.5kWp solar photovoltaic system.
  - Endorsed SMP had commitments to the use of low VOC paints, sealants, adhesives, wall and ceiling covering and E1 or E0-grade composite wood products (e.g. MDF, plywood, engineered-wood flooring). There is currently no commitments in current SMP.
  - Provide evidence that 70% of dwellings receive at least 3 hours of direct sunlight in all Living areas between 9am and 3pm in mid-winter.
  - Single orientation L-shaped open living kitchen spaces and the battle-axe bedrooms with balconies overhanging do not meet the BADS requirements.
  - To claim the Transport 2.1 Electric Vehicle Infrastructure BESS credit, the EV charge point must be shown on plans.
  - There should be a commitment to a minimum of 80% of construction and demolition waste diverted from landfill as per the previously endorsed SMP.
  - Endorsed SMP indicates waste separating and collection for paper, cardboard, PET, glass, aluminium, steel and HDPE. Current WMP does not reflect this.
  - The Urban Ecology 2.1 Vegetation BESS credit must include only turfed or planting areas and cannot include other landscaping elements such as hard paving/pavers (including permeable paving), loose pavers/stepping stones aggregate/pebbles, synthetic grass, decks, pool, RW tanks, storage sheds etc. This area must be demarcated on landscape plan accurately and entry in BESS must be updated accordingly.
  - To claim the Urban Ecology 2.4 Private Open Space - Balcony / Courtyard Ecology BESS credit, provide additional notes on the drawings which shows that each dwelling's private open space area will be provided with an external tap, preferably connected to the rainwater tank, and floor waste.
  - For the non-visible flat roofs and exposed concrete driveway, specify light coloured or reflective finishes / materials (Solar Reflective Index >50 or Solar Absorptance<0.6) to help mitigate the urban heat island effect. This must be reflected on plans.
  - Building materials- This section appears to have much fewer commitments than the endorsed SMP. The original commitments must be maintained.
21. No further encroachment into the TPZ of the protected tree is to occur.
22. Endorsed ground floor plan has an at grade garden bed with pedestrian movement from the footpath/eastern entrance to the access way down the south side of the site through to the Nepean Highway via a boardwalk with bored piers across the TPZ of the River Red Gum. This is recommended to be retained or something similar provided.
23. Retention of Condition 12 (Wind Assessment Report) and any necessary changes to the plan required due to this.
24. Retention of Condition 13 and any necessary changes to the plans due to the Daylight and Ventilation Report as endorsed.
25. It is also recommended that the permit applicant contact Air Services Australia and the Moorabbin Airport Corporation to discuss the application in case cranes are required for the construction which may impact flight paths and/or the height of the final product impacts upon flight paths.

## **Appendices**

Appendix 1 - Applicant's Tracked Changes to Permit (Ref 22/311729)  

Appendix 2 - S87A Plans- 1233 Nepean Highway, Highett (Ref 22/311730)  

Appendix 3 - Council's Tracked Changed Permit (Ref 22/329792)  

Author/s: Sarah Capenerhurst, Principal Strategic Planner

Reviewed and Approved By: Alfred Carnovale, Planning Appeals Coordinator  
Jaclyn Murdoch, Manager City Development



# 4.5

## 1233 NEPEAN HIGHWAY, HIGHETT KP-2016/124/B S87A AMENDMENT

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2	S87A Plans- 1233 Nepean Highway, Highett .....	265
3	Council's Tracked Changed Permit .....	315



16 December 2021

H1 Land Australia Pty Ltd C/O Urbis  
10 477 Collins St  
MELBOURNE VIC 3000



**Application No:** KP-2016/124/A  
**Proposal:** 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
  - Create and remove easements
  - Alter access to a Road Zone category 1
  - Construct buildings and works within a Special Building Overlay, Design and Development Overlay and Environmental Significance Overlay.
- Address:** 1233-1237 Nepean Highway and 60-64 Matthieson Street HIGHETT VIC 3190

Please find enclosed your amended Planning Permit.

The amended Planning Permit contains a number of conditions. Please ensure you are familiar with all conditions before you act on this permit. Any variation from the amended planning permit and/or endorsed plans will require prior written consent from Council.

You may also be required to obtain building or other approvals from Council or other authorities, including the submission of additional plans for approval under this planning permit. Please ensure these matters are attended to prior to acting on this amended planning permit.

Please note, the planning permit contains an expiry date. If works have not commenced or are not completed within the required timeframe the permit will expire. The permit holder is responsible for seeking an extension of time from Council. Please note the condition relating to the expiry of the permit is taken from the original planning permit issued date, not any amended permit issued date.

Requests for an extension of time are not automatically granted, and each application will be considered on its merits against the provisions of the Kingston Planning Scheme at the time of the request. If a request for an extension to extend the permit is made out of time, the responsible authority **cannot** consider the request and the permit holder **will not be able** to apply to the tribunal.

For more information on what to do next you may find the information on Councils website helpful which can be found at [www.kingston.vic.gov.au/planning-next-steps](http://www.kingston.vic.gov.au/planning-next-steps)

community inspired leadership

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Should you have any further enquiries, please contact City Development Administration on 9581 4131 or email [info@kingston.vic.gov.au](mailto:info@kingston.vic.gov.au)

Yours sincerely,



**Alfred Carnovale**

ACTING MANAGER – CITY DEVELOPMENT, CITY OF KINGSTON

*community inspired leadership*

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

Permit Number: KP-2016/124  
 Planning Scheme: KINGSTON  
 Responsible Authority: KINGSTON CITY COUNCIL

**ADDRESS OF THE LAND:**

1233-1237 Nepean Highway and 60-64 Matthieson Street, Highett

**THE PERMIT ALLOWS:**

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~~

- Create and remove easements

Alter access to a ~~Road Zone category 1~~ **Transport 2 Zone**

- Construct buildings and works within a Special Building Overlay, Design and Development Overlay and Environmental Significance Overlay.

**Check that pre-ambles are identical as the Planners Report**

- 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 generally~~ in accordance with the plans ~~prepared by Rothe Lowman dated 8 September 2022, considered by Council known as 'RFI ISSUE' and referred to as TP0.01 Rev G 25.08.16, TP0.02 & TP0.03 Rev B 19.08.16, TP1.01, TP1.02, Rev C 25.08.16, TP1.03 Rev C 19.08.16, TP1.04, TP1.05, TP1.06, TP1.07, TP1.08, TP1.09, TP1.10, TP1.11, TP1.12, TP1.13, TP1.14, TP1.15, TP1.16, TP1.17, TP1.18 Rev B 19.08.16, TP1.19 dated 19.08.16, TP2.01, TP2.02, TP2.03, TP2.04, TP2.05, TP2.06, Rev C 25.08.16, TP3.01, TP3.02 Rev B 19.08.16, TP3.03, TP3.04, TP3.05, Rev B 25.08.16, and TP3.06 Rev A 19.08.16, but modified to show and/or provide:~~

~~Changes to the western tower as shown in the plans prepared by Rothe Lowman TP1.16, TP1.17, TP2.01 and TP2.03 all dated 23.05.17 comprising the deletion of two units on the eastern side of the western tower at each of Levels 1-11 and 12 with the roof at Level 10 to be marked as 'non-trafficable'.~~

Date Issued: 10 August 2017

Signature for the Responsible Authority:

Planning and Environment Regulations 2015 S.R. No. 33/2015 - Form 4 - Sections 63, 64, 64A and 86

**PLANNING PERMIT No. KP-2016/124**  
**ADDRESS: 1233-1237 Nepean Highway and 60-64 Matthieson Street Highett**

- ~~(a) Deletion of two levels from the eastern tower, comprising two of Levels 4, 5 or 6.~~
- ~~(a) Provision of a minimum 5 metre setback to built form from the southern side boundary, with lesser setbacks allowable within 25 metres of the south-western corner of the site generally in accordance with the plans marked TP1.04, TP1.06, TP1.07, TP1.08, TP1.09, TP1.10, TP1.11, TP1.12, TP1.13, TP1.14, TP1.15, TP1.16, TP1.17 and TP1.18 all marked Revision G.~~
- ~~(a) In the western tower re-configure units 1.03, 2.03 and 3.03 so as to merge with other units at the same respective floor level.~~
- ~~(a) Re-configure inbound bedroom and living arrangements for the lower ground east facing units LGO1 and LGO2 and south facing units at each south-east corner unit in the western tower for the purpose of increasing light to the bedrooms of these units, commencing at 2.12.~~
- ~~(a) Recommendations contained in the statement of evidence of Ms R West to the Victorian Civil and Administrative Tribunal in Application for Review P2383/2016 dated 7 April 2017 at paragraph 63 comprising:~~
  - ~~— Bedrooms relying on a corridor "snorkel" for light, the minimum width and depth of the corridor must be 1.2 metres and 1.8 metres respectively.~~
  - ~~— Minimum internal floor to ceiling heights in all living spaces 2.7 metres.~~
- ~~(a) The location of tree protection measures illustrated to scale and labelled on all plans and a notation referring to the Tree Management Plan required by Condition 8.~~
- ~~(a) The following changes to limit the impact of the development on the River Red Gum included within the Environmental Significance Overlay ES03:~~
  - ~~iii Changes to the north-east corner of the basement comprising the deletion of car spaces 67 and 188, storage units and modifications to the pool so as to reduce the extent to which the basement protrudes into the tree protection zone.~~
  - ~~v Deletion of the fencing and other structures from the tree protection zone.~~
  - ~~vii Other changes to building setbacks and/or works as required by the Root Investigation required by Condition 7.~~
  - ~~ixi Any other and additional changes to the plans arising from the Tree Management Plan and Tree Management Plan endorsed under Condition 8.~~
- ~~(b) Any necessary changes to the plan required due to the Wind Assessment Report endorsed under Condition 12.~~

Date Issued: 10 August 2017

Signature for the Responsible Authority



Planning and Environment Regulations 2015 S.R. No. 33/2015 - Form 4 - Sections 63, 64, 64A and 86



**PLANNING PERMIT No. KP-2016/124**  
**ADDRESS: 1233-1237 Nepean Highway and 60-64 Matthieson Street Highett**

- (c) Any necessary changes to the plans due to the updated Daylight and Ventilation Report endorsed under Condition 13.
- ~~(c) A centrally mounted island intercom system with the intercom setback 3.5 meters from the property boundary.~~
- ~~(e) Columns adjacent to car spaces 216/95/09 and 148/28 be shifted one car space to the east, away from the western wall.~~
- ~~(e) The provision of a longitudinal section of the basement ramp showing gradients, levels, distances, with headroom clearances complying with AS2890.1:2004 and the flood proof apexes along the entire frontages of Matthieson Street and Nepean Highway.~~
- ~~(e) The provision of a flood proof apex of RL3 8.79m to Australian Height Datum (AHD) along the entire frontage of Nepean Highway.~~
- ~~(e) The provision of an appropriate flood proof apex along the entire frontage of Matthieson Street consistent with the other requirements of this permit.~~
- ~~(e) Notations to confirm that the finished floor level of the proposed building (habitable areas) must be minimum 38.30m to AHD, excluding the frontage of Matthieson Street and dwellings located on the Lower Ground level.~~
- ~~(e) Provision of all existing and/or proposed easements to be shown on plans.~~
- ~~(e) The provision of Landscape Plans for each level generally in accordance with the concept plans prepared by TGL Tract dated 03/02/2016 21/09/2021 (and endorsed 22 December 2021) but modified to reflect the plans endorsed pursuant to condition 1 but modified to show and implement the recommendations of Dr Peter May as set out in paragraphs 9.14 to 9.36 of his statement of evidence to the Victorian Civil and Administrative Tribunal in Application for Review P2383/2016 dated April 2017 and including:~~
- ~~\_\_\_\_\_ A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant;~~
- ~~\_\_\_\_\_ 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;~~
- ~~\_\_\_\_\_ A survey including botanical names, of all existing trees on neighbouring properties where the tree protection zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site;~~
- ~~\_\_\_\_\_ The delineation of all garden beds, paving, grassed area, retaining walls, fences and other landscape works;~~
- ~~\_\_\_\_\_ A range of plant types from ground covers to large shrubs and trees, species must comprise a minimum of 80% indigenous coastal species by total numbers and plant~~

Date Issued: 10 August 2017

Signature for the Responsible Authority



Planning and Environment Regulations 2015 S.R. No. 33/2015 - Form 4 - Sections 63, 64, 64A and 86

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**PLANNING PERMIT No. KP-2016/124**  
**ADDRESS: 1233-1237 Nepean Highway and 60-64 Matthieson Street Highett**

- ~~\_\_\_\_\_~~
- ~~\_\_\_\_\_ type;~~
- ~~\_\_\_\_\_ 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;~~
- ~~\_\_\_\_\_ No trees with a mature height over five (5) metres are to be planted over proposed or existing easements; and~~
- ~~\_\_\_\_\_ The provision of notes regarding site preparation, including the removal of all weeds, proposed mulch, soil types and thickness, subsoil preparation and any specific maintenance requirements.~~
- ~~\_\_\_\_\_ The location of any tree protection measures including for street trees accurately drawn to scale and labelled and notations referring to any endorsed Tree Management Plan.~~
- ~~(c) The provision of a Creation of Easement plan, prepared by a suitably qualified land surveyor detailing a new drainage easement along the site's northern side boundary.~~
- ~~(c) Removal of notations from plans regarding 'potential future link'.~~
- ~~(c) The provision of security access for entry to G.06.~~
- ~~(c) Deletion of the at grade car space for apartment G.08.~~
- ~~(c) The allocation of storage for each apartment, demonstrating a minimum allocation of 6 cubic metres for each.~~
- ~~(c) A minimum hallway width of 1.5 metres for access to apartments LG.04 and LG.05.~~
- ~~(c) Notations and details of all commitments provided in the amended Sustainability Management Plan required by Condition 4.~~
- ~~(c) Details of loading and unloading arrangements.~~
- ~~(aa) Details of waste management.~~
- ~~(bb) Materials, including colours and finishes, to be provided in a schedule.~~

**Endorsed Plans**

- 2 The development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.

**Confirmation of Architect**

Date Issued: 10 August 2017

Signature for the Responsible Authority



Planning and Environment Regulations 2015 S.R. No. 33/2015 - Form 4 - Sections 63, 64, 64A and 86

**PLANNING PERMIT No. KP-2016/124**  
**ADDRESS: 1233-1237 Nepean Highway and 60-64 Matthieson Street Highett**

- 3 As part of the ongoing consultant team, Rothe Lowman or an architectural firm to the satisfaction of the Responsible Authority must be engaged to oversee the design and construction ensuring the design quality and appearance of the approved development is realised as shown in the endorsed plans during the construction unless with the prior written approval of the Responsible Authority.

#### Sustainability Management Plan

- 4 Prior to the endorsement of plans required by Condition 1, an amended Sustainability Management Plan (SMP) must be submitted for endorsement. The SMP must be generally in accordance with the plan prepared by ADP Consulting, dated ~~9 February 2016~~ August 2022, but amended to reflect changes made to the proposal, and include a Built Environment Sustainability Scorecard.

#### Easement Creation

- 5 Prior to the occupation of the development the following must occur:
- (a) A Plan of Creation of Easement prepared by a licensed land surveyor must be submitted, showing the drainage and carriageway easements in favour of the City of Kingston, to the satisfaction of the Responsible Authority.
  - (b) The Plan of Creation of Easement must be certified, and then registered by the Office of Titles.

#### Landscaping

- 6 Before the occupation of the development the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.

#### ESO Tree Conditions

- ~~6 Before plans are submitted and approved for endorsement under Condition 1, a non-destructive root investigation is to be undertaken by a suitably qualified arborist, and inspected by Council's Arborist, in accordance with AS4970-2009 to determine the location of roots within the area protected by the Environmental Significance Overlay - Schedule 3 (ES03) where buildings and works, including drainage, associated with the development are proposed. The results of the root investigation are to be compiled into a report (the "Tree Condition Report") which is to be submitted to and approved by the Responsible Authority.~~
- ~~6 Before plans are submitted for endorsement under Condition 1, a "Tree Management Plan" (report) and a Tree Protection Plan (drawings) must be prepared to the satisfaction of and be endorsed by the Responsible Authority.~~
- ~~(-) The Tree Management Plan must be prepared by a suitably qualified arborist, reference the Tree Protection Plan and provide details of:~~

~~— The results of non-destructive root investigation undertaken in accordance with AS4970-2009 to determine the location and distribution of roots of trees nominated~~

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#### Streetscape Works

- 10 Before the development starts, an updated landscape plan (reflecting the plans endorsed pursuant to condition 1) must be submitted to the satisfaction of the Responsible Authority providing for reinstatement works adjacent to the land with landscaping and streetscape furniture for Matthieson Street and Nepean Highway must be submitted to the Responsible Authority with the costs of these works to be met by the owner.

#### Wind and Daylight/Ventilation Reports

- 11 Before plans are submitted for endorsement a wind assessment report (the "Wind Assessment Report") must be prepared to the satisfaction of the Responsible Authority for consideration and if approved by the Council, endorsement.
- ~~11~~ Before plans are submitted for endorsement an updated daylight and ventilation report (the "Daylight and Ventilation Report"), generally in accordance with the Daylight and Ventilation Assessment Report prepared by ADP Consultants (endorsed 21 February 2018) must be prepared to the satisfaction of the Responsible Authority for consideration and if approved by the Council, endorsement. ~~The Daylight and Ventilation Report must:~~
- 12 Pollution and sediment laden runoff shall not be discharged directly or indirectly into Melbourne Water's drains or waterways.

#### VicRoads Condition

- 13 All disused or redundant vehicle crossings must be removed and the area reinstated to the satisfaction of Responsible Authority and at no cost to the Roads Corporation prior to the occupation of the buildings or works hereby approved.

#### Public Transport Victoria Condition

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

#### Construction Management

- 15 Prior to the commencement of any buildings and works on the land (including demolition), a Construction Management Plan (CMP), to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority. The CMP must be prepared in accordance with the City of Kingston Construction Management Policy, July 2015 ~~October 2016 and Construction Management Guidelines, 1 November 2015~~ (and any superseding versions and / or documents). The CMP must specify and deal with, but is not limited to, the following elements:

- (a) Public Safety, Amenity and Site Security;
- (b) Traffic Management;

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- (c) Stakeholder Management;
- (d) Operating Hours, Noise and Vibration Controls;
- (e) Air Quality and Dust Management;
- (f) Stormwater and Sediment Control;
- (g) Waste and Materials Re-use.

When approved, the plan will be endorsed and will then form part of the permit and shall thereafter be complied with during the undertaking of all works. In the event of damage during construction to any adjacent Council roads, footpaths and park land, such damage will be required to be repaired by and at the full cost to the developer, to the satisfaction of the

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Responsible Authority.

- 16 The developer/owner must contact the Responsible Authority and VicRoads (if required) and arrange traffic management plans and a works zone for any works that may affect traffic (both vehicular and pedestrian) on Nepean Highway or any of the surrounding streets. Works vehicles may not be able to stop in the street fronting the property. The developer will be responsible for the costs of arranging a works zone and reinstatement of parking restriction signs, to the satisfaction of the Responsible Authority.

**Drainage and Water Sensitive Urban Design (WSUD)**

- 17 Unless with the 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) Stormwater Management (drainage) Plan(s) must be prepared, with supporting computations, showing the stormwater (drainage) works to the nominated point of discharge. The plan(s) must show all details of the proposed stormwater works including all existing and proposed features that may have an impact on the stormwater (drainage) works, including landscaping details.
  - (b) Prior to submitting detailed plans, a comprehensive stormwater management (drainage) strategy for the site must be prepared that addresses the requirements specified within Council's "Civil Design requirements for Developers - Part A: Integrated Stormwater Management.
  - (c) 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.
  - (d) The water sensitive urban design treatments as per conditions 18a, 18b, & 18c above must be implemented on-site, unless an alternative agreement is reached with the Responsible Authority.
- 18 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 flow rate of 39L/s.
  - (d) All stormwater (drainage) works must be maintained to the satisfaction of the Responsible Authority.

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- 19 A groundwater assessment report (GAR) must be prepared prior to the commencement of buildings and works by a qualified hydro-geologist to assess any possible impacts the proposed development has on the ground water table, surrounding land and buildings to the satisfaction of the Responsible Authority.
- 20 Should the findings of the submitted GAR demonstrate that the site is likely to experience issues associated with ground water management, a ground water management plan (GMP) must be submitted to the satisfaction of the Responsible Authority and approved by the Responsible Authority.
- 21 The basement structure must be designed and constructed to the satisfaction of the Responsible Authority and must address the following:
  - (a) The basement design must address the findings of the GAR and GMP required under Condition 23; and
  - (b) If a wet basement is proposed, ground water including an AG drain must not be discharged into the stormwater system. Any subsurface water (groundwater) must be disposed of on-site or via an agreement with the local sewer authority.
- 22 In any case where the basement design and construction, required by Condition 22 of this permit, does not accord with the plan(s) approved under this permit the endorsed plan(s) must be amended to the satisfaction and with the written consent of the Responsible Authority.
- 23 The existing drainage pipe must be rerouted, designed and constructed at the full expense of the applicant as per engineering plans approved by the Council. A priced schedule of the drainage upgrade works within the existing and or proposed easements and the payment of Council's engineering fees of 3.25% of the total cost of the drainage upgrade works are required to be submitted prior to approval of the engineering plans.
- 24 A 3.0 metre wide easement (or such lesser figure if that is to the satisfaction of the Responsible Authority) must be created in the subdivision plan to accommodate the proposed rerouted Council pipe along the northern boundary to Matthieson Street. The new easement and rerouted pipe must not be covered by a building or works without Council consent.

#### Infrastructure and Road Works

- 25 Prior to the commencement of development, property boundary, footpath and vehicle crossing levels must be obtained from Council's Roads and Drains Department with all levels raised or lowered to the satisfaction of the Responsible Authority.
- 26 The replacement of all footpaths, including offsets, must be constructed to the satisfaction of the Responsible Authority.
- 27 All reinstatements and vehicle crossings must be constructed to the satisfaction of the Responsible Authority.

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- 28 All redundant vehicle crossings must be removed (including redundant portions of vehicle crossings) to the satisfaction of the Responsible Authority.

**Access Easement and Pedestrian Link**

- 29 Prior to the commencement of the use permitted, the owner must enter into an agreement pursuant to section 173 of the *Planning and Environment Act 1987* (the "173 Agreement") with the Responsible Authority upon the following terms:
- (a) Requiring an easement in gross in favour of the Kingston City Council for pedestrian purposes of 5 metres in width along the southern boundary of the land (the "Access Easement");
  - (b) The Access Easement must be constructed and maintained in a manner to allow for the possible future integration of that Access Easement with the land to the immediate south (the "Southern Land"), for when that Southern Land is considered for and then, developed;
  - (c) If the approved development of the Southern Land includes an access easement area along its northern boundary (the "South Access Easement") of a similar nature to the Access Easement, including similar construction obligations to those imposed upon the land, then the landowner or Owners Corporation must cooperate with the developer of the Southern Land to allow for new works which achieve the integration of the Access Easement and the South Access Easement ("Integration Works")
  - (d) The cooperation required under paragraph 33(c) will require the landowner or Owners Corporation to provide its:
    - i Consent to the preparation of joint design plans in respect of the Integration Works;
    - ii Consent to the design incorporating new pavement, boardwalks and landscaping works which will form the Integration Works along the Access Easement and the South Access Easement;
  - (e) The landowner or Owners Corporation acknowledge that the design proposed must be to the satisfaction of the Responsible Authority;
  - (f) Include provisions which allow the 173 Agreement to be initially registered over the land and subsequently registered on Owners Corporation land which will include the Access Easement;
  - (g) Provide that the 173 Agreement will be prepared at the cost of the owner and to the satisfaction of the Responsible Authority. North Interface with 1231 Nepean Highway

**North Interface with 1231 Nepean Highway**

- ~~29 Prior to the commencement of the use permitted, the owner must enter into an agreement pursuant to section 173 of the *Planning and Environment Act 1987* with the Responsible Authority~~

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**Parking Construction and Management**

- 30 Prior to the occupation of the dwellings hereby permitted, areas set aside for parking vehicles, access lanes and paths as shown on the endorsed plans must, to the satisfaction of the Responsible Authority, be:
- (a) Constructed to the satisfaction of the Responsible Authority.
  - (b) Properly formed to such levels that they can be used in accordance with the plans.
  - (c) Surfaced in accordance with the endorsed plans under this permit, to the satisfaction of the Responsible Authority.
  - (d) Drained and maintained to the satisfaction of the Responsible Authority.
  - (e) Line-marked to indicate each car space, allocation and signage of visitor car spaces, and access lanes.
  - (f) Parking areas and access lanes must be kept available for these purposes at all times to the satisfaction of the Responsible Authority and maintained to the satisfaction of the Responsible Authority.
- 31 Before the development commences, a car parking management plan prepared by an appropriately qualified traffic consultant must be submitted to and approved by the Responsible Authority. When approved, the car parking management plan will be endorsed and form part of this permit. The car parking management plan must address, but is not necessarily limited to, all of the following:
- (a) The number and location of the car parking spaces to each dwelling/tenancy generally in accordance with the following minimum requirements (and denoting those that are

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designated as disabled spaces):

- i 1 car space per apartment (minimum), and 2 car spaces for each three bedroom apartment.
  - ii 5 staff car spaces for the ~~four~~three retail premises, with a minimum of 1 car space to each.
  - iii 24 shared residential and retail visitor car spaces.
- (b) The potential for surplus car spaces to be set aside for additional residential visitor parking, smaller service and delivery vehicles and additional bicycle parking.
- (c) The management of visitor car parking spaces and security arrangements for occupants of the development.
- (d) Details of way finding, cleaning, security of end of trip bicycle facilities.
- (e) A schedule of all proposed signage including directional arrows and signage, informative signs indicating location of disabled bays and bicycle parking, exits, and restrictions.
- (f) Details on how the resident bicycle parking and visitor bicycle parking spaces are to be secured and how visitors are to gain access to this area.
- (g) Details regarding the management of loading and unloading of goods and materials for the retail tenancies and residential uses.

The car parking management plan must be implemented to the satisfaction of the Responsible Authority. No alterations may be made without the prior written approval of the Responsible Authority.

#### Loading Zone

- 32 Subject to obtaining Council's approval, failing which this condition will not apply, the owner must provide a loading bay in the Nepean Highway service lane to the satisfaction of the Responsible Authority.

#### Lighting

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

#### General Amenity Conditions

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

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the Responsible Authority.

- 36 Any fixed external screening to prevent overlooking marked on the endorsed plans shall be maintained by the owner of the land to the satisfaction of the Responsible Authority. The provision of any obscure glazing shown on the endorsed plans must be through frosted glass or similarly treated glass, and thereafter maintained to the satisfaction of the Responsible Authority. Adhesive film or the like that can be removed must not be used.

#### Completion

- 37 Prior to the occupation of the dwellings hereby permitted, the landscaping works as shown on the endorsed plans must be completed to the satisfaction of the Responsible Authority. The landscaping must then be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.
- 38 Prior to the occupation of the dwellings hereby permitted, all buildings and works and the conditions of this permit must be complied with, unless with the further prior written consent of the Responsible Authority.
- 39 Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.

#### Time Limits

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

- The development is not started within three (3) years from the date of this permit
- The development is not completed within six (6) years from the date of permit issue

In accordance with section 69 of the *Planning and Environment Act 1987*, the Responsible Authority may extend the periods referred to if a request is made in writing:

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

#### THIS PERMIT HAS BEEN CORRECTED PURSUANT TO SECTION 71 OF THE PLANNING AND ENVIRONMENT ACT 1987 AS FOLLOWS:

Date Issued: 10 August 2017

Signature for the Responsible Authority



Planning and Environment Regulations 2015 S.R. No. 33/2015 - Form 4 - Sections 63, 64, 64A and 86

**PLANNING PERMIT No. KP-2016/124**  
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Date of Correction	Description of the Correction
29 January 2018	• Condition 1 (f) is amended
16 December 2021	Correction to what the permit allows to reflect the VCAT order dated 30 June 2017.

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

Amendment	Date of Amendment	Description of Amendment	Name of responsible authority that approved the amendment
A	16 December 2021	Amendment to condition 1 f) ii.	City of Kingston

Date Issued: 10 August 2017

Signature for the Responsible Authority



Planning and Environment Regulations 2015 S.R. No. 33/2015 - Form 4 - Sections 63, 64, 64A and 86



IMPORTANT INFORMATION ABOUT THIS PERMIT
<p align="center"><b>WHAT HAS BEEN DECIDED?</b></p> <p>The responsible authority has issued a permit. (Note: This is not a permit granted under Division 5 or 6 of Part 4 of the <b>Planning and Environment Act 1987</b>.)</p>
<p align="center"><b>CAN THE RESPONSIBLE AUTHORITY AMEND THE PERMIT?</b></p> <p>The responsible authority may amend this permit under Division 1A of Part 4 of the <b>Planning and Environment Act 1987</b>.</p>
<p align="center"><b>WHEN DOES A PERMIT BEGIN?</b></p> <p><b>A permit operates:</b></p> <ul style="list-style-type: none"> <li>from the date specified in the permit; or</li> <li>If no date is specified from -             <ol style="list-style-type: none"> <li>The date of the decision of the Victorian Civil and Administrative Tribunal, if the permit was issued at the direction of the Tribunal; or</li> <li>The date on which it was issued, in any other case.</li> </ol> </li> </ul>
<p align="center"><b>WHEN DOES A PERMIT EXPIRE?</b></p> <p><b>1. A permit for the development of land expires if -</b></p> <ul style="list-style-type: none"> <li>The development or any stage of it does not start when the time specified in the permit; or</li> <li>The development requires the certification of a plan of subdivision or consolidation under the <b>Subdivision Act 1988</b> and the plan is not certified within two years of the issue of the permit unless the permit contains a different provision; or</li> <li>The development or any stage is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit or in the case of subdivision or consolidation within 5 years of the certification of the plan of subdivision or consolidation under the <b>Subdivision Act 1988</b>.</li> </ul> <p><b>2. A permit for the use of land expires if -</b></p> <ul style="list-style-type: none"> <li>The use does not start within the time specified in the permit, or if no time is specified within two years after the issue of the permit; or</li> <li>The use is discontinued for a period of two years.</li> </ul> <p><b>3. A permit for the development and use of land expires if -</b></p> <ul style="list-style-type: none"> <li>The development or any stage of it does not start within the time specified in the permit; or</li> <li>The development or any stage of it is not completed within the time specified in the permit, or, if no time is specified, within two years after the issue of the permit; or</li> <li>The use does not start within the time specified in the permit, or, if no time is specified, within two years after the completion of the development; or</li> <li>The use is discontinued for a period of two years.</li> </ul> <p><b>4. If a permit for the use of the land or the development and use of land or relating to any of the circumstances mentioned in section 6A(2) of the Planning and Environment Act 1987, or to any combination of use, development or any of those circumstances requires the certification of plan under the Subdivision Act 1988, unless the permit contains a different provision</b></p> <ul style="list-style-type: none"> <li>The use or development of any stage is to be taken to have started when the plan is certified; and</li> <li>The permit expires if the plan is not certified within two years of the issue of the permit.</li> </ul> <p>The expiry of a permit does not affect the validity of anything done under the permit before the expiry.</p>
<p align="center"><b>WHAT ABOUT REVIEWS?</b></p> <ul style="list-style-type: none"> <li>The person who applied for the permit may apply for a review of any condition in the permit unless it was granted at the direction of the Victorian Civil and Administrative Tribunal, in which case no right of review exists.</li> <li>An application for review must be lodged within 60 days after the permit was issued, unless a notice of decision to grant a permit has been issued previously, in which case the application for review must be lodged within 60 days after the giving of that notice.</li> <li>An application for review is lodged within the Victorian Civil and Administrative Tribunal.</li> <li>An application for review must be made on the relevant form which can be obtained from the Victorian Civil and Administrative Tribunal.</li> <li>An application for review must state the grounds upon which it is based.</li> <li>Any copy of an application for review must also be served on the responsible authority.</li> </ul>

LEVEL	GFA (Excluding Terrace)	GFA Parking	NSA Residential	Residential Amenities	NLA Retail	Circulation & Services	Terrace POS	1 Bed	1 Bed + Study	2 Bed	2 Bed 2 Bath	3 Bed	Totals
BASEMENT 2	3389.0 m²	3101.2 m²	0.0 m²	0.0 m²	0.0 m²	287.9 m²	0.0 m²	0	0	0	0	0	0
BASEMENT 1	3388.2 m²	3098.9 m²	0.0 m²	0.0 m²	0.0 m²	289.3 m²	0.0 m²	0	0	0	0	0	0
LOWER GROUND	2498.8 m²	951.8 m²	477.8 m²	0.0 m²	0.0 m²	1069.3 m²	183.4 m²	2	0	2	1	1	6
GROUND	2129.9 m²	113.5 m²	659.5 m²	0.0 m²	551.8 m²	805.0 m²	169.3 m²	1	1	2	4	1	9
UPPER GROUND	1809.5 m²	0.0 m²	1431.6 m²	0.0 m²	0.0 m²	377.9 m²	198.5 m²	1	3	5	9	2	20
LEVEL 1	2221.8 m²	0.0 m²	1819.9 m²	0.0 m²	0.0 m²	401.9 m²	263.4 m²	2	4	3	15	2	26
LEVEL 2	1750.3 m²	0.0 m²	1486.1 m²	0.0 m²	0.0 m²	264.2 m²	484.5 m²	2	4	4	12	0	22
LEVEL 3	1733.8 m²	0.0 m²	1469.0 m²	0.0 m²	0.0 m²	264.8 m²	214.4 m²	2	4	5	11	0	22
LEVEL 4	1733.8 m²	0.0 m²	1469.0 m²	0.0 m²	0.0 m²	264.8 m²	214.4 m²	3	3	2	14	0	22
LEVEL 5	1179.5 m²	0.0 m²	956.9 m²	0.0 m²	0.0 m²	222.6 m²	145.8 m²	1	3	0	10	0	14
LEVEL 6	1116.8 m²	0.0 m²	956.9 m²	0.0 m²	0.0 m²	159.8 m²	145.8 m²	1	3	0	10	0	14
LEVEL 7	1116.8 m²	0.0 m²	956.9 m²	0.0 m²	0.0 m²	159.8 m²	145.8 m²	2	2	1	9	0	14
LEVEL 8	990.2 m²	0.0 m²	852.0 m²	0.0 m²	0.0 m²	138.2 m²	228.8 m²	1	2	0	9	0	12
LEVEL 9	990.9 m²	0.0 m²	852.7 m²	0.0 m²	0.0 m²	138.2 m²	131.2 m²	1	2	0	9	0	12
LEVEL 10	990.9 m²	0.0 m²	852.7 m²	0.0 m²	0.0 m²	138.2 m²	131.2 m²	1	2	0	9	0	12
LEVEL 11	714.2 m²	0.0 m²	596.3 m²	0.0 m²	0.0 m²	117.8 m²	197.5 m²	0	1	0	2	3	6
LEVEL 12	688.8 m²	0.0 m²	563.0 m²	0.0 m²	0.0 m²	125.8 m²	72.3 m²	0	1	0	2	3	6
LEVEL 13	243.9 m²	0.0 m²	0.0 m²	97.7 m²	0.0 m²	146.2 m²	0.0 m²	0	0	0	0	0	0
	28687.2 m²	7265.4 m²	15400.5 m²	97.7 m²	551.8 m²	5371.8 m²	2926.3 m²	20	35	24	126	12	217

\*For preliminary feasibility purposes. Areas are not to be used for purpose of lease or sale agreements. Layouts may not comply with building regulations or other regulatory requirements. The information contained in this schedule is believed to be correct at the time of printing. Areas are generally measured in accordance with the Property Council of Australia Method of Measurement.

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APARTMENT MIX					
1 Bed	1 Bed + Study	2 Bed	2 Bed 2 Bath	3 Bed	Total
9.2%	16.1%	11.1%	58.1%	5.5%	100%

Level	CARPARKS					Motorbike/ Scooter Park	Bicycle Parks	Stores
	Residential	Visitor	Tandem	Retail	Total			
BASEMENT 2	105	0	3	0	105	1	44	42
BASEMENT 1	103	0	3	0	103	2	42	42
LOWER GROUND	21	0	0	5	26	1	76	70
GROUND	0	0	0	0	0	0	30	21
UPPER GROUND	0	0	0	0	0	0	0	22
LEVEL 1	0	0	0	0	0	0	0	20
	229	0	6	5	234	4	192	217

BICYCLE PARKS

REQUIRED	PROVIDED
44 RESIDENTIAL BIKES REQUIRED (1 SPACE PER 5 DWELLINGS)	162
22 VISITOR BIKES REQUIRED (1 SPACE PER 10 DWELLINGS)	30
TOTAL: 66 REQUIRED	192 PROVIDED

TOWN PLANNING

Revisions	E	03.08.22	PLANNING AMENDMENT (DRAFT)	MR
	F	12.07.22	PLANNING AMENDMENT (DRAFT)	PLD
	G	-	Revision not used on this sheet	MR
	H	-	Revision not used on this sheet	MR
	J	-	Revision not used on this sheet	MR
	K	-	Revision not used on this sheet	MR
	L	-	Revision not used on this sheet	MR
	M	08.09.22	PLANNING AMENDMENT	MR

Project / RESIDENTIAL DEVELOPMENT  
1233-1237 Nepean Highway Highett

Drawing / DEVELOPMENT SUMMARY

Project No / 221008

Author / SB/WL

Scale / @ A3

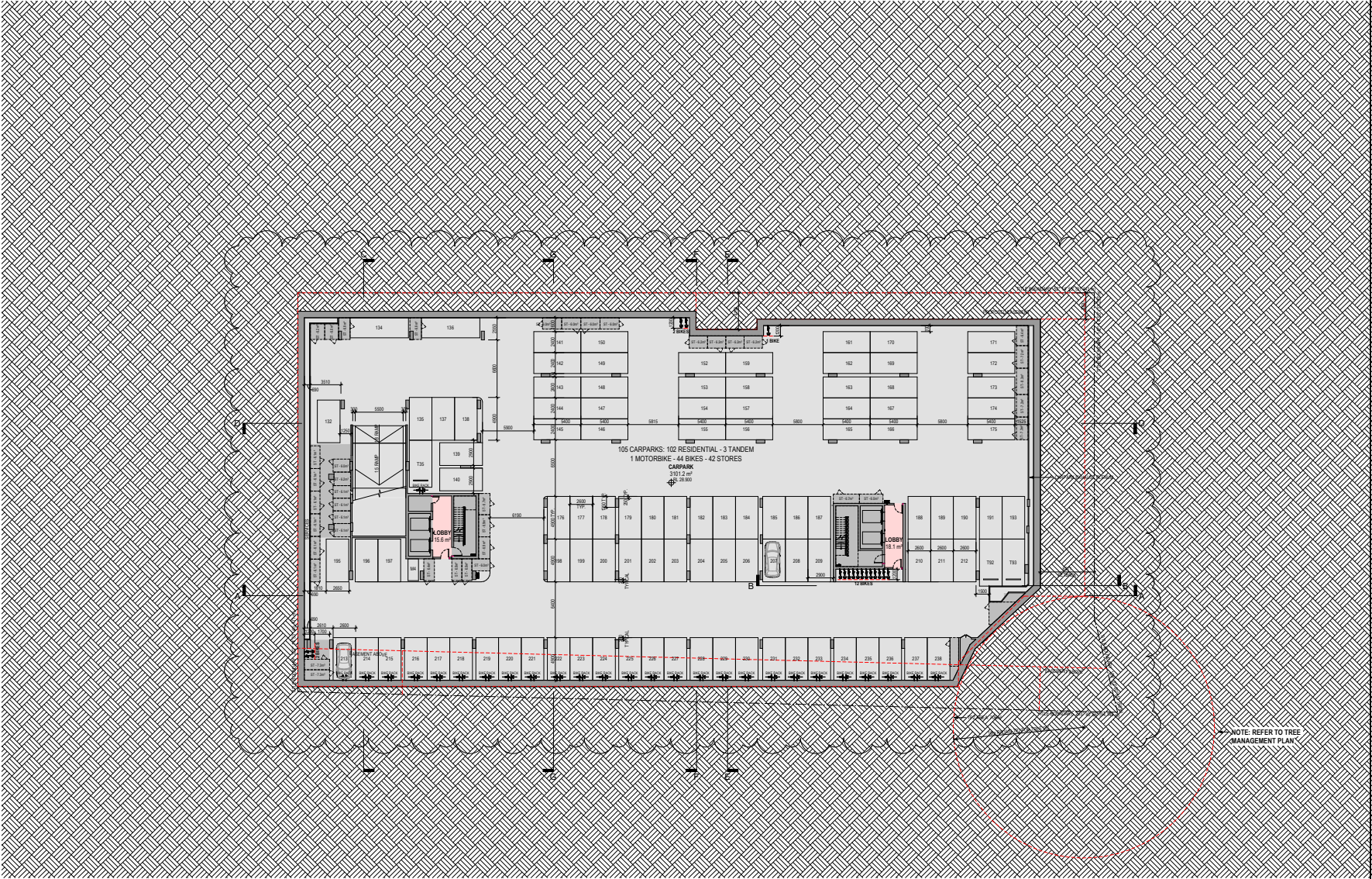
Drawing No / TP0.01

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TOWN PLANNING

Revisions	E	29.10.19	ENDORSEMENT ISSUE
	F	29.04.20	ENDORSEMENT ISSUE
	G	27.05.20	ENDORSEMENT ISSUE
	H	28.04.21	ENDORSEMENT ISSUE
	J	03.06.22	PLANNING AMENDMENT (DRAFT)
	K	10.09.22	ISSUE TO TRAFFIC FOR INFORMATION
	L	12.07.22	PLANNING AMENDMENT (DRAFT)
	M	08.09.22	PLANNING AMENDMENT

LEGEND	
AE	AHD AUSTRALIAN HEIGHT DATUM
SB	BOL BOLLARD
SB	BCL NATURAL GROUND LEVEL
MR	RL RELATIVE LEVEL
MR	ST STORE
ZL	T TERRACE
FVD	
MR	

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Project / **RESIDENTIAL DEVELOPMENT**  
1233-1237 Nepean Highway Highett

Drawn / **BASEMENT 2 PLAN**

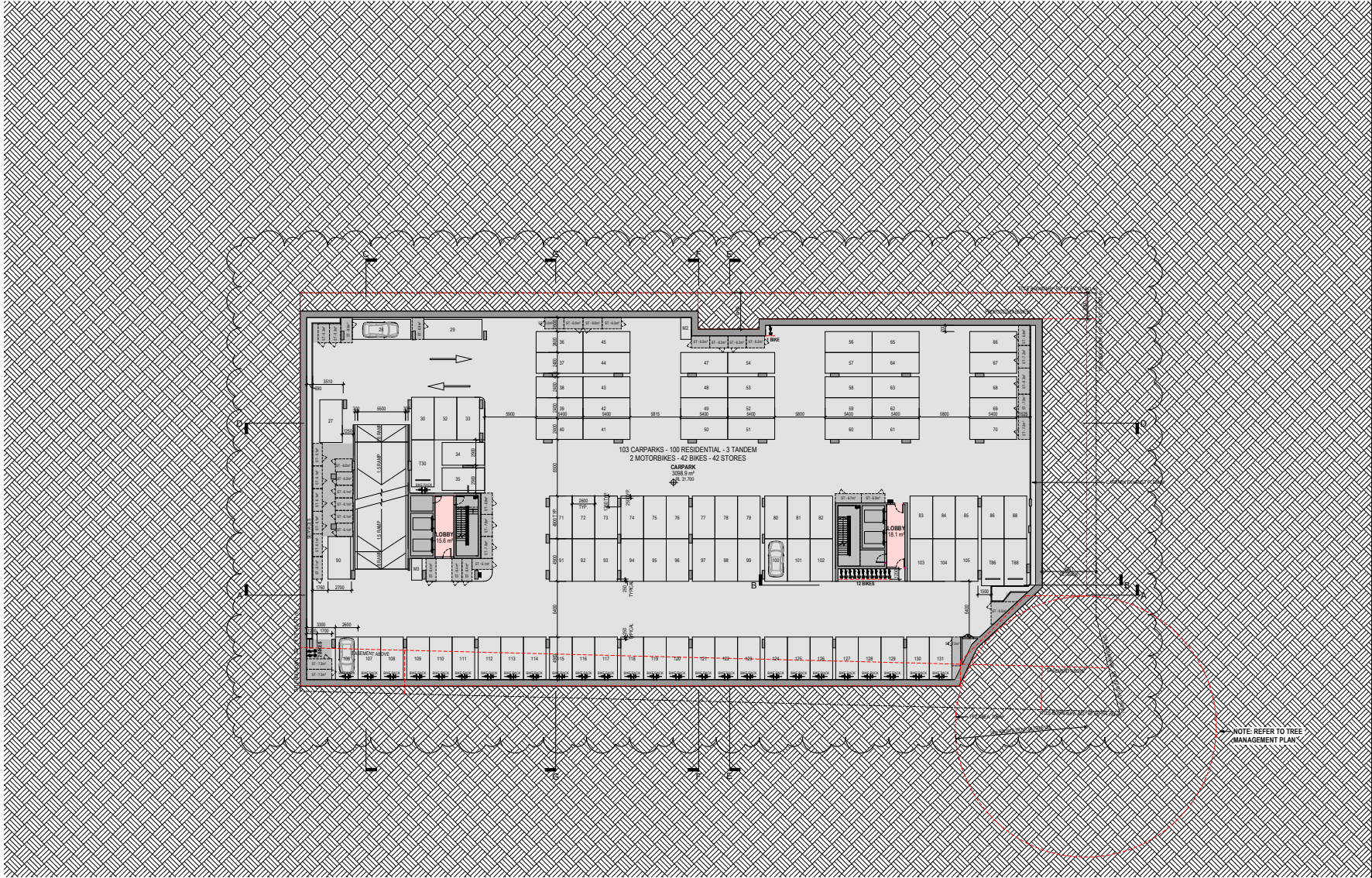
Project No / **221008** Author / **SB/WL** Scale: @ 1:200

Drawing No / **TP1.01** M

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TOWN PLANNING

Revision	E	29.10.19	ENDORSEMENT ISSUE
	F	26.04.20	ENDORSEMENT ISSUE
	G	27.05.20	ENDORSEMENT ISSUE
	H	26.04.21	ENDORSEMENT ISSUE
	J	03.06.22	PLANNING AMENDMENT (DRAFT)
	K	12.07.22	PLANNING AMENDMENT (DRAFT)
	L		Revised the case in this plan
	M	08.09.22	PLANNING AMENDMENT

LEGEND	
AE	AHD AUSTRALIAN HEIGHT DATUM
SB	BOL BOLLARD
SB	NGL NATURAL GROUND LEVEL
MR	RL RELATIVE LEVEL
MR	ST STORE
PVD	T TERRACE
MR	
MR	

Project / **RESIDENTIAL DEVELOPMENT**  
1233-1237 Nepean Highway Highett

Drawing / **BASEMENT 1 PLAN**

Project No / **221008** Author / **SB/WL** Scale: @ 1:200

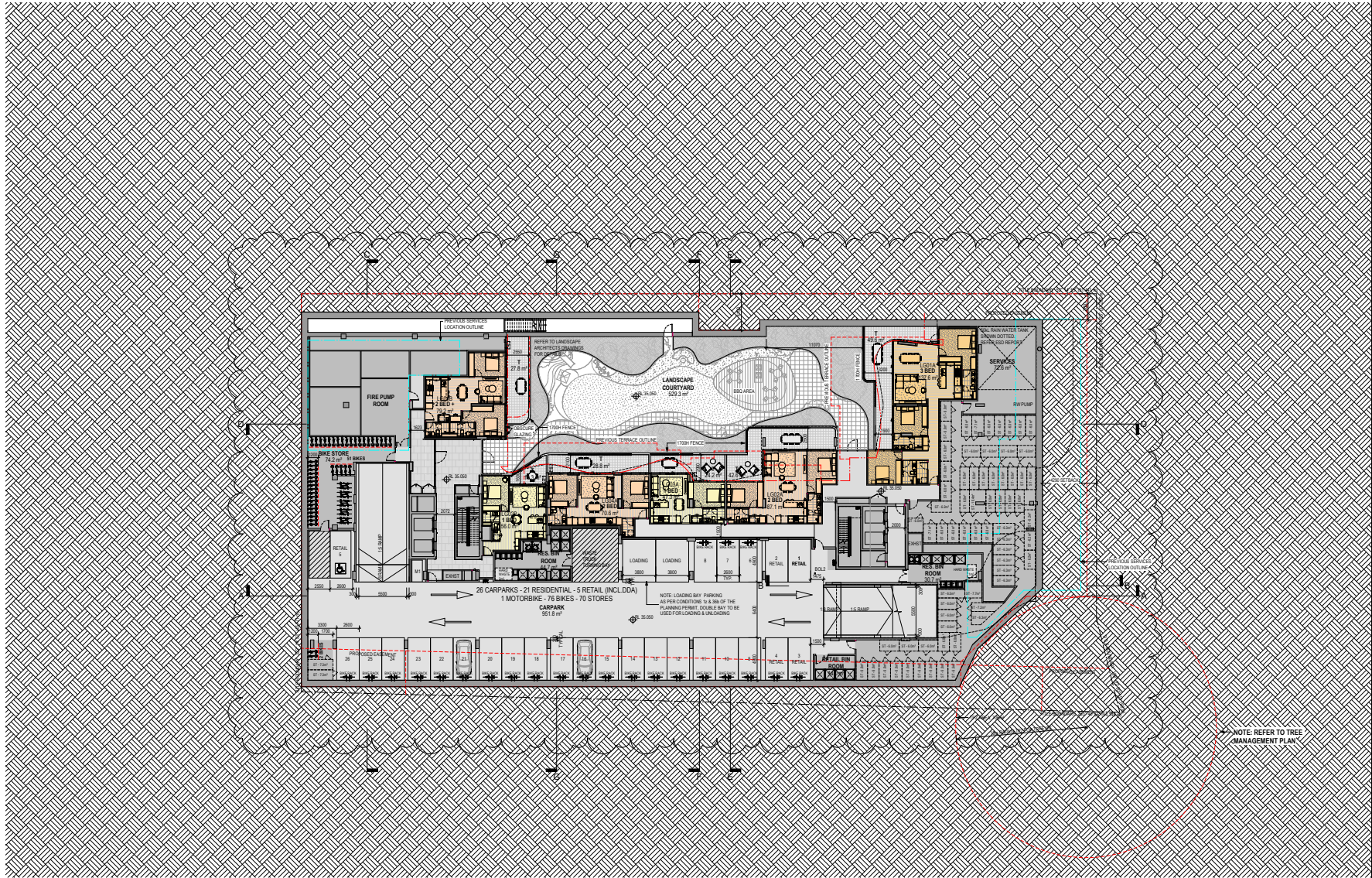
Drawing No / **TP1.02** M

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TOWN PLANNING

Revisions	E	29.10.19	ENDORSEMENT ISSUE
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	G	26.04.21	ENDORSEMENT ISSUE
	H	03.06.22	PLANNING AMENDMENT (DRAFT)
	J	12.07.22	PLANNING AMENDMENT (DRAFT)
	K	-	Revision not used on this sheet
	L	-	Revision not used on this sheet
	M	08.09.22	PLANNING AMENDMENT

SYMBOL	DESCRIPTION
AS	AUSTRALIAN HEIGHT DATUM
BS	BOLLARD
MB	MECHANICAL ROOM
MR	MECHANICAL ROOM
NS	NOTES
PVD	PAVED
T	TERRACE
MR	MECHANICAL ROOM

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Project / RESIDENTIAL DEVELOPMENT  
1233-1237 Nepean Highway Highett

Drawings / LOWER GROUND PLAN

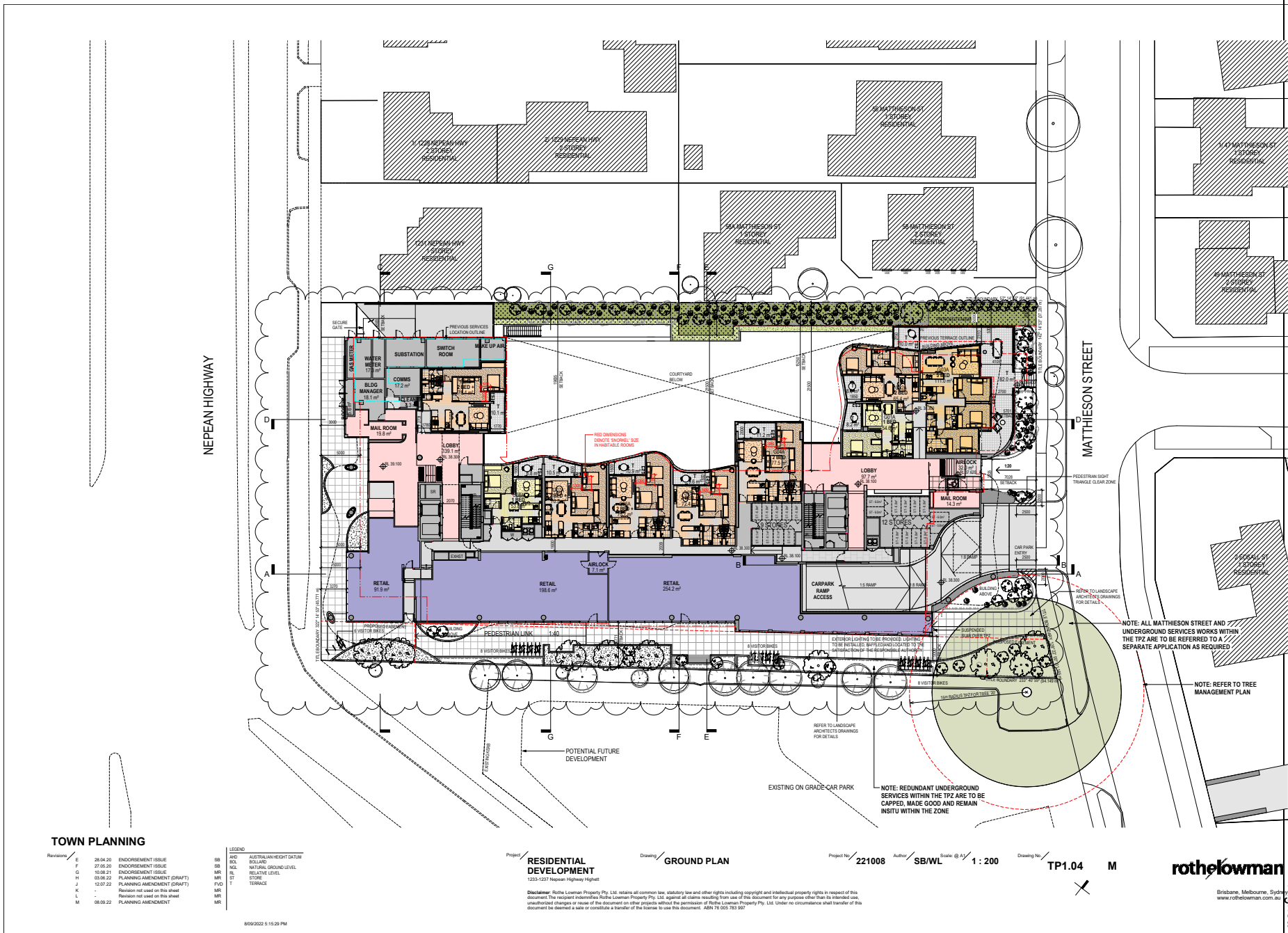
Project No / 221008 Author / SB/WL Scale / 1 : 200

Drawing No / TP1.03 M

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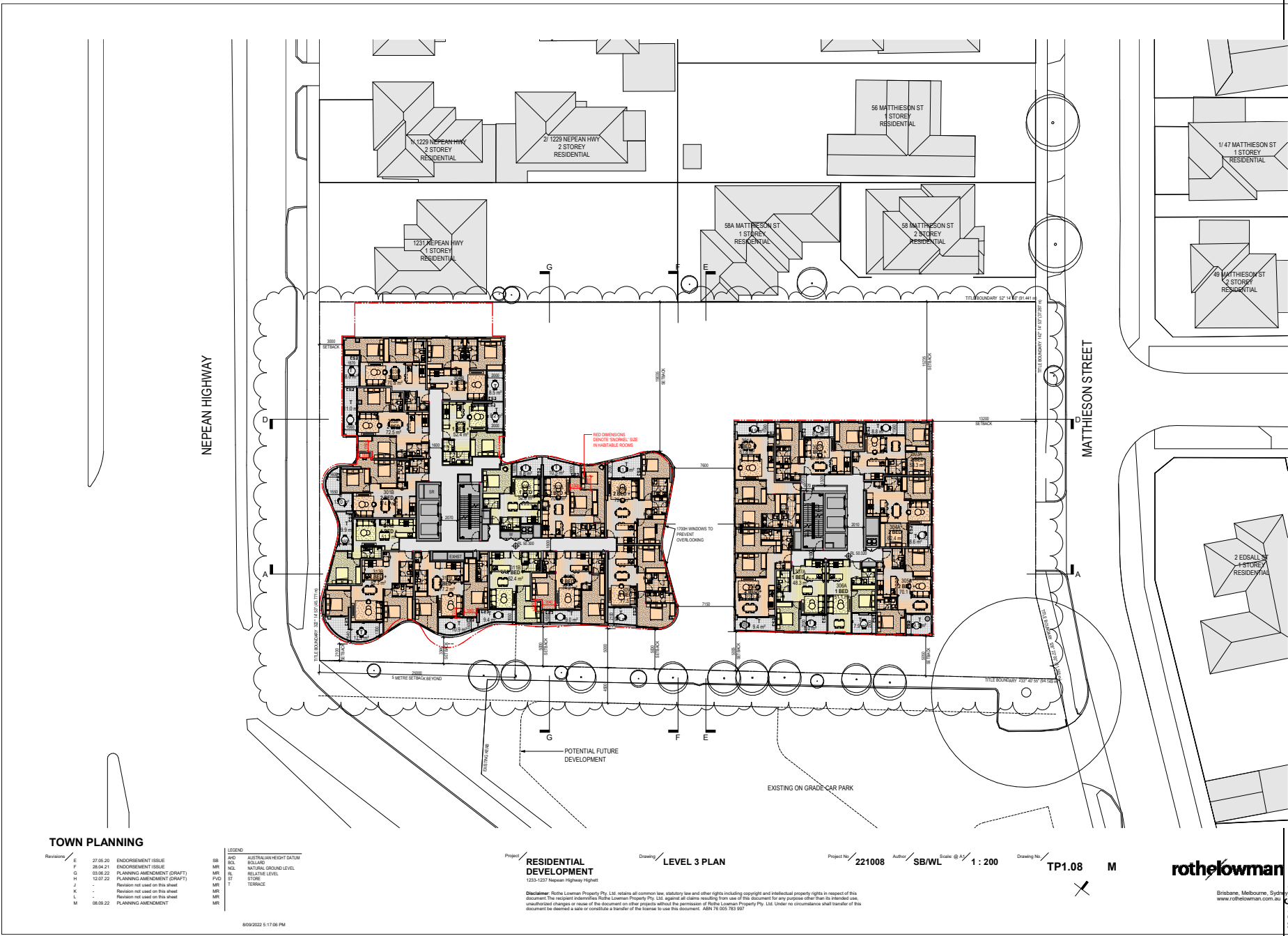






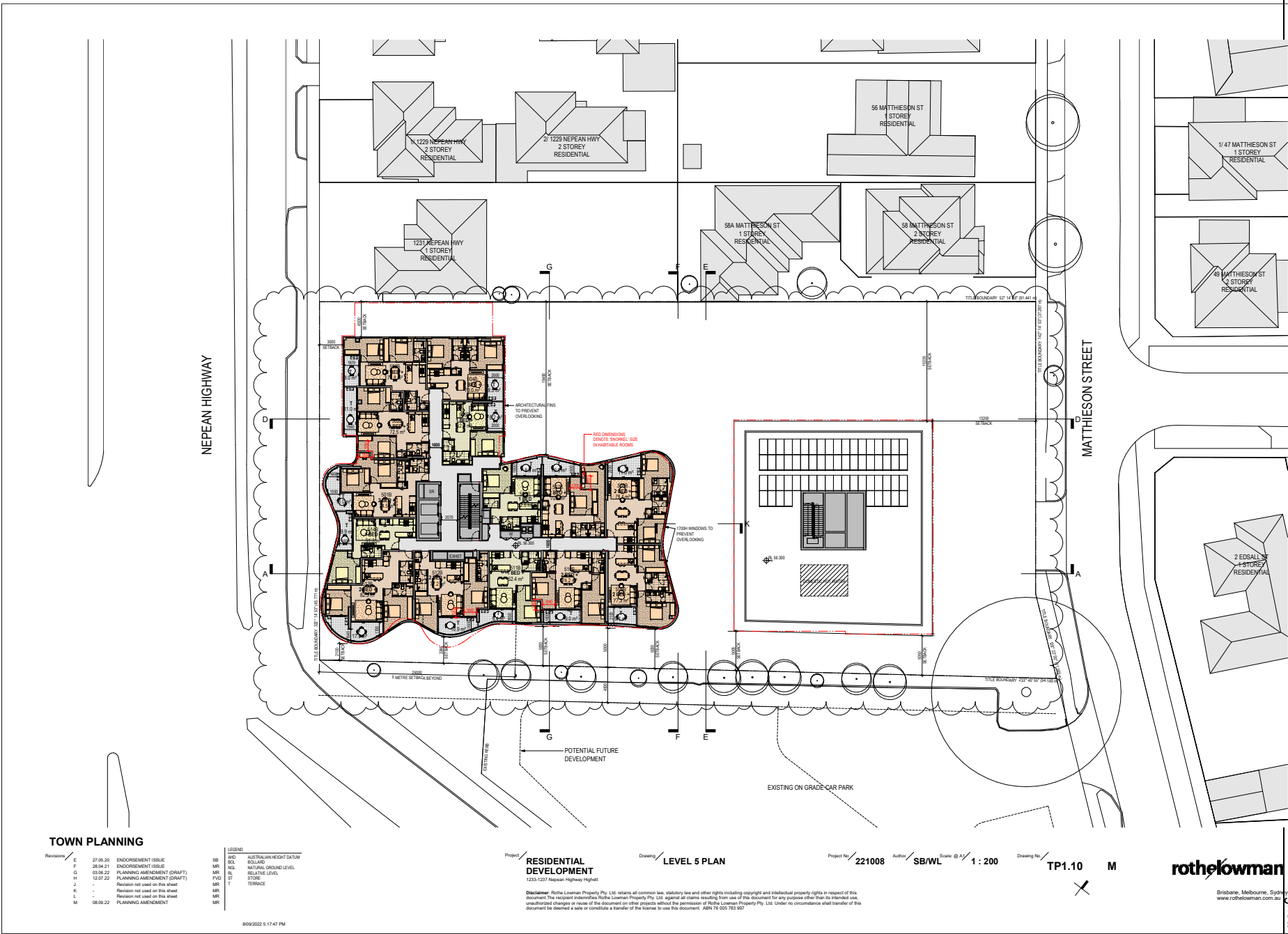






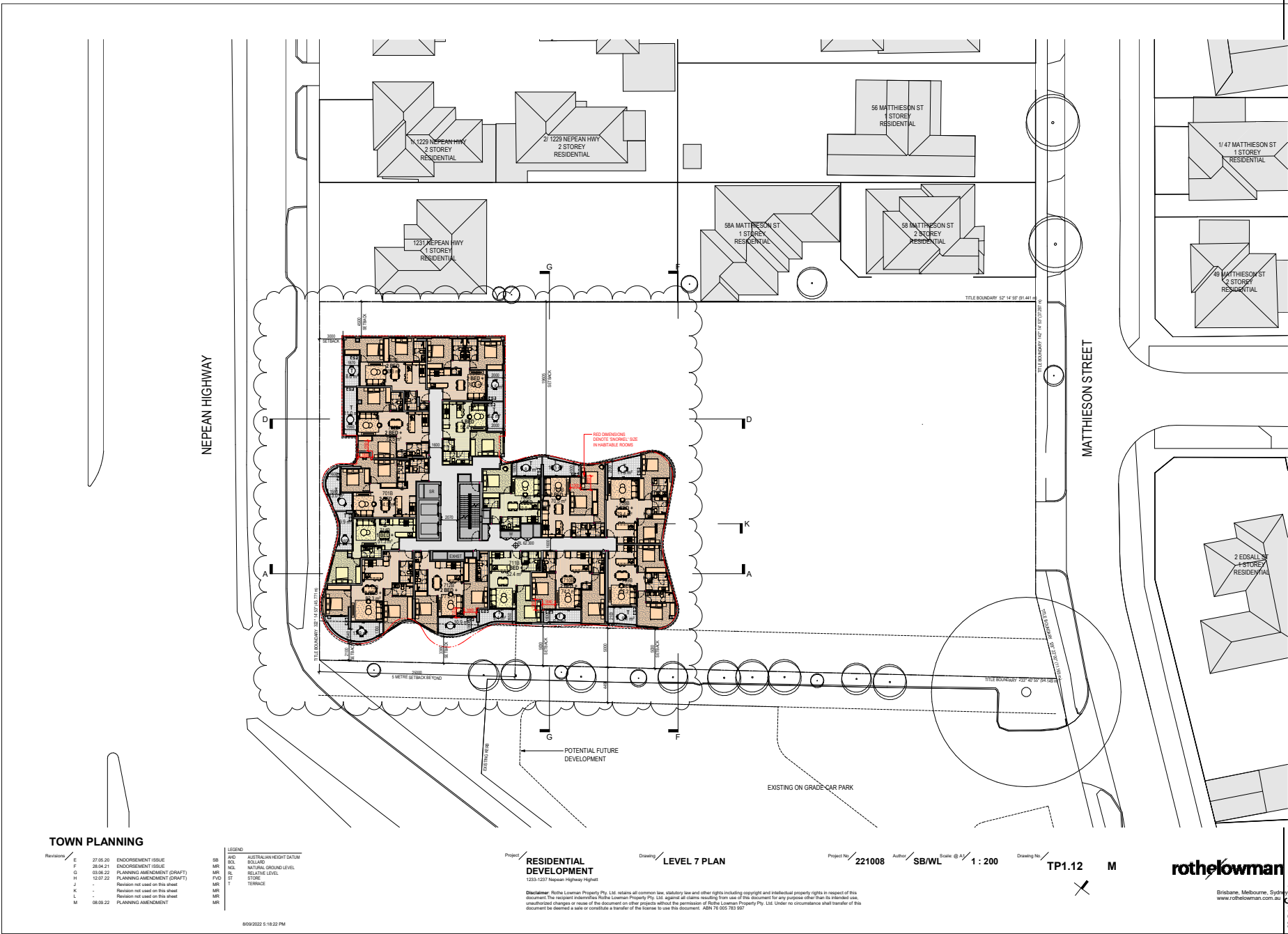




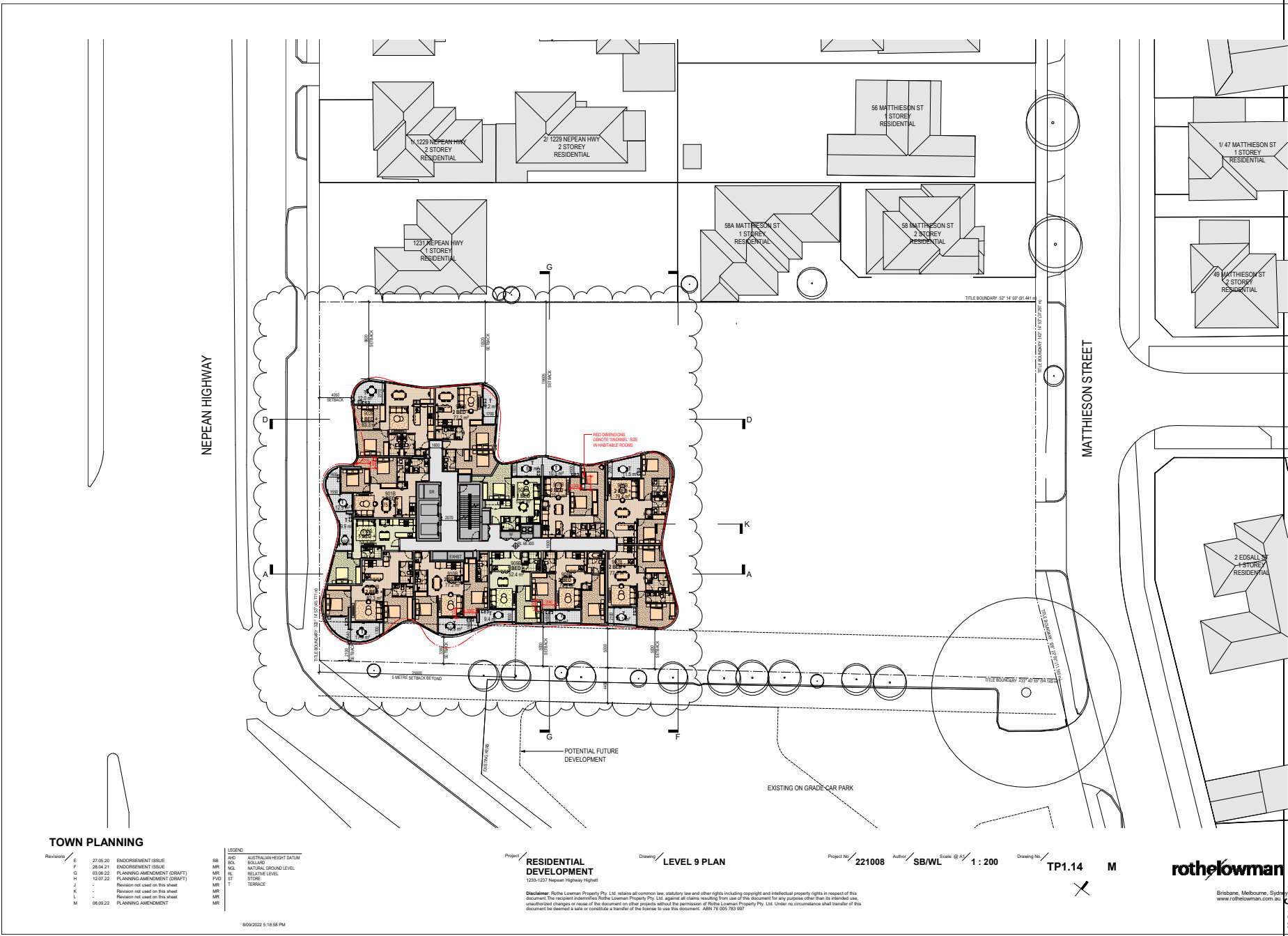


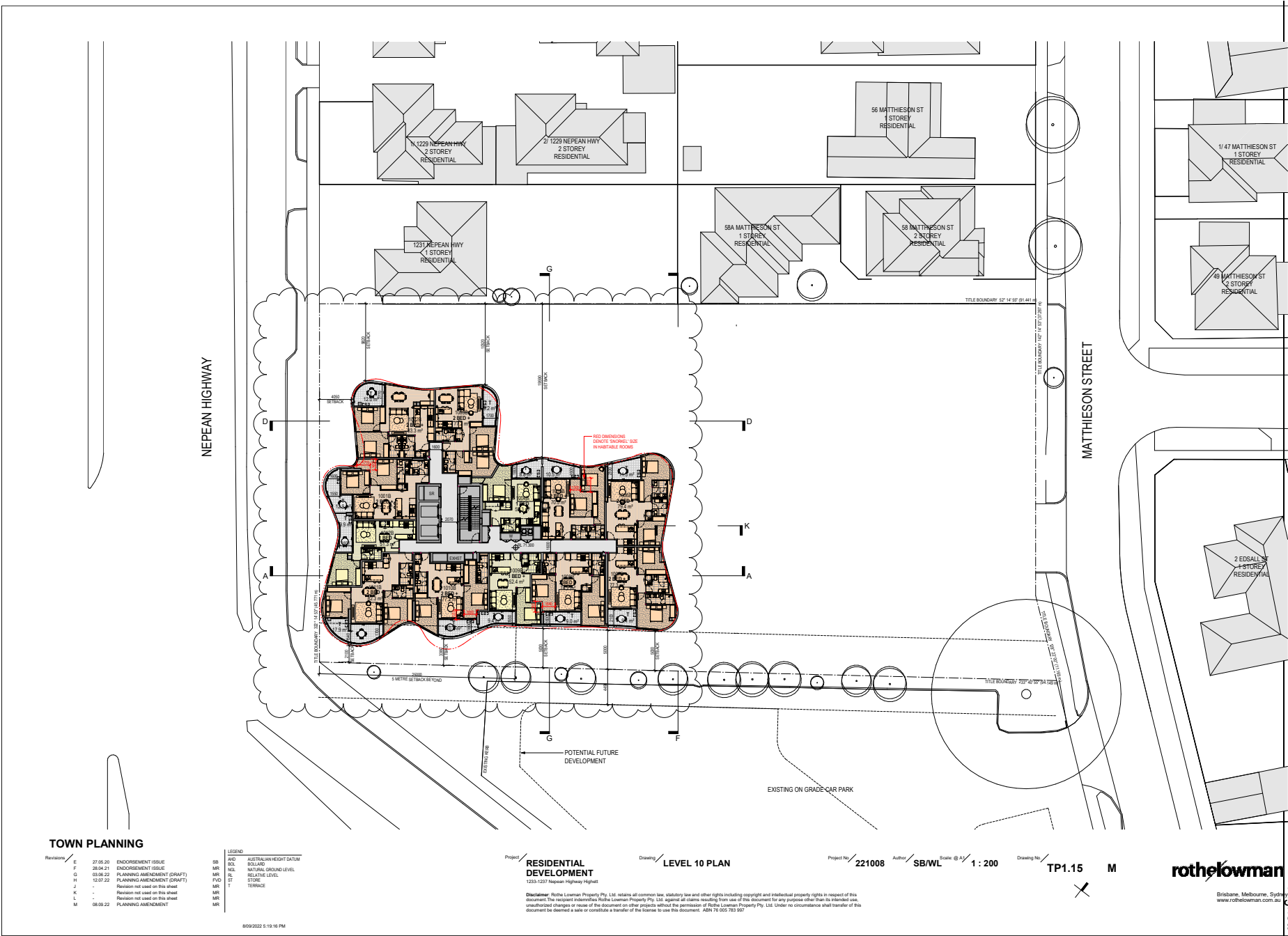


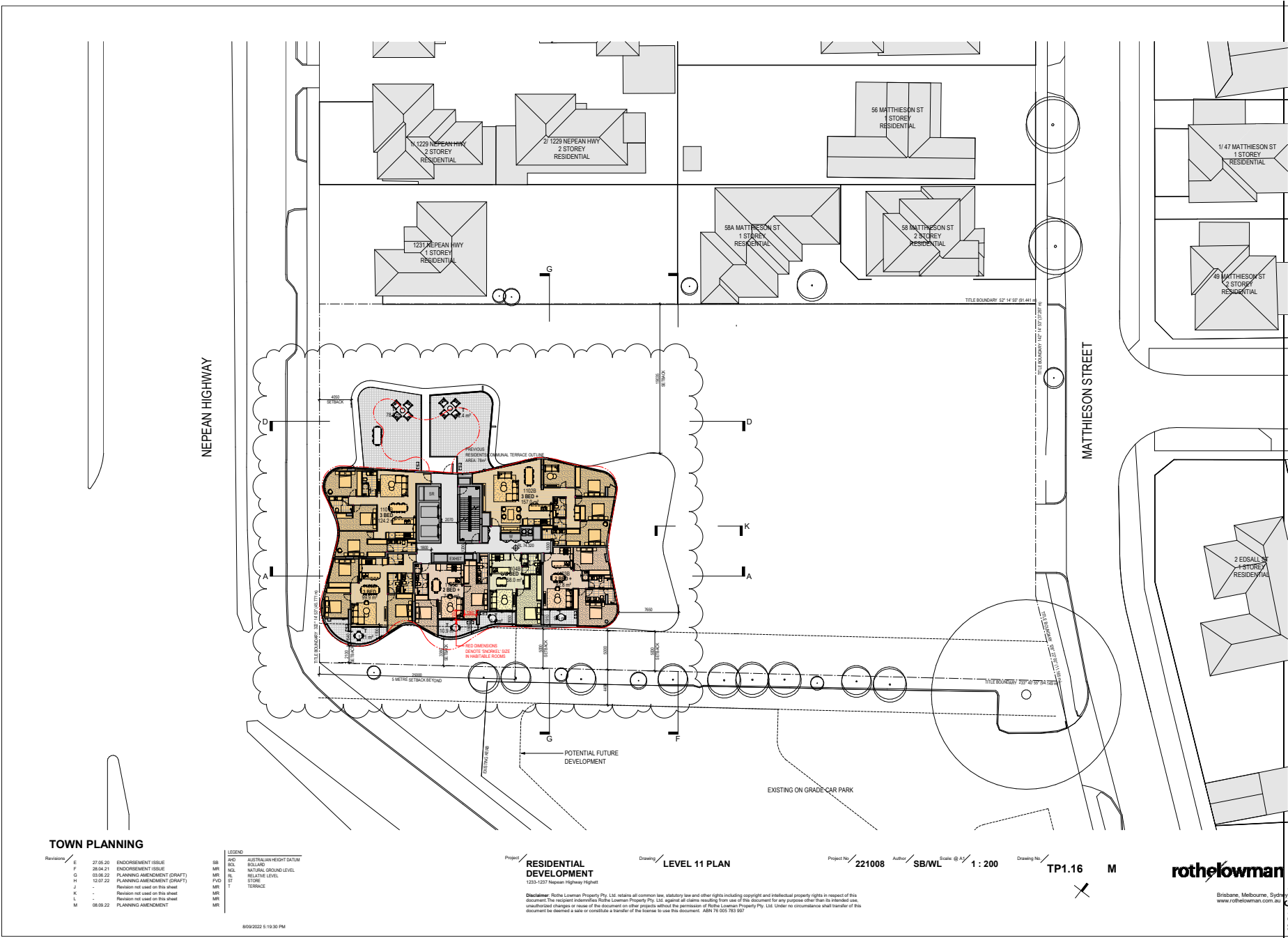




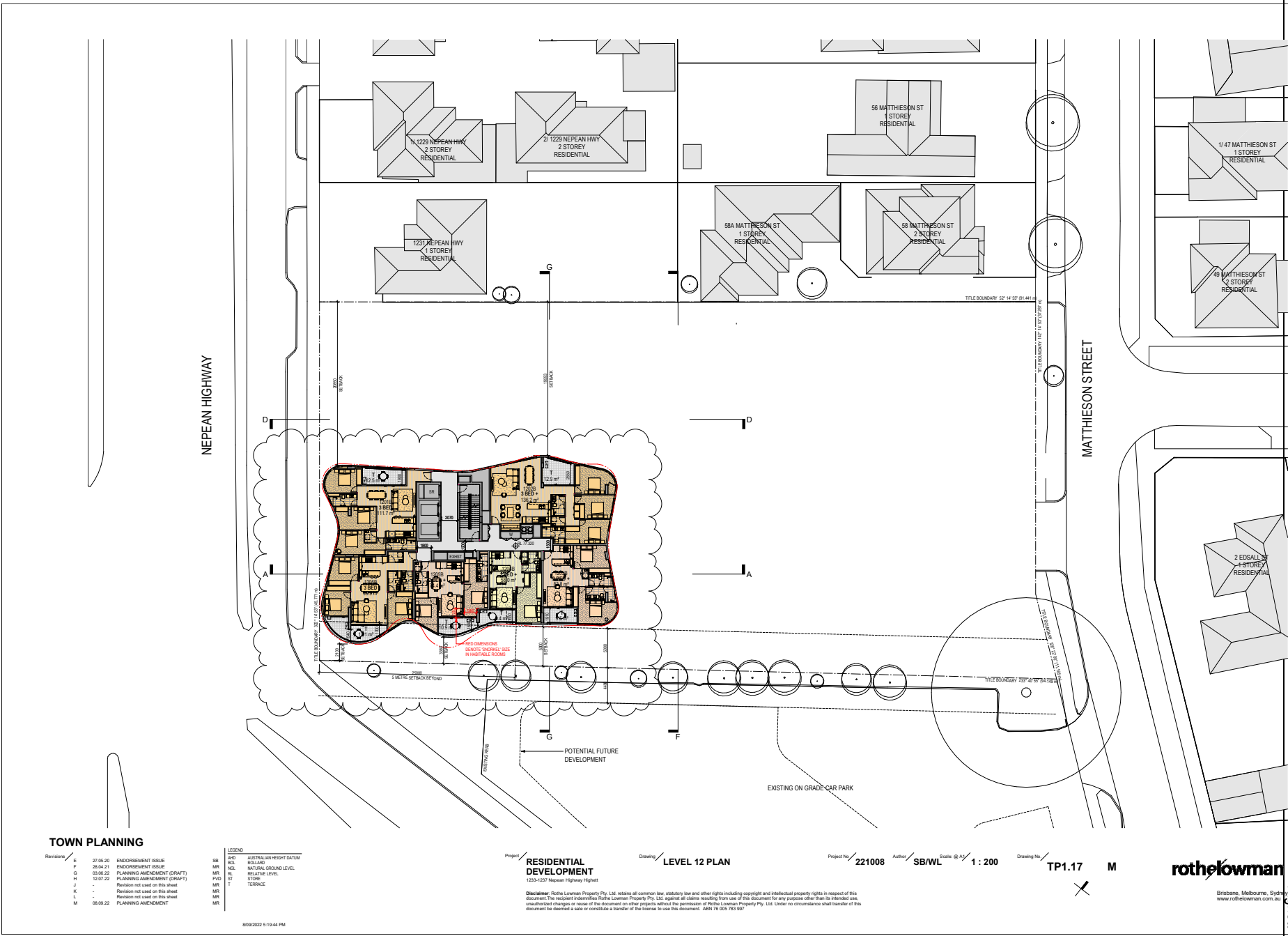


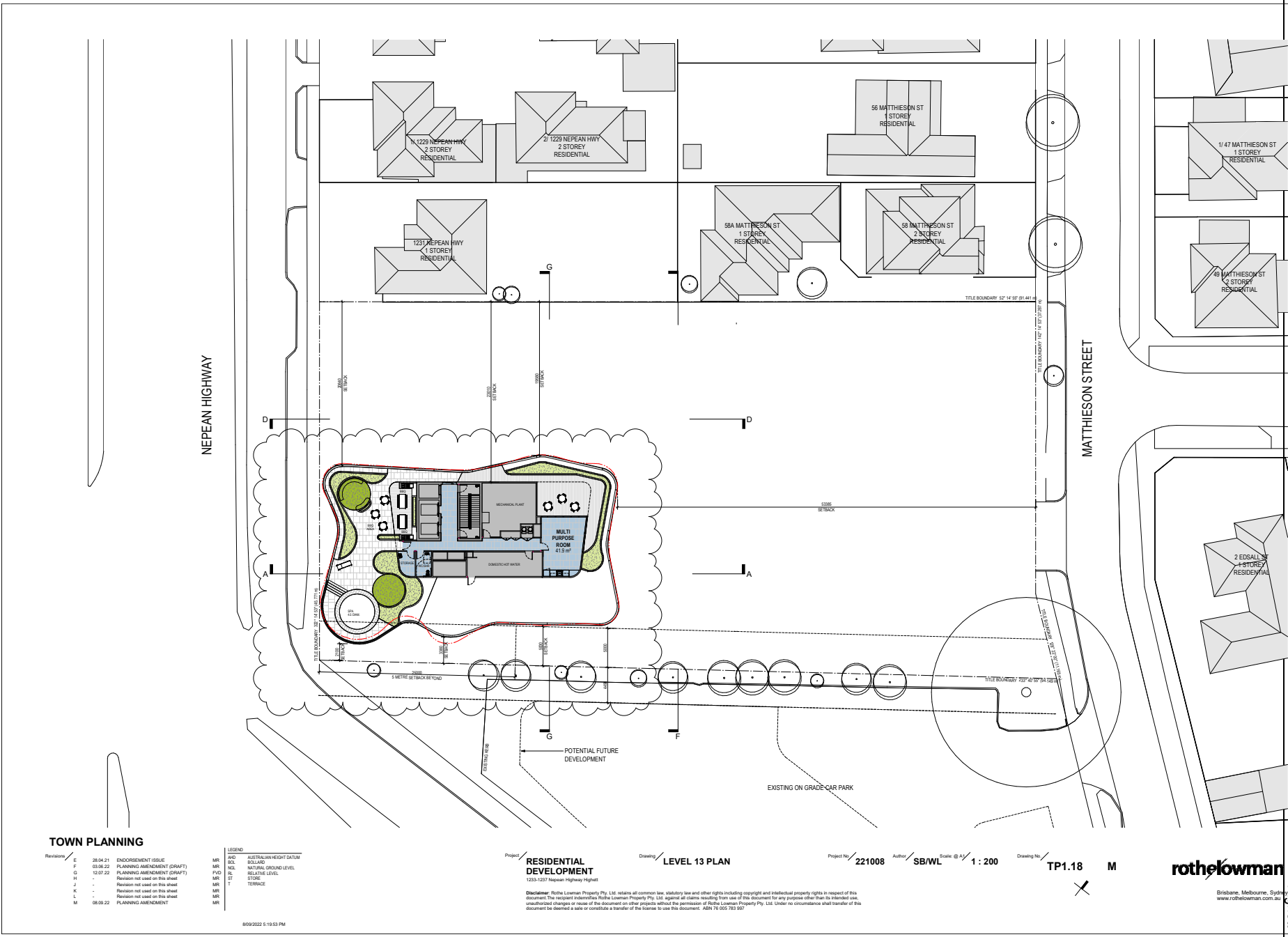












TOWN PLANNING

Revision	E	28.04.21	ENDORSEMENT ISSUE
	F	03.06.21	PLANNING AMENDMENT (DRAFT)
	G	12.07.22	PLANNING AMENDMENT (DRAFT)
	H	-	Revision not used on this sheet
	J	-	Revision not used on this sheet
	K	-	Revision not used on this sheet
	L	-	Revision not used on this sheet
	M	08.09.22	PLANNING AMENDMENT

LEGEND		
MR	AHD	AUSTRALIAN HEIGHT DATUM
MR	BOL	BOLLARD
PVD	NGL	NATURAL GROUND LEVEL
MR	RL	RELATIVE LEVEL
MR	ST	STORE
MR	T	TERRACE

Project / **RESIDENTIAL DEVELOPMENT**  
1233-1237 Nepean Highway Highett

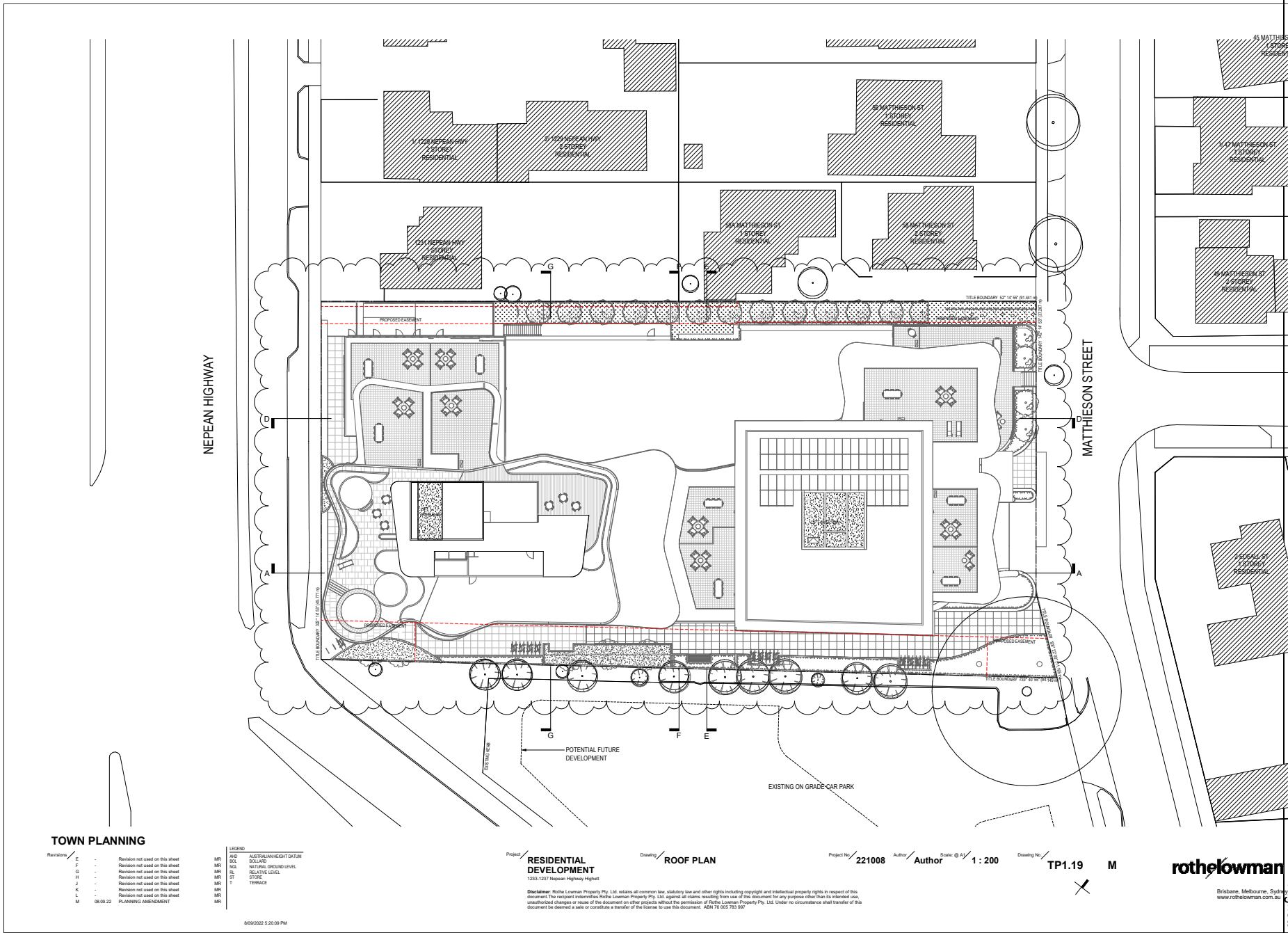
Drawing / **LEVEL 13 PLAN**

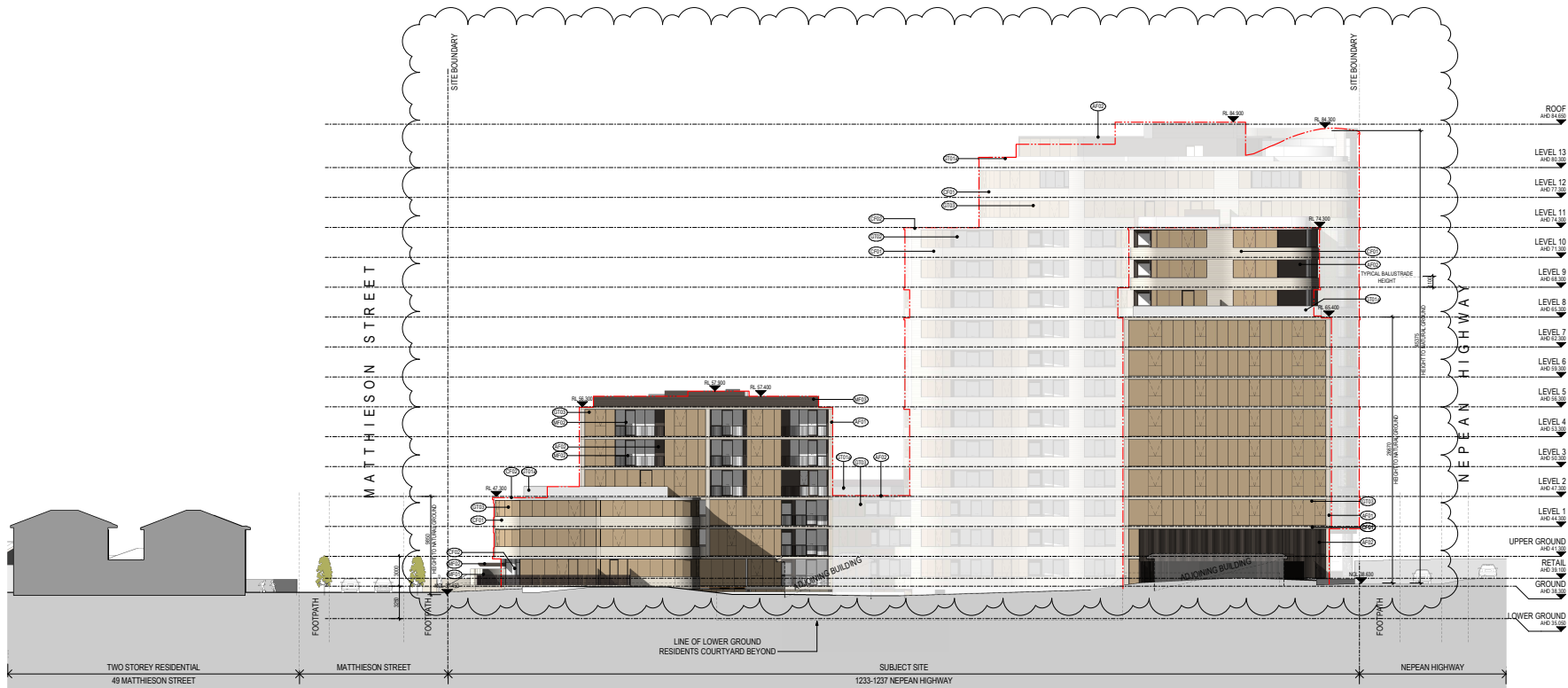
Project No / **221008** Author / **SB/WL** Scale: @ A3 / **1 : 200**

Drawing No / **TP1.18** **M**

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# TOWN PLANNING

Revision	Date	Description
E	28.04.21	ENDORSEMENT ISSUE
F	03.05.22	PLANNING AMENDMENT (DRAFT)
G	-	Revision not used on this sheet
H	-	Revision not used on this sheet
J	-	Revision not used on this sheet
K	-	Revision not used on this sheet
L	-	Revision not used on this sheet
M	08.09.22	PLANNING AMENDMENT

Legend	Legend
MR AND AUSTRALIAN HEIGHT DATUM	AF01 APPLIED FINISH - BUTTERFLAX
MR AND BOLLARD	AF02 APPLIED FINISH - DARK BRONZE
MR AND NATURAL GROUND LEVEL	CF01 CONCRETE FINISH - BUTTERFLAX (SMOOTH)
MR AND RELATIVE LEVEL	CF02 CONCRETE FINISH - DARK BUTTERFLAX
MR ST STORE	GT01 GLAZING - CLEAR - DOUBLE
MR T TERRACE	GT01A GLAZING - CLEAR - SINGLE
MR	GT02 GLAZING - CLEAR - APARTMENT
MR	GT03 GLAZING - BRONZE
MR	GT04 GLAZING - BRONZE - OBSCURE
MR	GT05 GLAZING - SUPER CLEAR

MC01 METAL GLAZING - BRONZE	MF01 METAL FINISH - MEDIUM BRONZE
MC02 METAL GLAZING - MEDIUM BRONZE	MF02 METAL FINISH - DARK BRONZE
MC03 METAL GLAZING - DARK BRONZE	MF03 METAL FINISH - DARK BRONZE - ELECTRO
MC04 METAL GLAZING - MEDIUM BRONZE	PF01 PAINT FINISH - MEDIUM BRONZE
MC05 METAL GLAZING - DARK BRONZE	PF02 PAINT FINISH - DARK BRONZE
MC06 METAL GLAZING - MEDIUM BRONZE	PS01 PRIVACY SCREEN - DARK BRONZE

Project / **RESIDENTIAL DEVELOPMENT**  
1233-1237 Nepean Highway Height

Drawing / **NORTH ELEVATION**

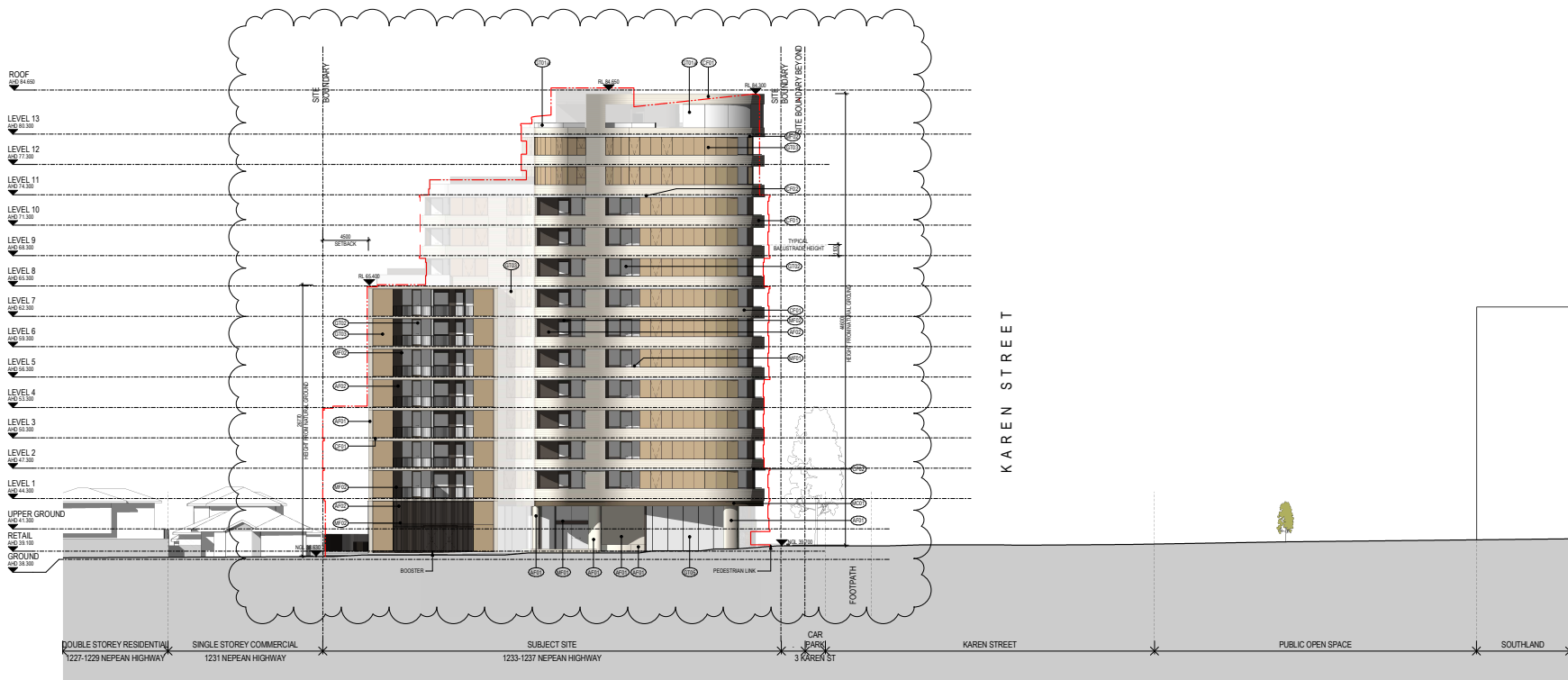
Project No / **221008** Author / **SB/WL/PG/EK1 : 200**

Drawing No / **TP2.01** M

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## TOWN PLANNING

Revisions	E	28.04.21	ENDORSEMENT ISSUE
	F	03.06.22	PLANNING AMENDMENT (DRAFT)
	G	12.07.22	PLANNING AMENDMENT (DRAFT)
	H	-	Revision not used on this sheet
	J	-	Revision not used on this sheet
	K	-	Revision not used on this sheet
	L	-	Revision not used on this sheet
	M	08.09.22	PLANNING AMENDMENT

LEGEND	
MR	AHD AUSTRALIAN HEIGHT 1
MR	BOL BOLLARD
MR	NGL NATURAL GROUND LE
PVD	RL RELATIVE LEVEL
MR	ST STORE
MR	T TERRACE
MR	
MR	
MR	

LEGEND	
AF01	APPLIED FINISH - BUTTERMILK
AF02	APPLIED FINISH - DARK BRONZE
CR01	CONCRETE FINISH - BUTTERMILK
CR02	CONCRETE FINISH - DARK BUTTERMILK
GT01	GLAZING - CLEAR - DOUBLE
GT01A	GLAZING - CLEAR - SINGLE
GT02	GLAZING - CLEAR - APARTMENT
GT03	GLAZING - BRONZE
GT04	GLAZING - BRONZE - OBSCURE
GT05	GLAZING - SUPER CLEAR

MC01	METAL GLAZING - BRONZE
MC02	METAL FINISH - DARK BRONZE
MC03	METAL FINISH - MEDIUM BRONZE
MC04	METAL FINISH - DARK BRONZE - ELECTRO
MC05	METAL FINISH - MEDIUM BRONZE
MC06	PANTRY FINISH - DARK BRONZE
MC07	PRIVACY SCREEN - DARK BRONZE

Project / **RESIDENTIAL DEVELOPMENT**  
1233-1237 Nepean Highway Height

Drawing / **WEST ELEVATION**

Project No / **221008**

Author / **SB/WL/PJ/CK1 : 200**

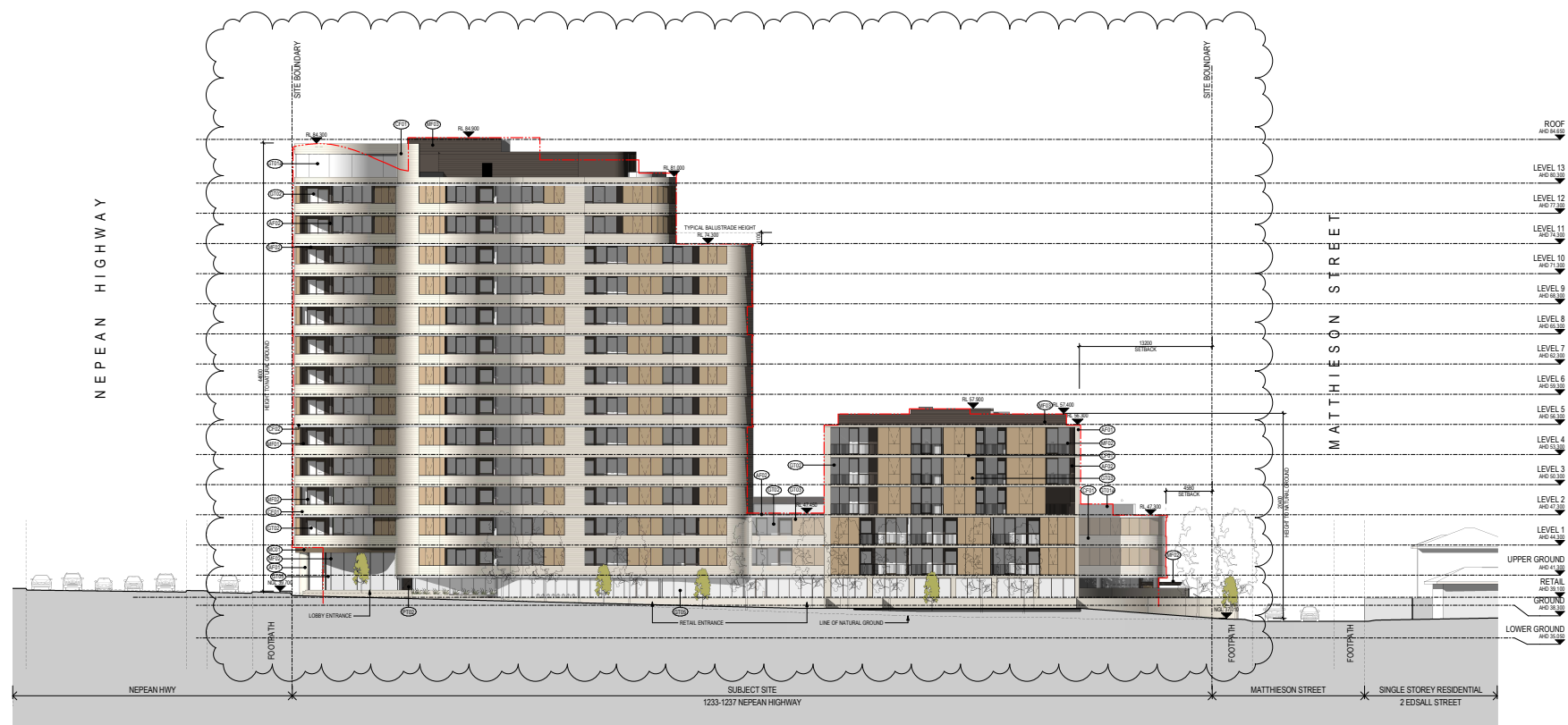
Drawing No / **TP2.02**

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TOWN PLANNING

Revision	E	28.04.21	ENDORSEMENT ISSUE
	F	03.05.22	PLANNING AMENDMENT (DRAFT)
	G	-	Revision not used on this sheet
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	J	-	Revision not used on this sheet
	K	-	Revision not used on this sheet
	L	-	Revision not used on this sheet
	M	08.09.22	PLANNING AMENDMENT

LEGEND	
MR	AUTALIAN HEIGHT DATUM
MR	BOLLARD
MR	NATURAL GROUND LEVEL
MR	RELATIVE LEVEL
MR	STONE
MR	TERRACE

LEGEND	
MR	APPLIED FINISH - BUTTERFLIX
MR	APPLIED FINISH - DARK BRONZE
MR	CONCRETE FINISH - BUTTERFLIX - SMOOTH
MR	CONCRETE FINISH - DARK BUTTERFLIX
MR	GLAZING - CLEAR - DOUBLE
MR	GLAZING - CLEAR - SINGLE
MR	GLAZING - CLEAR - APARTMENT
MR	GLAZING - BRONZE
MR	GLAZING - BRONZE - OBSCURE
MR	GLAZING - SUPER CLEAR

LEGEND	
MR	METAL GLAZING - BRONZE
MR	METAL FINISH - MEDIUM BRONZE
MR	METAL FINISH - DARK BRONZE
MR	METAL FINISH - DARK BRONZE - ELECTRO
MR	PAINT FINISH - MEDIUM BRONZE
MR	PAINT FINISH - DARK BRONZE
MR	PRIVACY SCREEN - DARK BRONZE

Project / **RESIDENTIAL DEVELOPMENT**  
1233-1237 Nepean Highway Height

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Drawing / **SOUTH ELEVATION**

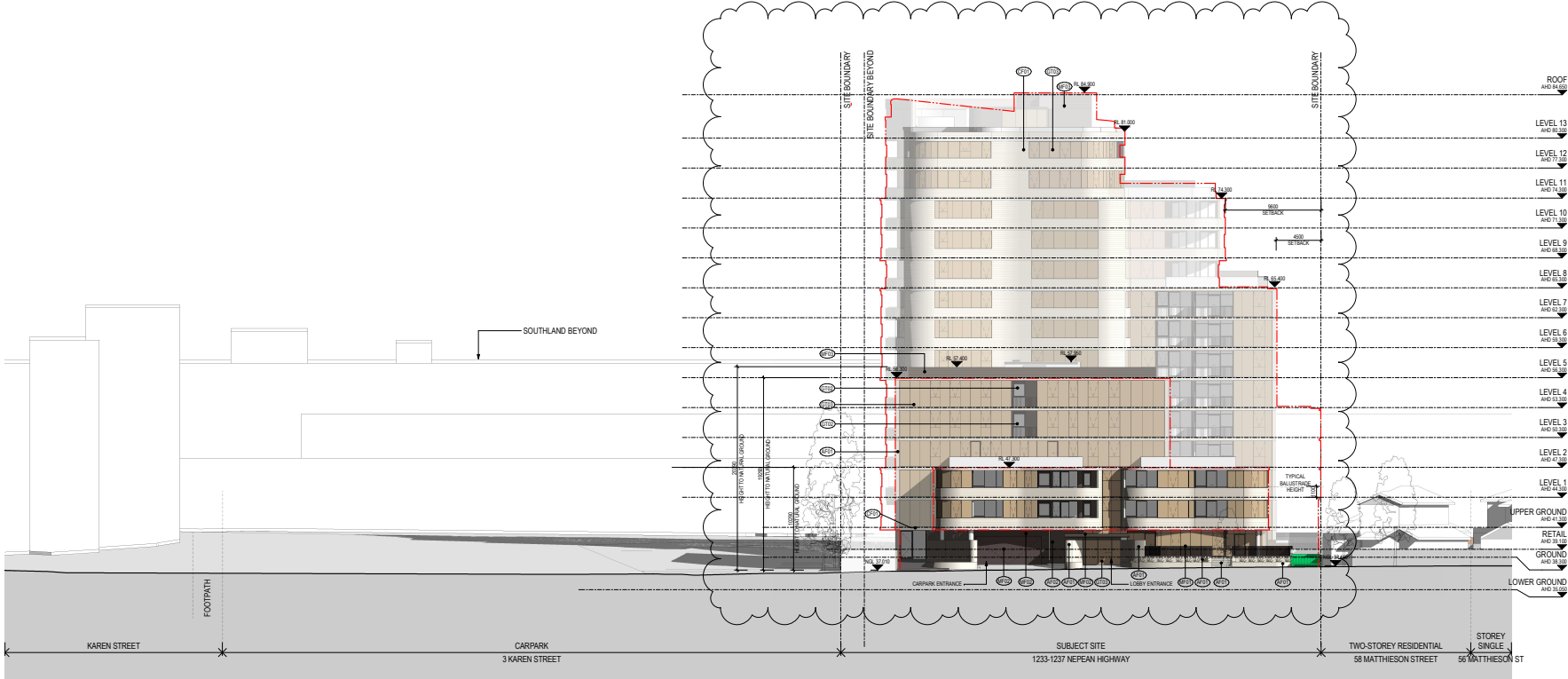
Project No / **221008** Author / **SB/WL/PG/EK1 : 200**

Drawing No / **TP2.03** M

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TOWN PLANNING

Revisions	E	28.04.21	ENDORSEMENT ISSUE
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	J	-	Revision not used on this sheet
	K	-	Revision not used on this sheet
	L	-	Revision not used on this sheet
	M	08.09.22	PLANNING AMENDMENT

LEGEND
MR AND AUSTRALIAN HEIGHT DATUM
MR BOLLARD
MR RL NATURAL GROUND LEVEL
MR ST STORE
MR T TERRACE

LEGEND
AF01 APPLIED FINISH - BUTTERFLIX
AF02 APPLIED FINISH - DARK BRONZE
CF01 CONCRETE FINISH - BUTTERFLIX - SMOOTH
CF02 CONCRETE FINISH - DARK BUTTERFLIX
GT01 GLAZING - CLEAR - DOUBLE
GT01A GLAZING - CLEAR - SINGLE
GT02 GLAZING - CLEAR - APARTMENT
GT03 GLAZING - BRONZE
GT04 GLAZING - BRONZE - OBSCURE
GT05 GLAZING - SUPER CLEAR
MF01 METAL FINISH - MEDIUM BRONZE
MF02 METAL FINISH - DARK BRONZE
MF03 METAL FINISH - DARK BRONZE - ELECTRO
PF01 PAINT FINISH - MEDIUM BRONZE
PF02 PAINT FINISH - DARK BRONZE
PS01 PRIVACY SCREEN - DARK BRONZE

Project / **RESIDENTIAL DEVELOPMENT**  
1233-1237 Nepean Highway Height

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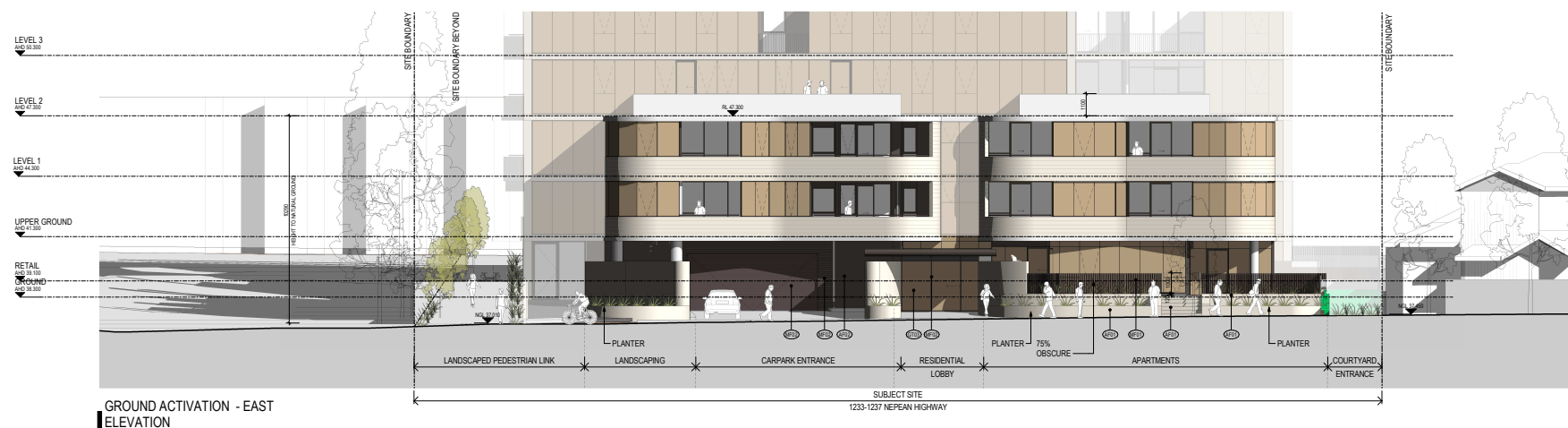
Drawing / **EAST ELEVATION**

Project No / **221008** Author / **SB/WL/PG/EK1 : 200**

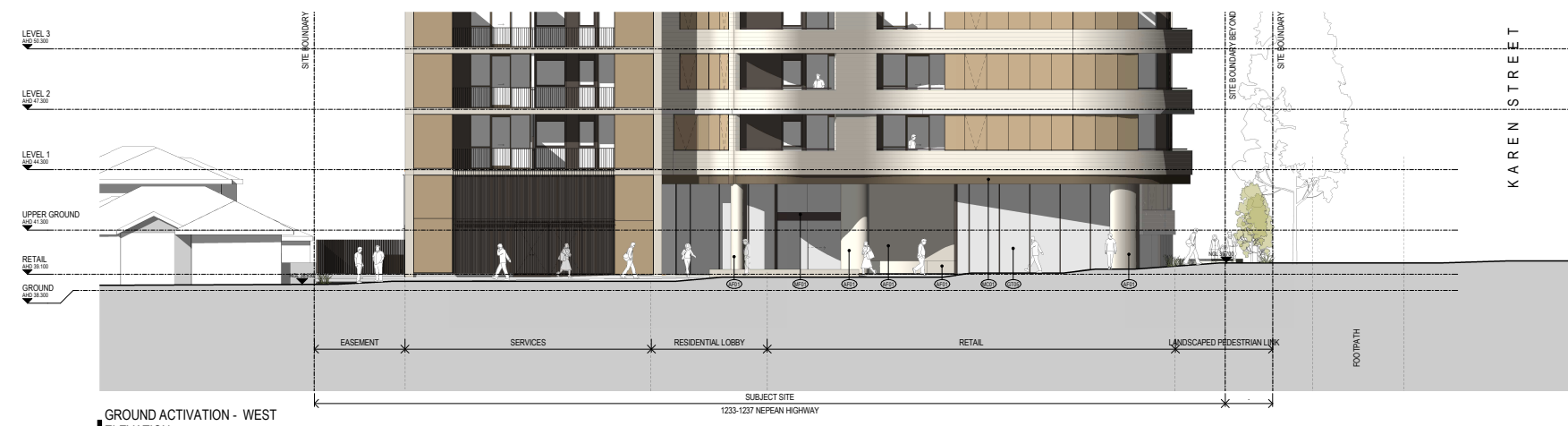
Drawing No / **TP2.04** **M**

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GROUND ACTIVATION - EAST  
ELEVATION



GROUND ACTIVATION - WEST  
ELEVATION

# TOWN PLANNING

Revision	E	28.04.21	ENDORSEMENT ISSUE
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	G	12.07.22	PLANNING AMENDMENT (DRAFT)
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	L	-	Revision not used on this sheet
	M	08.09.22	PLANNING AMENDMENT

LEGEND	
MR	AHD AUSTRALIAN HEIGHT DATA
MR	BOL BOLLARD
FVD	NGL NATURAL GROUND LEVEL
MR	RL RELATIVE LEVEL
MR	ST STORE
MR	T TERRACE
MR	
MR	
MR	

LEGEND	
AF01	APPLIED FINISH - BUTTERMILK
AF02	APPLIED FINISH - DARK BRONZE
CF01	CONCRETE FINISH - BUTTERMILK
CF02	CONCRETE FINISH - DARK BUTTER
GT01	GLAZING - CLEAR - DOUBLE
GT01A	GLAZING - CLEAR - SINGLE
GT02	GLAZING - CLEAR - APARTMENT
GT03	GLAZING - BRONZE
GT04	GLAZING - BRONZE - OBSCURE
GT05	GLAZING - SUPER CLEAR

	MC01	METAL CLADDING - BRONZE
	MF01	METAL FINISH - MEDIUM BRONZE
	MF02	METAL FINISH - DARK BRONZE
SMOOTH	MF03	METAL FINISH - DARK BRONZE - EL
MLK	PT01	PAINT FINISH - MEDIUM BRONZE
	PT02	PAINT FINISH - DARK BRONZE
	PS01	PRIVACY SCREEN - DARK BRONZE

Project / **RESIDENTIAL DEVELOPMENT**  
1233-1237 Nepean Highway Height

Drawing / **WEST AND EAST ELEVATION - GROUND ACTIVATION**

Project No / **221008** Author / **SB/PG** Scale / **A3 / 1 : 100**

Drawing No / **TP2.05** M

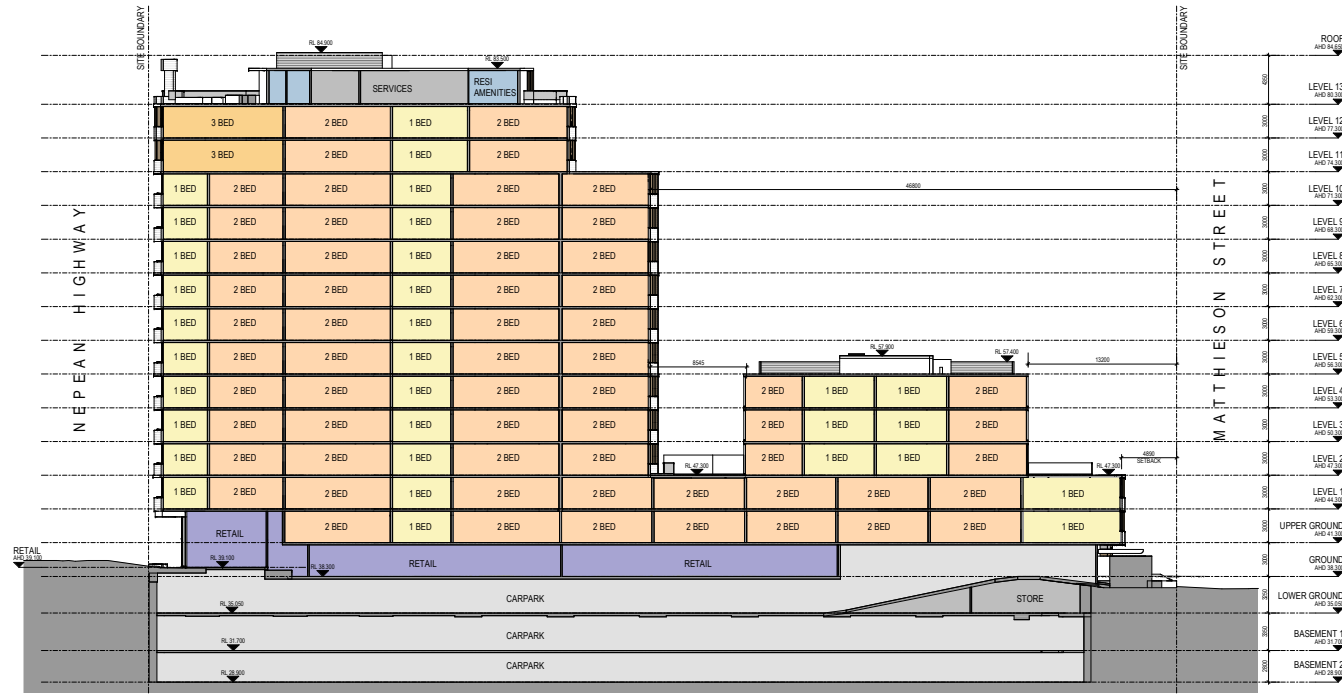
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TOWN PLANNING

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	L	-	Revision not used on this sheet
	M	08.09.22	PLANNING AMENDMENT

LEGEND	
MR	AUTUMN HEIGHT DATUM
MR	BOLLARD
MR	WALL
PVC	RELATIVE LEVEL
ST	STONE
T	TERRACE
MR	
MR	

LEGEND	
AF01	APPLIED FINISH- BUTTERFLIX
AF02	APPLIED FINISH- DARK BRONZE
CF01	CONCRETE FINISH- BUTTERFLIX (SMOOTH)
CF02	CONCRETE FINISH- DARK BUTTERFLIX
GT01	GLAZING- CLEAR- DOUBLE
GT01A	GLAZING- CLEAR- SINGLE
GT02	GLAZING- CLEAR- APARTMENT
GT03	GLAZING- BRONZE
GT04	GLAZING- BRONZE- OPAQUE
GT05	GLAZING- SUPER CLEAR

MR01	METAL GLAZING- BRONZE
MR01	METAL FINISH- MEDIUM BRONZE
MR02	METAL FINISH- DARK BRONZE
MR03	METAL FINISH- DARK BRONZE- ELECTRO
PF01	PAINT FINISH- MEDIUM BRONZE
PF02	PAINT FINISH- DARK BRONZE
PS01	PERFECT SCREEN- DARK BRONZE

Project / **RESIDENTIAL DEVELOPMENT**  
1233-1237 Nepean Highway Highett

Drawing / **SECTION AA**

Project No / **221008** Author / **SB/WL** Scale: @ A3 / **1 : 200**

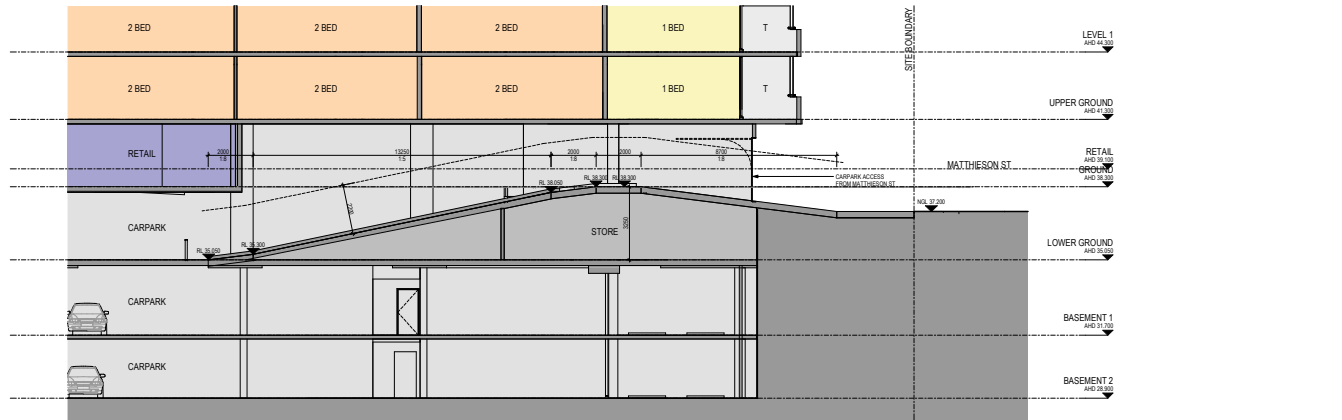
Drawing No / **TP3.01** **M**

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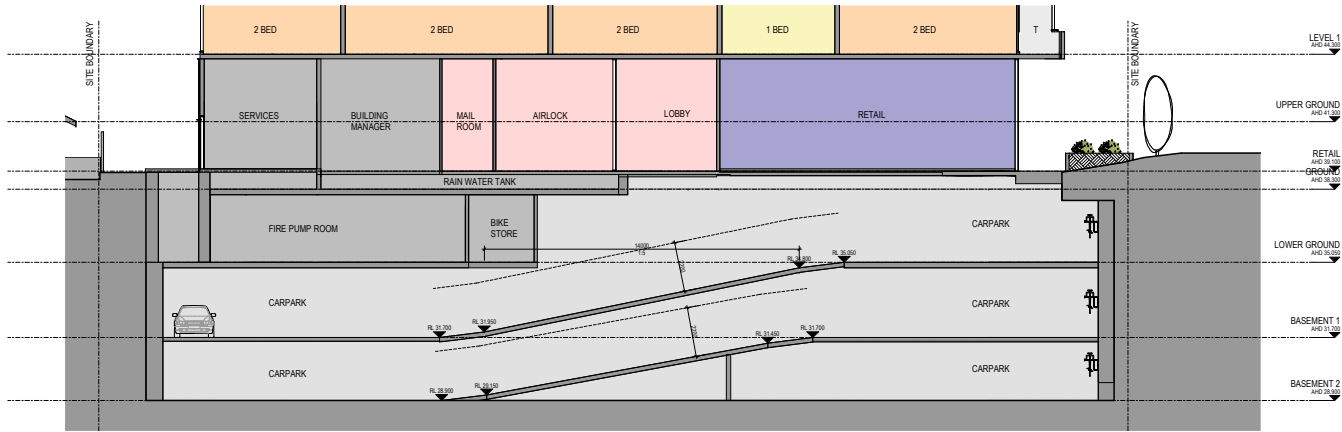
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SECTION BB



SECTION CC

TOWN PLANNING

Revisions	E	03.06.22	PLANNING AMENDMENT (DRAFT)
F	-	-	Revision not used on this sheet
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H	-	-	Revision not used on this sheet
J	-	-	Revision not used on this sheet
K	-	-	Revision not used on this sheet
L	-	-	Revision not used on this sheet
M	08.09.22	PLANNING AMENDMENT	

LEGEND	
MR	AHD
MR	BOL
MR	NGL
MR	RL
MR	ST
MR	T

LEGEND	
AF01	APPLIED FINISH - BUTTERMILK
AF02	APPLIED FINISH - DARK BRONZE
CF01	CONCRETE FINISH - BUTTERMILK - SMOOTH
CF02	CONCRETE FINISH - DARK BUTTERMILK
GT01	GLAZING - CLEAR - DOUBLE
GT01A	GLAZING - CLEAR - SINGLE
GT02	GLAZING - CLEAR - APARTMENT
GT03	GLAZING - BRONZE
GT04	GLAZING - BRONZE - OBSCURE
GT05	GLAZING - SUPER CLEAR

MR01	METAL GLAZING- BRONZE
MR02	METAL FINISH- MEDIUM BRONZE
MR03	METAL FINISH- DARK BRONZE
MR04	METAL FINISH- DARK BRONZE- ELECTRO
PF01	PAINT FINISH- MEDIUM BRONZE
PF02	PAINT FINISH- DARK BRONZE
PS01	PERFECT SCREEN- DARK BRONZE

Project / **RESIDENTIAL DEVELOPMENT**  
1233-1237 Nepean Highway Highett

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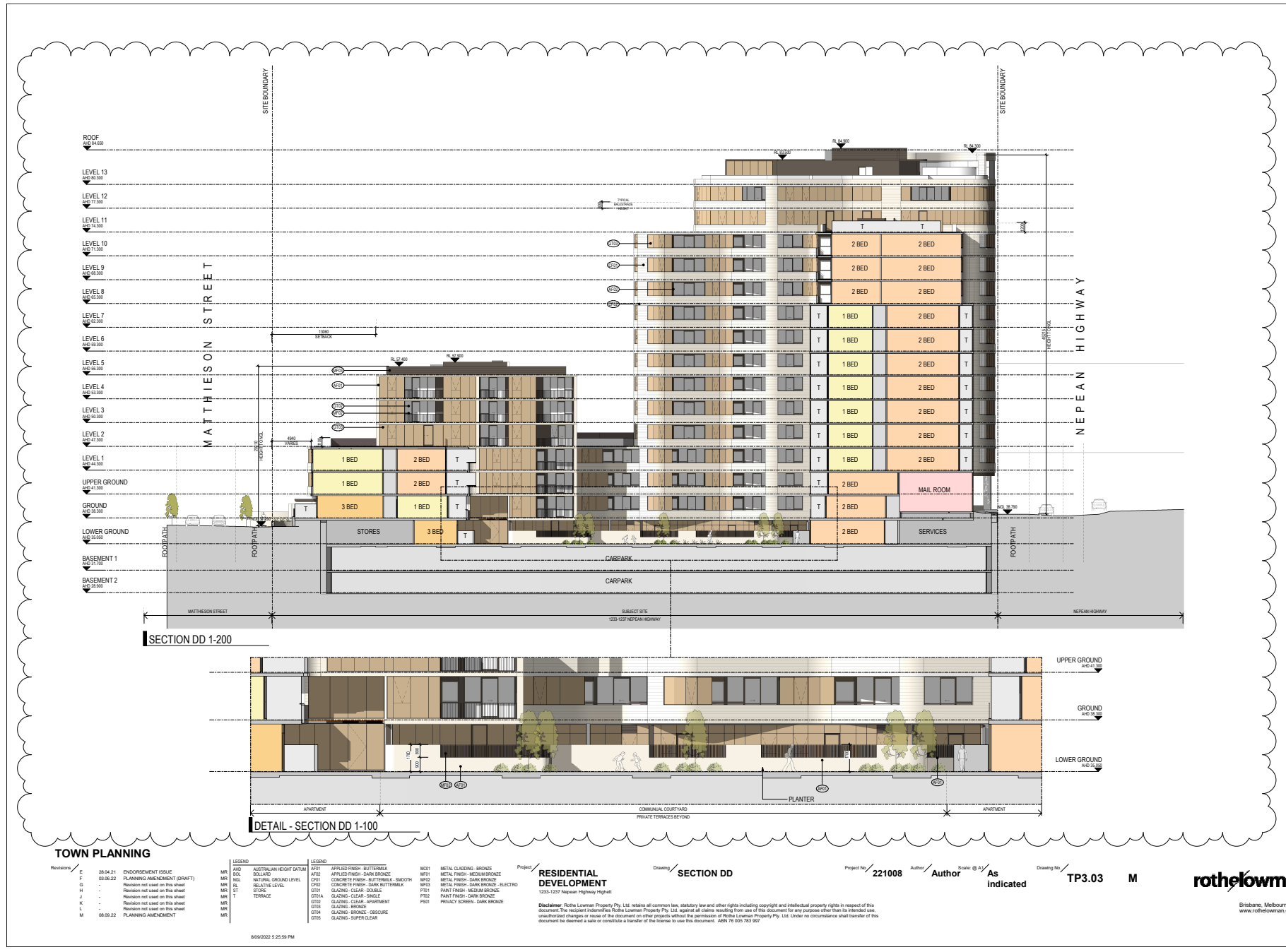
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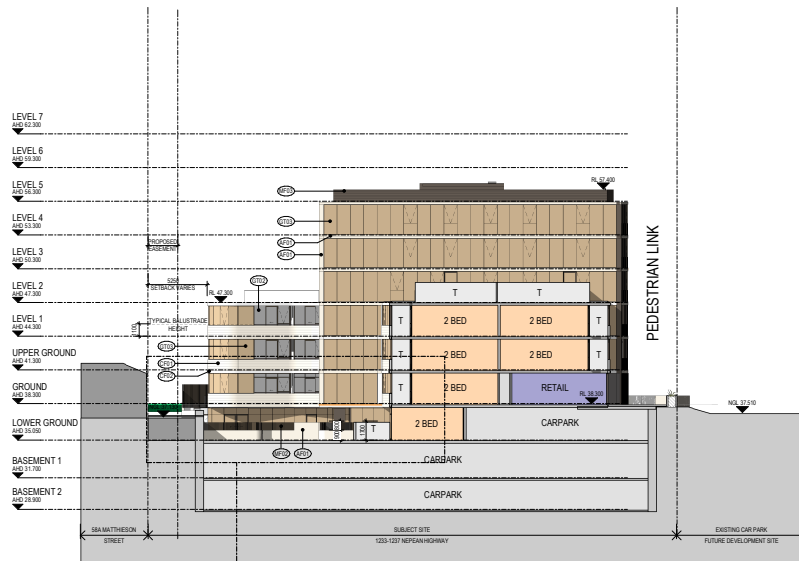
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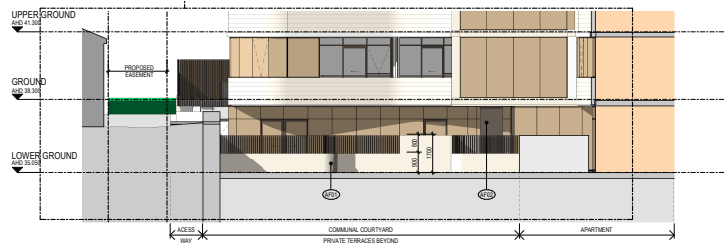
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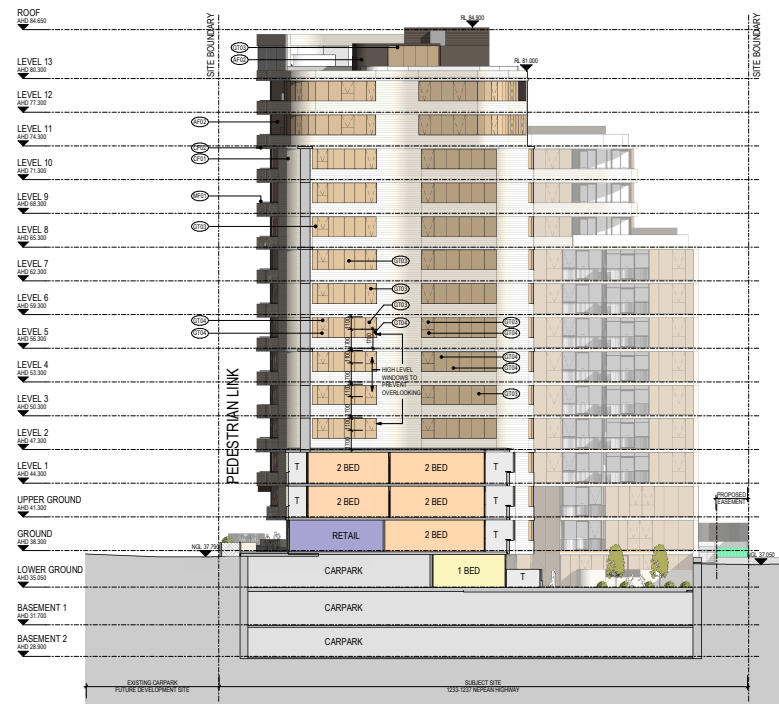




SECTION EE 1-200



DETAIL - SECTION EE 1-100



SECTION FF 1-200

## TOWN PLANNING

Revisions	E	28.04.21	ENDORSEMENT ISSUE
	F	03.06.22	PLANNING AMENDMENT (DRAFT)
	G	-	Revision not used on this sheet
	H	-	Revision not used on this sheet
	J	-	Revision not used on this sheet
	K	-	Revision not used on this sheet
	L	-	Revision not used on this sheet
	M	08.09.22	PLANNING AMENDMENT

LEGEND
MR AHD AUSTRALIAN HEIGHT DATUM
MR BOLL BOLLARD
MR NL NATURAL GROUND LEVEL
MR RL RELATIVE LEVEL
MR ST STONE
MR T TERRACE
MR

LEGEND
AF01 APPLIED FINISH - BUTTERFLIX
AF02 APPLIED FINISH - DARK BRONZE
CR02 CONCRETE FINISH - DARK BUTTERFLIX
GT01 GLAZING - CLEAR - DOUBLE
GT01A GLAZING - CLEAR - SINGLE
GT02 GLAZING - CLEAR - APARTMENT
GT03 GLAZING - BRONZE
GT04 GLAZING - BRONZE - OBSCURE
GT05 GLAZING - SUPER CLEAR

MF01 METAL GLAZING - BRONZE
MF02 METAL FINISH - MEDIUM BRONZE
MF03 METAL FINISH - DARK BRONZE
MF04 METAL FINISH - DARK BRONZE - ELECTRO
PF01 PAINT FINISH - MEDIUM BRONZE
PF02 PAINT FINISH - DARK BRONZE
PS01 PRIVACY SCREEN - DARK BRONZE

Project  
**RESIDENTIAL DEVELOPMENT**  
1233-1237 Nepean Highway Height

Drawing  
**SECTION EE&FF**

Project No  
**221008**

Author  
**Author**  
Scale  
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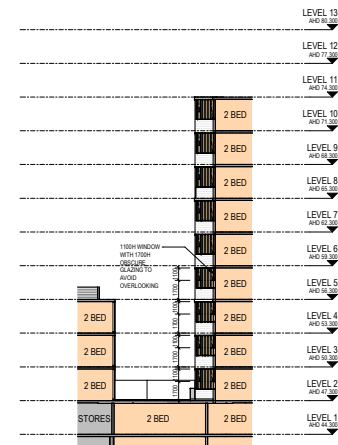
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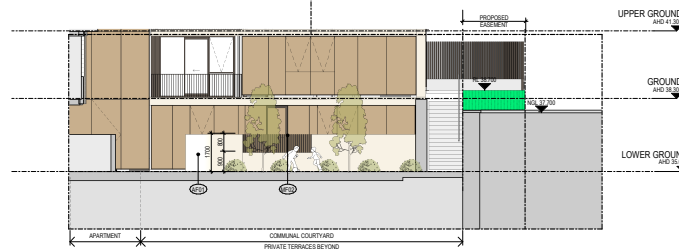
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SECTION GG 1-200



SECTION KK 1-200



DETAIL - SECTION GG 1-100

TOWN PLANNING

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	F	10.08.21	ENDORSEMENT ISSUE	MR
	G	03.06.22	PLANNING AMENDMENT (DRAFT)	MR
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	M	08.09.22	PLANNING AMENDMENT	MR

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Project / **RESIDENTIAL DEVELOPMENT**  
1235-1237 Nepean Highway Height

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Drawing / **SECTION GG&KK**

Project No / **221008** Author / **PG**

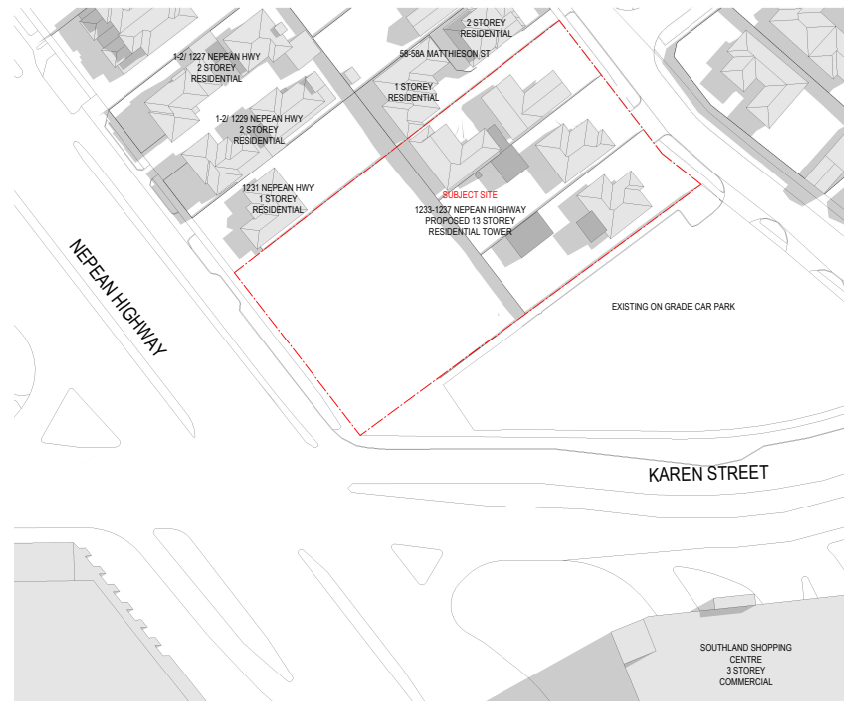
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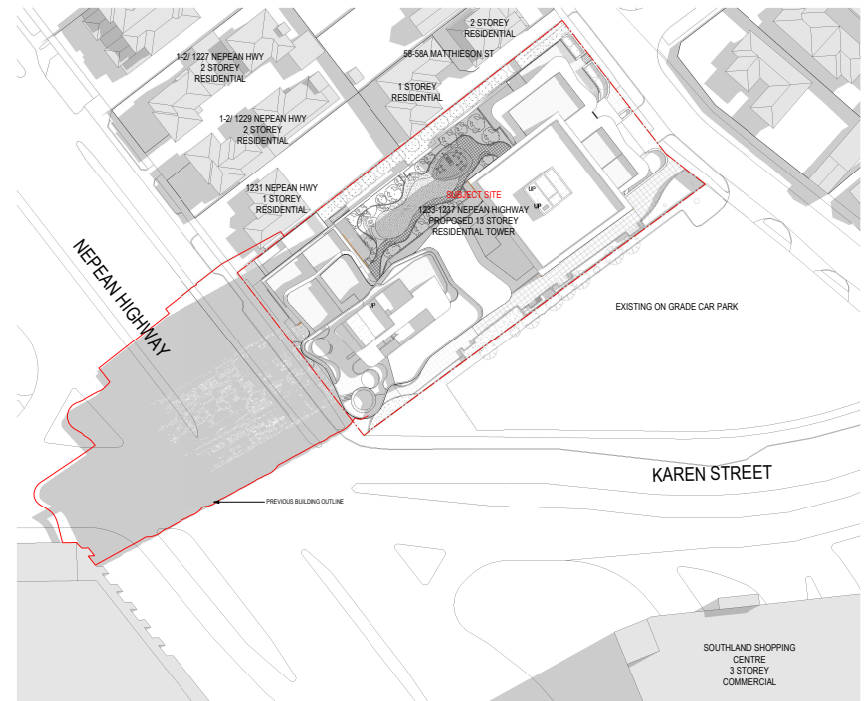
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SHADOW DIAGRAM - EXISTING SEPT 22 9AM



SHADOW DIAGRAM - PROPOSED SEPT 22 9AM

# TOWN PLANNING

Revisions	E	-	Revision not used on this sheet	MR
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Project / **RESIDENTIAL DEVELOPMENT**  
1233-1237 Nepean Highway Height

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Drawing / **SHADOW ANALYSIS - SEPT 22 9AM**

Project No / **221008**

Author / **SB/WL**

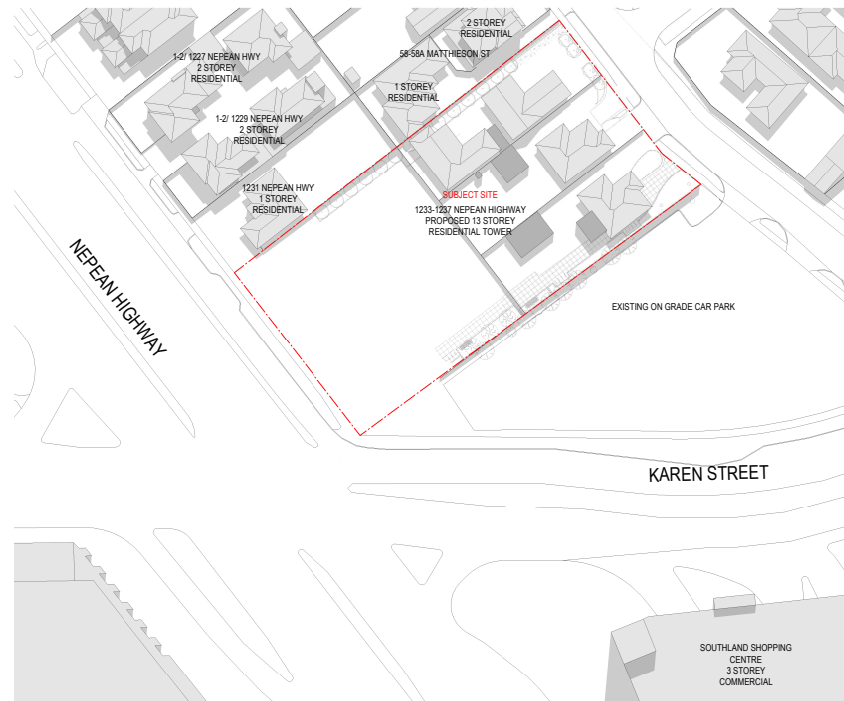
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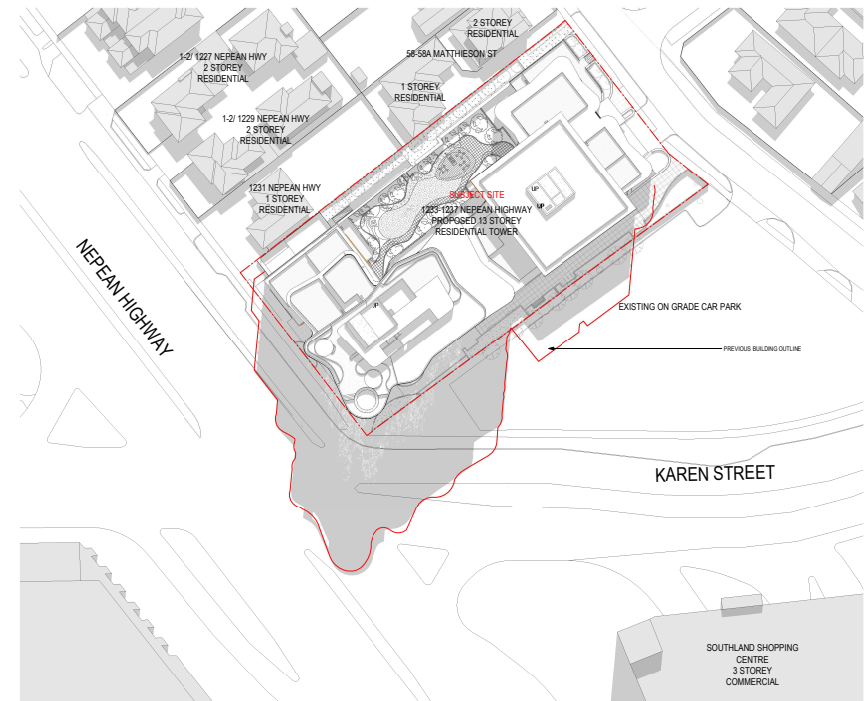
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SHADOW DIAGRAM - EXISTING SEPT 22 12PM



SHADOW DIAGRAM - PROPOSED SEPT 22 12PM

# TOWN PLANNING

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Project / **RESIDENTIAL DEVELOPMENT**  
1233-1237 Nepean Highway Highst

Drawing / **SHADOW ANALYSIS - SEPT 22 12PM**

Project No / **221008** Author / **SB/WL** Scale: @ A3 / **1 : 500**

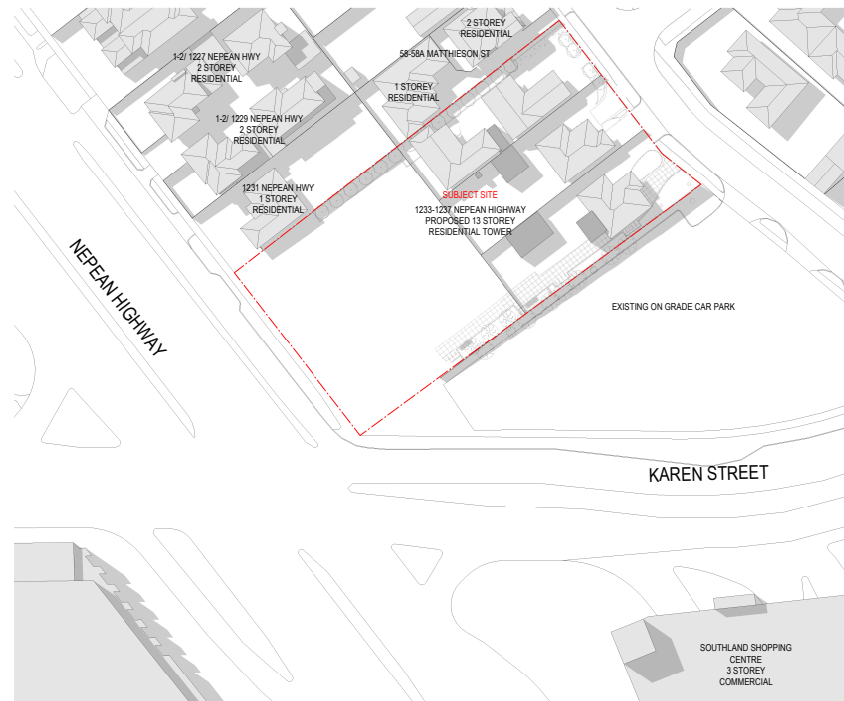
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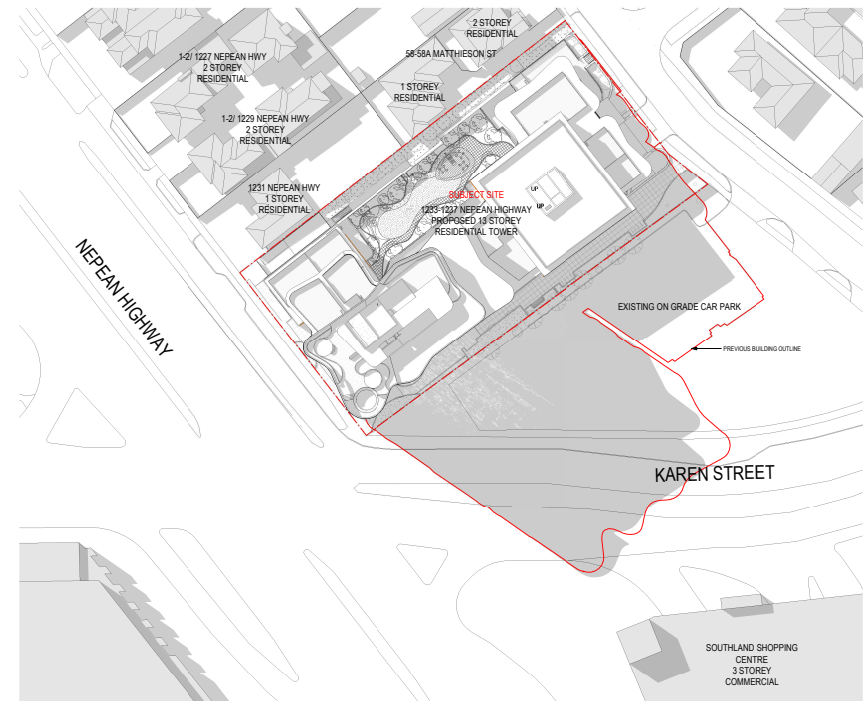
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SHADOW DIAGRAM - EXISTING SEPT 22 3PM



SHADOW DIAGRAM - PROPOSED SEPT 22 3PM

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Project / **RESIDENTIAL DEVELOPMENT**  
1233-1237 Nepean Highway Height

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Drawing / **SHADOW ANALYSIS - SEPT 22 3PM**

Project No / **221008**

Author / **SB/WL**

Scale: @ A3 / **1 : 500**

Drawing No / **TP4.03**

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**LEGEND**

- MINIMUM 2700mm CEILING HEIGHT
- MINIMUM 3000mm CEILING HEIGHT
- MINIMUM 3400mm CEILING HEIGHT

**NOTE:**

CEILING HEIGHTS INDICATED ARE AT CONCEPT STAGE AND SUBJECT TO FURTHER DESIGN DEVELOPMENT INCLUDING INTERNAL, EXTERNAL & SERVICES COORDINATION.

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Project / **RESIDENTIAL DEVELOPMENT**  
1233-1237 Nepean Highway Highett

Drawn / **LOWER GROUND CEILING CONCEPT**

Project No / **221008** Author / **MR** Scale: @ A3 / **1 : 200**

Drawing No / **TP5.03** **M**

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**LEGEND**

- MINIMUM 2700mm CEILING HEIGHT
- MINIMUM 3000mm CEILING HEIGHT
- MINIMUM 3400mm CEILING HEIGHT

**NOTE**

CEILING HEIGHTS INDICATED ARE AT CONCEPT STAGE AND SUBJECT TO FURTHER DESIGN DEVELOPMENT INCLUDING THERMAL, ACOUSTIC & SERVICES COORDINATION.

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Drawing / **LEVEL 2 CEILING CONCEPT**

Project No / **221008** Author / **MR** Scale: @ A3 / **1 : 200**

Drawing No / **TP5.07** **M**

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LEGEND

AF01	APPLIED FINISH- BUTTERFLIX	MC01	METAL GLAZING- BRONZE
AF02	APPLIED FINISH- DARK BRONZE	MF01	METAL FINISH- MEDIUM BRONZE
CF01	CONCRETE FINISH- BUTTERFLIX- SMOOTH	MF02	METAL FINISH- DARK BRONZE
CF02	CONCRETE FINISH- DARK BUTTERFLIX	MF03	METAL FINISH- DARK BRONZE- ELECTRO
GT01	GLAZING- CLEAR- DOUBLE	PT01	PAINT FINISH- MEDIUM BRONZE
GT01A	GLAZING- CLEAR- SINGLE	PT02	PAINT FINISH- DARK BRONZE
GT02	GLAZING- CLEAR- APARTMENT	PS01	PERFECT SCREEN- DARK BRONZE
GT03	GLAZING- BRONZE		
GT04	GLAZING- BRONZE- OBSCURE		
GT05	GLAZING- SUPER CLEAR		

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Drawing

MATERIALS PALLETTE

Project No/

221008

Author/

MR

Scale: @ A3/

Drawing No/

TP6.01

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## TRACKED CHANGED PERMIT

*The changes below in bold are Council Officers suggested changes. The permit conditions will also require renumbering. The permit does not include the list of recommendations above in section 9 as yet. Officers will have a further opportunity to discuss their concerns and recommended changes at the Compulsory Conference.*

At 1233 Nepean Highway, HIGHETT VIC 3190, subject to the list of conditions detailed below:

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 ~~generally~~ **generally** in accordance with the plans **prepared by Rothe Lowman dated 8 September 2022** ~~considered by Council known as 'RFI ISSUE'~~ and referred to as TP0.01 Rev C 25.08.16, TP0.02 & TP0.03 Rev B 19.08.16; TP1.01, TP1.02, Rev C 25.08.16, TP1.03 Rev C 19.08.16 TP1.04, TP1.05, TP1.06, TP1.07, TP1.08, TP1.09, TP1.10, TP1.11, TP1.12, TP1.13, TP1.14, TP1.15, TP1.16, TP1.17, TP1.18 Rev B 19.08.16, TP1.19 dated 19.08.16, TP2.01, TP2.02, TP2.03, TP2.04, TP2.05, TP2.06, Rev C 25.08.16, TP3.01, TP3.02 Rev B 19.08.16, TP3.03, TP3.04, TP3.05, Rev B 25.08.16, and TP3.06 Rev A 19.08.16, but modified to show and/or provide:
  - (a) ~~Changes to the western tower as shown in the plans prepared by Rothe Lowman TP1.16, TP1.17, TP2.01 and TP2.03 all dated 23.05.17 comprising the deletion of two units on the eastern side of the western tower at each of Levels 11 and 12 with the roof at Level 10 to be marked as 'non-trafficable'.~~
  - (b) ~~Deletion of two levels from the eastern tower, comprising two of Levels 4, 5 or 6.~~
  - (c) ~~Provision of a minimum 5 metre setback to built form from the southern side boundary, with lesser setbacks allowable within 25 metres of the south-western corner of the site generally in accordance with the plans marked TP1.04, TP1.06, TP1.07, TP1.08, TP1.09, TP1.10, TP1.11, TP1.12, TP1.13, TP1.14, TP1.15, TP1.16, TP1.17 and TP1.18 all marked Revision C.~~
  - (d) ~~In the western tower re-configure units 1.03, 2.03 and 3.03 so as to merge with other units at the same respective floor level.~~
  - (e) ~~Re-configure inbound bedroom and living arrangements for the lower ground east facing units LG01 and LG02 and south facing units at each south-east corner unit in the western tower for the purpose of increasing light to the bedrooms of these units, commencing at 2.12.~~
  - (f) Recommendations contained in the statement of evidence of Ms R West to the Victorian Civil and Administrative Tribunal in Application for Review P2383/2016 dated 7 April 2017 at paragraph 63 comprising:
    - i Bedrooms relying on a corridor "snorkel" for light, the minimum width and depth of the corridor must be 1.2 metres and 1.8 metres respectively.

- ii Minimum internal floor to ceiling heights in all living spaces 2.7 metres.
- (g) The location of tree protection measures illustrated to scale and labelled on all plans and a notation referring to the Tree Management Plan required by Condition 8.
- (h) The following changes to limit the impact of the development on the River Red Gum included within the Environmental Significance Overlay ES03:
  - i Changes to the north-east corner of the basement comprising the deletion of car spaces 67 and 188, storage units and modifications to the pool so as to reduce the extent to which the basement protrudes into the tree protection zone.
  - ii Deletion of the fencing and other structures from the tree protection zone.
  - iii Other changes to building setbacks and/or works as required by the Root Investigation required by Condition 7.
  - iv Any other and additional changes to the plans arising from the Tree Management Plan and Tree Management Plan endorsed under Condition 8.
- (i) Any necessary changes to the plan required due to the Wind Assessment Report endorsed under Condition 12.
- (j) Any necessary changes to the plans due to the Daylight and Ventilation Report endorsed under Condition 13.
- (k) A centrally mounted island intercom system with the intercom setback 3.5 meters from the property boundary.
- (l) ~~Columns adjacent to car spaces 216/95/09 and 148/28 be shifted one car space to the east, away from the western wall.~~
- (m) The provision of a longitudinal section of the basement ramp showing gradients, levels, distances, with headroom clearances complying with AS2890.1:2004 and the flood proof apexes along the entire frontages of Matthieson Street and Nepean Highway.
- (n) The provision of a flood proof apex of RL3 8.79m to Australian Height Datum (AHD) along the entire frontage of Nepean Highway.
- (o) The provision of an appropriate flood proof apex along the entire frontage of Matthieson Street consistent with the other requirements of this permit.
- (p) Notations to confirm that the finished floor level of the proposed building (habitable areas) must be minimum 38.30m to AHD, excluding the frontage of Matthieson Street and dwellings located on the Lower Ground level.
- (q) Provision of all existing and/or proposed easements to be shown on plans.
- (r) The provision of Landscape Plans for each level generally in accordance with

the concept plans prepared by TCL dated 03/02/2016 but modified to show and implement the recommendations of Dr Peter May as set out in paragraphs 9.14 to 9.36 of his statement of evidence to the Victorian Civil and Administrative Tribunal in Application for Review P2383/2016 dated April 2017 and including:

- i A planting schedule of all proposed trees and shrubs, including botanical names, common names, pot sizes, sizes at maturity, and quantities of each plant;
  - ii A survey, including, botanical names of all existing trees to be retained or removed on the site including tree protection zones for trees to be retained calculated in accordance with AS4970-2009;
  - iii A survey including botanical names, of all existing trees on neighbouring properties where the tree protection zones of such trees calculated in accordance with AS4970-2009 fall partially within the subject site;
  - iv The delineation of all garden beds, paving, grassed area, retaining walls, fences and other landscape works;
  - v A range of plant types from ground covers to large shrubs and trees, species must comprise a minimum of 80% indigenous coastal species by total numbers and plant type;
  - vi 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;
  - vii No trees with a mature height over five (5) metres are to be planted over proposed or existing easements; and
  - viii The provision of notes regarding site preparation, including the removal of all weeds, proposed mulch, soil types and thickness, subsoil preparation and any specific maintenance requirements.
  - ix The location of any tree protection measures including for street trees accurately drawn to scale and labelled and notations referring to any endorsed Tree Management Plan.
- (s) The provision of a Creation of Easement plan, prepared by a suitably qualified land surveyor detailing a new drainage easement along the site's ~~north~~**southern** side boundary.
- (t) Removal of notations from plans regarding 'potential future link'.
- (u) The provision of security access for entry to G.06.
- (v) Deletion of the at grade car space for apartment G.08.
- (w) The allocation of storage for each apartment, demonstrating a minimum allocation of 6 cubic metres for each.
- (x) A minimum hallway width of 1.5 metres for access to apartments LG.04 and LG.05.
- (y) Notations and details of all commitments provided in the amended

Sustainability Management Plan required by Condition 4.

- (z) Details of loading and unloading arrangements.
- (aa) Details of waste management.
- (bb) Materials, including colours and finishes, to be provided in a schedule.

#### **Endorsed Plans**

- 2 The development as shown on the endorsed plans must not be altered without the prior written consent of the Responsible Authority.

#### **Confirmation of Architect**

- 3 As part of the ongoing consultant team, Rothe Lowman or an architectural firm to the satisfaction of the Responsible Authority must be engaged to oversee the design and construction ensuring the design quality and appearance of the approved development is realised as shown in the endorsed plans during the construction unless with the prior written approval of the Responsible Authority.

#### **Sustainability Management Plan**

- 4 Prior to the endorsement of plans required by Condition 1, an amended Sustainability Management Plan (SMP) must be submitted for endorsement. The SMP must be generally in accordance with the plan prepared by ADP Consulting, dated ~~9 February 2016~~ **9 August 2022** but amended to reflect changes made to the proposal, and include a Built Environment Sustainability Scorecard.

#### **Easement Creation**

- 5 Prior to the occupation of the development the following must occur:
  - (a) A Plan of Creation of Easement prepared by a licensed land surveyor must be submitted, showing the drainage and carriageway easements in favour of the City of Kingston, to the satisfaction of the Responsible Authority.
  - (b) The Plan of Creation of Easement must be certified, and then registered by the Office of Titles.

#### **Landscaping**

- 6 Before the occupation of the development the landscaping works shown on the endorsed plans must be carried out and completed to the satisfaction of the Responsible Authority.

#### **ESO Tree Conditions**

- 7 Before plans are submitted and approved for endorsement under Condition 1, a non-destructive root investigation is to be undertaken by a suitably qualified arborist, and inspected by Council's Arborist, in accordance with AS4970-2009 to determine the location of roots within the area protected by the Environmental Significance Overlay - Schedule 3 (ES03) where buildings and works, including drainage, associated with the development are proposed. The results of the root investigation are to be compiled into a report (the "Tree Condition Report") which is to be submitted to and



approved by the Responsible Authority.

- 8 Before plans are submitted for endorsement under Condition 1, a "Tree Management Plan" (report) and a Tree Protection Plan (drawings) must be prepared to the satisfaction of and be endorsed by, the Responsible Authority.
- (a) The Tree Management Plan must be prepared by a suitably qualified arborist, reference the Tree Protection Plan and provide details of:
- i The results of non-destructive root investigation undertaken in accordance with AS4970-2009 to determine the location and distribution of roots of trees nominated on the Tree Protection Plan.
  - ii Necessary modifications to the excavation, location, depth, and changes in the setback of any piers, footings, pavement, driveways, pillars, basement, basement ramp or other works considered necessary for the long term protection of the tree.
  - iii Review of the ramp grade to the basement to limit the extent to which works are required in the tree protection zone.
  - iv Proposed footings and construction methods for any buildings or structures within the tree protection zone nominated on the Tree Protection Plan.
  - v Proposed location of any works associated with drainage and other services, including those outside of the site.
  - vi Appropriate board walk or other root zone protection method as an alternative to concrete or other hard pavement, above or near to the tree protection zone.
  - vii How excavation impacts, including soil level changes, on trees to be retained will be managed.
  - viii How the canopy of trees nominated on the Tree Protection Plan will be protected.
  - ix Any other measures required to demonstrate the successful ongoing retention and viability post-construction of any trees nominated on the Tree Protection Plan.
- (b) The Tree Protection Plan must be drawn to scale, reference the Tree Management Plan and 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 Details of works or changes to works arising from the Tree Protection Report.
- 9. Before the development starts, including demolition or removal of vegetation, the name and contact details of the project arborist responsible for implementing the Tree Management Plan must be submitted to the Responsible Authority and written notice of the commencement of works must be submitted not less than 48 hours prior to the commencement of works to the Responsible Authority to allow Council's arborist to be present on site to observe and supervise the works.
- 10 All protection measures identified in the Tree Management Plan and Tree Protection Plan must be implemented and maintained, and development works and use must be undertaken on the land must be undertaken in accordance with the Tree Management Plan and Tree Protection Plan, to the satisfaction of the Responsible Authority.

#### **Streetscape Works**

- 11 Before the development starts, a landscape plan to the satisfaction of the Responsible Authority providing for reinstatement works adjacent to the land with landscaping and streetscape furniture for Matthieson Street and Nepean Highway must be submitted to the Responsible Authority with the costs of these works to be met by the owner.

#### **Wind and Daylight/Ventilation Reports**

- 12 Before plans are submitted for endorsement a wind assessment report (the "Wind Assessment Report") must be prepared to the satisfaction of the Responsible Authority for consideration and if approved by the Council, endorsement.
- 13 Before plans are submitted for endorsement a daylight and ventilation report (the "Daylight and Ventilation Report") must be prepared to the satisfaction of the Responsible Authority for consideration and if approved by the Council, endorsement. The Daylight and Ventilation Report must:
  - (a) Address achievement of appropriate levels of natural light to the satisfaction of the Responsible Authority within apartments and common areas;
  - (b) Address achievement of ventilation within apartments and common areas to the satisfaction of the Responsible Authority;
  - (c) Specify any necessary additions or changes required to the plan to achieve the targets specified in sub-paragraphs (a) and (b).

**Use of Gym and Pool**

~~14 The use of the proposed ancillary gymnasium and pool is to be restricted to the occupants of the development. Hours of Operation – Retail Premises~~

~~15 The retail premises must only operate between the hours of 6am and 6pm unless otherwise with the prior written consent of the Responsible Authority.~~

**Melbourne Water Condition**

16 Pollution and sediment laden runoff shall not be discharged directly or indirectly into Melbourne Water's drains or waterways.

**VicRoads Condition**

17 All disused or redundant vehicle crossings must be removed and the area reinstated to the satisfaction of Responsible Authority and at no cost to the Roads Corporation prior to the occupation of the buildings or works hereby approved.

**Public Transport Victoria Condition**

18 The permit holder must take all reasonable steps to ensure that disruption to bus operation along Nepean Highway and Karen Street are kept to a minimum during the construction of the development. Foreseen disruptions to bus operations and mitigation measures must be communicated to Public Transport Victoria fourteen (14) days prior.

**Construction Management**

19 Prior to the commencement of any buildings and works on the land (including demolition), a Construction Management Plan (CMP), to the satisfaction of the Responsible Authority, must be submitted to and approved by the Responsible Authority. The CMP must be prepared in accordance with the City of Kingston Construction Management Policy, July 2015 and Construction Management Guidelines, 1 November 2015 (and any superseding versions and / or documents). The CMP must specify and deal with, but is not limited to, the following elements:

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

When approved, the plan will be endorsed and will then form part of the permit and shall thereafter be complied with during the undertaking of all works. In the event of damage during construction to any adjacent Council roads, footpaths and park land,

such damage will be required to be repaired by and at the full cost to the developer, to the satisfaction of the Responsible Authority.

- 20 The developer/owner must contact the Responsible Authority and VicRoads (if required) and arrange traffic management plans and a works zone for any works that may affect traffic (both vehicular and pedestrian) on Nepean Highway or any of the surrounding streets. Works vehicles may not be able to stop in the street fronting the property. The developer will be responsible for the costs of arranging a works zone and reinstatement of parking restriction signs, to the satisfaction of the Responsible Authority.

#### **Drainage and Water Sensitive Urban Design (WSUD)**

- 21 Unless with the 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) Stormwater Management (drainage) Plan(s) must be prepared, with supporting computations, showing the stormwater (drainage) works to the nominated point of discharge. The plan(s) must show all details of the proposed stormwater works including all existing and proposed features that may have an impact on the stormwater (drainage) works, including landscaping details.
  - (b) Prior to submitting detailed plans, a comprehensive stormwater management (drainage) strategy for the site must be prepared that addresses the requirements specified within Council's "Civil Design requirements for Developers - Part A: Integrated Stormwater Management.
  - (c) 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.
  - (d) The water sensitive urban design treatments as per conditions 18a, 18b, & 18c above must be implemented on-site, unless an alternative agreement is reached with the Responsible Authority.
- 22 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 flow rate of 39L/s.
  - (d) All stormwater (drainage) works must be maintained to the satisfaction of the Responsible Authority.
- 23 A groundwater assessment report (GAR) must be prepared prior to the commencement of buildings and works by a qualified hydro-geologist to assess any

possible impacts the proposed development has on the ground water table, surrounding land and buildings to the satisfaction of the Responsible Authority.

- 24 Should the findings of the submitted GAR demonstrate that the site is likely to experience issues associated with ground water management, a ground water management plan (GMP) must be submitted to the satisfaction of the Responsible Authority and approved by the Responsible Authority.
- 25 The basement structure must be designed and constructed to the satisfaction of the Responsible Authority and must address the following:
  - (a) The basement design must address the findings of the GAR and GMP required under Condition 23; and
  - (b) If a wet basement is proposed, ground water including an AG drain must not be discharged into the stormwater system. Any subsurface water (groundwater) must be disposed of on-site or via an agreement with the local sewer authority.
- 26 In any case where the basement design and construction, required by Condition 22 of this permit, does not accord with the plan(s) approved under this permit the endorsed plan(s) must be amended to the satisfaction and with the written consent of the Responsible Authority.
- 27 The existing drainage pipe must be rerouted, designed and constructed at the full expense of the applicant as per engineering plans approved by the Council. A priced schedule of the drainage upgrade works within the existing and or proposed easements and the payment of Council's engineering fees of 3.25% of the total cost of the drainage upgrade works are required to be submitted prior to approval of the engineering plans.
- 28 A 3.0 metre wide easement (or such lesser figure if that is to the satisfaction of the Responsible Authority) must be created in the subdivision plan to accommodate the proposed rerouted Council pipe along the northern boundary to Matthieson Street. The new easement and rerouted pipe must not be covered by a building or works without Council consent.

#### **Infrastructure and Road Works**

- 29 Prior to the commencement of development, property boundary, footpath and vehicle crossing levels must be obtained from Council's Roads and Drains Department with all levels raised or lowered to the satisfaction of the Responsible Authority.
- 30 The replacement of all footpaths, including offsets, must be constructed to the satisfaction of the Responsible Authority.
- 31 All reinstatements and vehicle crossings must be constructed to the satisfaction of the Responsible Authority.
- 32 All redundant vehicle crossings must be removed (including redundant portions of vehicle crossings) to the satisfaction of the Responsible Authority.

#### **Access Easement and Pedestrian Link**

- 33 Prior to the commencement of the use permitted, the owner must enter into an agreement pursuant to section 173 of the *Planning and Environment Act 1987* (the

"173 Agreement") with the Responsible Authority upon the following terms:

- (a) Requiring an easement in gross in favour of the Kingston City Council for pedestrian purposes of 5 metres in width along the southern boundary of the land (the "Access Easement");
- (b) The Access Easement must be constructed and maintained in a manner to allow for the possible future integration of that Access Easement with the land to the immediate south (the "Southern Land"), in for when that Southern Land is considered for and then, developed;
- (c) If the approved development of the Southern Land includes an access easement area along its northern boundary (the "South Access Easement") of a similar nature to the Access Easement, including similar construction obligations to those imposed upon the land, then the landowner or Owners Corporation must cooperate with the developer of the Southern Land to allow for new works which achieve the integration of the Access Easement and the South Access Easement ("Integration Works")
- (d) The cooperation required under paragraph 33(c) will require the landowner or Owners Corporation to provide its:
  - i Consent to the preparation of joint design plans in respect of the Integration Works;
  - ii Consent to the design incorporating new pavement, boardwalks and landscaping works which will form the Integration Works along the Access Easement and the South Access Easement;
- (e) The landowner or Owners Corporation acknowledge that the design proposed must be to the satisfaction of the Responsible Authority;
- (f) Include provisions which allow the 173 Agreement to be initially registered over the land and subsequently registered on Owners Corporation land which will include the Access Easement;
- (g) Provide that the 173 Agreement will be prepared at the cost of the owner and to the satisfaction of the Responsible Authority. North Interface with 1231 Nepean Highway

#### **North Interface with 1231 Nepean Highway**

~~34 Prior to the commencement of the use permitted, the owner must enter into an agreement pursuant to section 173 of the *Planning and Environment Act 1987* with the Responsible Authority upon the following terms:~~

- ~~(a) The north facing wall adjacent to 1231 Nepean Highway must be designed in such a form so that it can be built against by any future development on 1231 Nepean Highway or incorporate materials which can be safely removed;~~
- ~~(b) Following any approval of any development of the land 1231 Nepean Highway, the owner must co-operate with the owner/developer of 1231 Nepean Highway to allow the removal of any materials and the building from the land against that common boundary including any requirements for creation of any necessary easements of support or party wall;~~



- ~~(c) The owner will bear the costs of any removal of existing works on its land;~~
- ~~(d) Include provisions which allow the section 173 Agreement to be initially registered over the land and subsequently registered on Owners Corporation land which will include the external north facing wall; and provide that the section 173 Agreement will be prepared at the cost of the owner and to the satisfaction of the Responsible Authority.~~

### **Parking Construction and Management**

- 35 Prior to the occupation of the dwellings hereby permitted, areas set aside for parking vehicles, access lanes and paths as shown on the endorsed plans must, to the satisfaction of the Responsible Authority, be:
- (a) Constructed to the satisfaction of the Responsible Authority.
  - (b) Properly formed to such levels that they can be used in accordance with the plans.
  - (c) Surfaced in accordance with the endorsed plans under this permit, to the satisfaction of the Responsible Authority.
  - (d) Drained and maintained to the satisfaction of the Responsible Authority.
  - (e) Line-marked to indicate each car space, allocation and signage of visitor car spaces, and access lanes.
  - (f) Parking areas and access lanes must be kept available for these purposes at all times to the satisfaction of the Responsible Authority and maintained to the satisfaction of the Responsible Authority.
- 36 Before the development commences, a car parking management plan prepared by an appropriately qualified traffic consultant must be submitted to and approved by the Responsible Authority. When approved, the car parking management plan will be endorsed and form part of this permit. The car parking management plan must address, but is not necessarily limited to, all of the following:
- (a) The number and location of the car parking spaces to each dwelling/tenancy generally in accordance with the following minimum requirements (and denoting those that are designated as disabled spaces):
    - i 1 car space per apartment (minimum), and 2 car spaces for each three bedroom apartment.
    - ii 5 staff car spaces for the ~~four~~ **five** retail premises, with a minimum of 1 car space to each.
    - iii 24 shared residential and retail visitor car spaces.
  - (b) The potential for surplus car spaces to be set aside for additional residential visitor parking, smaller service and delivery vehicles and additional bicycle parking.
  - (c) The management of visitor car parking spaces and security arrangements for

occupants of the development.

- (d) Details of way finding, cleaning, security of end of trip bicycle facilities.
- (e) A schedule of all proposed signage including directional arrows and signage, informative signs indicating location of disabled bays and bicycle parking, exits, and restrictions.
- (f) Details on how the resident bicycle parking and visitor bicycle parking spaces are to be secured and how visitors are to gain access to this area.
- (g) Details regarding the management of loading and unloading of goods and materials for the retail tenancies and residential uses.

The car parking management plan must be implemented to the satisfaction of the Responsible Authority. No alterations may be made without the prior written approval of the Responsible Authority.

### **Loading Zone**

- 37 Subject to obtaining Council's approval, failing which this condition will not apply, the owner must provide a loading bay in the Nepean Highway service lane to the satisfaction of the Responsible Authority.

### **Lighting**

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

### **General Amenity Conditions**

- 39 All piping and ducting above the ground floor storey of the development (other than rainwater guttering and downpipes) must be concealed to the satisfaction of the Responsible Authority.
- 40 All works on or facing the boundaries of adjoining properties must be finished and surface cleaned to a standard that is well presented to neighbouring properties in a manner to the satisfaction of the Responsible Authority.
- 41 Any fixed external screening to prevent overlooking marked on the endorsed plans shall be maintained by the owner of the land to the satisfaction of the Responsible Authority. The provision of any obscure glazing shown on the endorsed plans must be through frosted glass or similarly treated glass, and thereafter maintained to the satisfaction of the Responsible Authority. Adhesive film or the like that can be removed must not be used.

### **Completion**

- 42 Prior to the occupation of the dwellings hereby permitted, the landscaping works as shown on the endorsed plans must be completed to the satisfaction of the Responsible Authority. The landscaping must then be maintained to the satisfaction of the Responsible Authority, including that any dead, diseased or damaged plants are to be replaced.

- 43 Prior to the occupation of the dwellings hereby permitted, all buildings and works and the conditions of this permit must be complied with, unless with the further prior written consent of the Responsible Authority.
- 44 Once the development has started it must be continued and completed to the satisfaction of the Responsible Authority.

**Time Limits**

- 45 In accordance with section 68 of the *Planning and Environment Act 1987*, this permit will expire if one of the following circumstances applies:
- The development is not started within three (3) years from the date of this permit
  - The development is not completed within six (6) years from the date of permit issue

In accordance with section 69 of the *Planning and Environment Act 1987*, the Responsible Authority may extend the periods referred to if a request is made in writing:

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